ORDINANCE NO. 4-2016

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE TOWN CODE AT CHAPTER 2, ARTICLE V, DIVISION 2, ENTITLED "PURCHASING" PROVIDING FOR THE AMENDMENT OF SECTION 2-242 TO PROVIDE PREFERENCES TO CERTIFIED MINORITY OWNED BUSINESSES; PROVIDING FOR THE AMENDMENT OF SECTION 2-244; PROVIDING FOR THE AMENDMENT OF SECTION 2-245 TO AMEND AND ADD DEFINITIONS; PROVIDING FOR THE AMENDMENT OF SECTION 2-246 DESIGNATING THE TOWN MANAGER AS THE TOWN'S PURCHASING AGENT; PROVIDING FOR THE AMENDMENT OF SECTION 2-247 MAKING MINOR CHANGES TO THE TEXT; PROVIDING FOR THE AMENDMENT OF SECTION 2-248 TO CHANGE THE TERM BIDDER TO "OFFEROR"; PROVIDING FOR THE AMENDMENT TO SECTION 2-249 PERTAINING TO CONSULTANTS NOT SUBJECT TO THE CCNA; PROVIDING FOR THE AMENDMENT TO SECTION 2-250 DELETING FIELD PURCHASE ORDERS; PROVIDING FOR THE AMENDMENT TO SECTION 2-251 TO LIMIT THE TERM OF THE RENEWAL OF A CONTRACT; PROVIDING FOR THE AMENDMENT OF SECTION 2-256 PERTAINING TO BID PREFERENCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Lake Park, Florida ("Town") is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town has codified a procedure governing the procurement of goods and services, in which the Town has established procedures and the methods of procurements to be used when the Town desires to purchase goods and services; and

WHEREAS, it is generally in the best interest of the Town to use competitive procurement methods in order to obtain the best price and maximize the value of public funds in procurements; and

WHEREAS, establishing procurement methods and procedures for Town purchases, will provide for the fair and equitable treatment of persons and entities involved in purchasing by the Town, and establish safeguards for maintaining a procurement system of quality and integrity; and

WHEREAS, Town staff has recommended to the Town Commission that it amend Chapter 2, Article V, Division 2, Sections 2-244,2-245, 2-246, 2-247, 2-248, 2-249, 2-250, 2-251, 2-252, 2-253, 2-254, 2-255, and 2-256; and

WHEREAS, the Town Commission has reviewed the recommendations of Town staff, and has determined that amending Chapter 2, Article V, Division 2, Sections 2-244,2-245, 2-246, 2-247, 2-248, 2-249, 2-250, 2-251, 2-252, 2-253, 2-254, 2-255, and 2-256 of the Town's Code of Ordinances is necessary to further the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, THAT:

Section 1. The whereas clauses are incorporated herein as true and correct, and are the legislative findings of the Town Commission.

Section 2. Chapter 2, Article V, Division 2, Sections 2-244,2-245, 2-246, 2-247, 2-248, 2-249, 2-250, 2-251, 2-252, 2-253, 2-254, 2-255, and 2-256 of the Town's Code of Ordinances are hereby amended to read as follows:

DIVISION 2. PURCHASING

Sec. 2-241. General purpose.

The purpose of this division is to meet the following objectives:

(1) Establish policies governing all purchases and contracts;

(2) Encourage and promote fair and equal opportunity for all persons doing business with the town;

(3) Obtain goods and services of satisfactory quality and quantity at reasonable cost for the town;

(4) Permit the continued development of procurement policies and procedures through the promulgation of administrative regulations and internal procedures of purchasing and contracts;

(5) Foster effective broad-based competition within the free enterprise system; and

(6) Provide safeguards for the maintenance of a procurement system of quality and integrity.

Sec. 2-242. Supplementary general principles of law applicable.

(a) *Compliance with federal and state law.* The town shall comply with all applicable federal and state laws.

(b) *Principles of law and equity.* The principles of law and equity, including the Uniform Commercial Code of this state (F.S. chs. 670--680), laws relative to ethics, and laws relative to contract, agency, fraud, misrepresentation, duress, coercion, mistake or bankruptcy shall supplement the provisions of this division.

(c) *Access to procurement information.* Procurement information shall be a public record to the extent provided in F.S. ch. 119, and shall be available to the public as provided by law.

(d) *Preference to proposals for goods and services.* The town shall have the option to give preference to proposals for goods and services received from offerors whose businesses are based within the town where price, quality and other relative factors are comparable, and to certified minority owned business enterprises as defined by F.S. 288.703.

Sec. 2-243. Requirement of good faith.

The provisions of this division require all parties involved in the development, performance or administration of purchasing contracts of the town commission to act in good faith.

The town commission recognizes that fair and open competition is a basic tenant of public procurement; that such competition reduces the appearance and opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically, and that documentation of the acts taken and effective monitoring mechanisms are important means of curbing any improprieties and establishing public confidence in the process by which commodities and contractual services are processed. The purchase of all commodities and services will be in accordance with town policy, codes, regulations and all applicable state statutes.

Sec. 2-244. Application and exclusions.

(a) The provisions of this division shall apply to every purchase/procurement by the town, irrespective of their fund source, including state and federal assistance monies, except as otherwise specified by law. Items in this category shall be paid for through a request for disbursement or other payment approval techniques. The provisions of this division shall not apply to:

(1) Interlocal agreements between the town commission and nonprofit organizations or governmental entities including the procurement, transfer, sale or exchange of goods and/or services.

(2) Payment of dues and memberships in trade or professional organizations; subscriptions to periodicals; title insurance for real property; court reporter services; water, sewer and electrical utility services; copyrighted materials; patented materials; and fees and costs of job-related seminars and training.

(3) Real property.

(4) Legal services, including attorney, paralegal, expert witness, appraisal, or mediator services.

(5) Accounting services, including consultation and auditing services.

(6) Lectures by individuals.

(7) Goods and/or services given, or accepted by the town via grant, gift or bequest.

(8) Goods purchased with petty cash in accordance with established town procedures.

(9) Goods and/or services purchased under contract with the federal, state or any other municipal government or government agency or political subdivision providing the offeror extends the same terms and conditions of the contract to the town.

(10) Items purchased for resale to the general public.

(11) Permits (payable to governmental entities).

(12) Approved travel expenses.

(13) Insurance.

(14) Health services.

(15) Conferences and travel.

(16) Utilities bills.

(17) Consultants, for the purpose of marketing studies, grant writing and management, Community Redevelopment Plan modification, and other project related services limited to projects less than $9,999.99.

(18) Normal recurring disbursements not for the purpose of acquiring goods and services.

(b) The exclusions listed above do not preclude the town from procuring such goods and/or services using the procedures listed in this division.

(c) The minimum requirements of this division do not preclude additional procedures from being taken as deemed appropriate by the town manager or town staff.

Sec. 2-245. Definitions.

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

Amendment: A modification, deletion or addition to an executed contract by means of a formally executed document signed by both parties.

Bid: A formal written price offer by an offeror to the town to furnish specific goods and/or services in response to an invitation to bid.

Bid award: A contract and/or purchase order to the selected offeror to provide specific commodities and/or services to the town for which funds have been appropriated by the Town of Lake Park Commission.

Bid criteria: The basis upon which the town will rely to determine acceptability of a bid or proposal, as stated in the bid or the proposal, including, but not limited to, inspection, testing, quality, workmanship, delivery, price, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total cost or life cycle costs.

Blanket purchase order: A purchase order under which vendor agrees to provide goods and/or services to a purchaser on a demand basis.

Certificate of contract completion: A form which indicates that a project has been satisfactorily completed and the contractor has paid all labor, materials and other charges against the project in accordance with the terms of the contract.

Certificate of insurance: A document which shows proof of insurance, coverage, types and amounts.

Change order: A written instrument issued on or after the effective date of the formal written contract or purchase order which, when duly executed by the town and contractor, amends the contract documents to provide for a change in the work or in the provisions of the contract documents, or changes in contract price or contract time, or any combination thereof.

Commodities: Anything defined in 287.012(5), F.S.

Consultants Competitive Negotiation Act (CCNA): The state statute that applies to the acquisition of architectural, engineering, landscape architectural or surveying and mapping services where the estimated cost of the planning or study activity with professional services fees exceeds $35,000.00 (the Category Two threshold amount), or where the estimated basic project construction cost exceeds $325,000.00 (the Category Five threshold amount).

Consulting services – non-CCNA: If the solicitation is not for architectural, engineering, landscape architecture or surveying, the CCNA bidding process is not to be utilized.

Contract: An agreement with sufficient consideration between two or more parties which sets forth the total legal obligations of the parties.

Cooperative purchasing: A method of purchasing the same goods or services with the same terms and conditions utilizing a contract issued by another public agency that has fulfilled the requirements of competitive solicitation (commonly referred to as "piggybacking").

Debarment: The exclusion, for cause, of an offeror or contractor from bidding and/or receiving a contract to do business with the town.

Design-build: The requirement for which a single contract with a design-build firm is entered into for the design and construction of a capital improvement construction project.

Designee: A duly authorized representative of a person, organization, or agency.

Discrimination: Any offeror that has been placed on the discrimination vendor list as defined by F.S. § 287.134, shall not be able to transact business with the town to the extent as specified in § 287.134 (2) (b).

Emergency purchase: Procurement made in response to certain emergencies or when the delay caused by complying with all governing rules, regulations, and/or procedures would be detrimental to the health, safety and welfare of the town and/or its citizens or would create a hardship on the reasonable conduct of business in a timely fashion. Lack of planning, or funding surpluses, do not justify emergency purchases.

Estimate: A stated expectation of price based upon time, quantity or other qualifiers.

Evaluation committee: A committee comprised of town employees_established for the purpose of evaluating bids and proposals submitted in response to invitations for bids or requests for proposals for purchases with an estimated cost of $25,000 or more. The evaluation committee shall have no less than three voting members and shall consist of the following:

(1) The originating department director who in conjunction with the finance director appoints the other members of this committee; and

(2) The finance director who shall chair the evaluation committee as a non-voting member.

(3) The town attorney shall provide advisory legal assistance as requested.

Field purchase order: A purchase of less than $1,500.00 that does not require a purchase requisition or regular purchase order.

Health services: The procurement of any medical functions not covered by insurance, including but not limited to pre-employment physicals, random drug screening, medical consultations, and the contractual employment of the medical director for the county fire department.

Invitation for bids: A written or electronically posted solicitation for competitive sealed bids.

Local merchant: A merchant whose primary place of business is located within the municipal boundaries of the Town of Lake Park, Florida, and which has possessed a valid Town of Lake Park Business Tax Receipt for a minimum of one continuous year prior to the issuance of the invitation for bids or request for proposals.

Mandatory bid amount: The threshold dollar amount established as policy by the town commission at and above which the formal competitive sealed bid process shall be used, except as otherwise provided herein. The mandatory bid amount is $25,000.00 as established by the town commission.

Minority business enterprise (certified): A business as defined by F.S. § 288.703 (1).

Minority person: A person defined by F.S. § 288.703.

Nonresponsive respondent: Any offeror responding to an invitation to bid, request for proposals, or request for statement of qualifications that does not submit the required signed documents or submits incomplete documents and/or information.

Notice to proceed: A written notification from the town to the contractor to establish commencement of the contractor's responsibilities under the provisions of the contract.

Originating department: The town department issuing the invitation to bid, request for proposals, or request for statement of qualifications.

Palm Beach County Merchant: A merchant whose primary place of business is located within the boundaries of Palm Beach County, Florida, and which has possessed a valid Palm Beach County Local Business Tax Receipt for a minimum of one (1) continuous year prior to the issuance of the invitation for bids or request for proposals.

Person: Any business, individual, union, committee, club, or organization, or group of individuals.

Procurement: Buying, purchasing, renting, leasing or otherwise acquiring any commodities and/or services for public purposes in accordance with the law, rules, regulations and procedure intended to provide for the economic expenditure of public funds. It includes, but is not limited to, all functions which pertain to the obtaining of any supplies, materials, equipment and/or services including construction projects and capital improvement projects, as defined herein, required by the town.

Project manager: A person designated by the town manager to manage and to ensure compliance with contracts which he/she originates

Proposal: An executed formal document submitted by an offeror to the town stating the goods and/or service offered to satisfy the need as described in a request for proposals (RFP), request for statement of qualifications (RFQ) or a request for information (RFI).

Public entity crime: A violation as defined in F.S., § 287.133(1)(g).

Public notice: The required notification or advertisement of an invitation to bid, request for proposal, or other competitive solicitation provided for in this division, to be given to prospective offerors for a reasonable/required period of time as determined by the town manager, which shall, at a minimum, include:

(i) Posting public notice on the town's official website; and

(ii) Notice in a newspaper of general circulation when required by applicable law.

The public notice shall describe the goods or services sought, and state the date, time and place of the bid/proposal/solicitation opening.

Purchasing agent: The town manager pursuant to Chapter 2, Article III, § 2-82.

Purchase order: The town's document used to authorize a purchase transaction with a vendor, which contains provisions and/or descriptions for goods and/or services ordered. Acceptance of a valid purchase order by a vendor shall constitute a legally binding contract.

Purchasing card: A method of payment whereby charges are paid based on receipts or invoices at month end utilizing a supplier-specific credit card and not requiring a purchase order.

Request for a Quote: An oral or written request for written pricing or services, information for commodities or contractual services.

Request for information (RFI): A solicitation of responses from interested and prospective offerors to provide information to determine specifications, qualifications and/or capabilities to satisfy a need rather than a firm specification and in which the respondent may be given latitude in order to develop a product and/or service which will fulfill the need.

Request for letters of interest: A solicitation of responses from interested and prospective offerors to provide information and/or specifications in order to determine qualifications and/or capabilities to satisfy a need rather than a firm specification, and in which the offeror may be given latitude in order to develop a product and/or service which will fulfill the need.

Request for proposal (RFP): A written or electronically posted solicitation for competitive sealed proposals.

Request for information: A written or electronically posted request made by the town to vendors for information concerning commodities or contractual services. Responses to these requests are not offers and may not be accepted by the town in the form of a binding contract.

Requisition: An internal document generated by the originating department and forwarded to the town manager or finance director requesting purchase of commodities and/or services.

Responsible offeror, proposer, or respondent: A person or business entity who has the capability in all respects to fully perform fully the contract requirements, and the integrity and reliability that will assure good faith performance.

Responsive bid, proposal or reply: A bid, proposal or reply submitted by a responsive and responsible offeror that conforms in all material respects to the solicitation.

Responsive offeror: An offeror that has submitted a bid, proposal, or reply that conforms in all material respects to the solicitation.

Responsive bid proposal: A bid proposal, or reply submitted by a responsive and responsible offeror which conforms in all material respects to the solicitation.

Responsive offeror: An offeror that has submitted a bid proposal, or reply that conforms in all material respects to the request for proposal.

Sales tax recovery: An option, resulting from the town's tax exempt status, reserved by the town to purchase all, any, or none of the materials and equipment included in each contract agreement directly from the manufacturer or supplier.

Sole source: The only existing source of an item or service which meets the needs of the originating department as determined and documented by a reasonable analysis of the marketplace. If in the process of a public bid, only one response is received, the town manager or finance director may proceed as a sole source purchase.

Specification: A concise statement of terms, conditions and a set of requirements to be satisfied by a product, material, service, or process used in an invitation for bids, request for proposals, and request for statement of qualifications. It may include a description of any requirement for inspecting, testing, or preparing a commodity, service, or construction item for delivery.

Surety bonds: A document from the contractor, which is issued to guarantee that an obligation will be fulfilled. The nature of the obligation determines the type of bond that will be issued. The types of surety bonds include: license and permit bonds, public official bonds, bid, performance, labor, material and payment bonds.

Suspension: The temporary debarment of an offeror for a period not to exceed three years.

Town: The Town of Lake Park.

Veteran business enterprise: Any business which meets the definition of F.S. § 295.187 (3), and which has been certified by the Department of Management Services.

Warranty: The representation, either expressed or implied, that a certain fact regarding the subject matter of a contract is presently true or will be true.

Sec. 2-246. Organization.

The town manager is the town's purchasing agent. Once the purchase of goods or services has been approved, a purchase requisition form shall be properly completed by the department director who shall submit it to the finance department for final approval by the town manager. The finance department shall be the agency through which the town will conduct all of its procurement and contracting for all supplies, material, equipment, contractual services, professional and consultant services, construction and/or combination of goods and services. When a field purchase order is used, a requisition need not be completed but the field purchase order should be approved by the department director, and a copy of the field purchase order promptly sent to the finance department.

Sec. 2-247. Procurement thresholds.

(a) *Twenty-five thousand dollars or more estimated cost.* Any purchase with an estimated cost of $25,000.00 or more, except in an emergency situation (as determined by the town manager), or when involving single-source commodities (as determined by the finance director or town manager) must have an invitation to bid or request for proposal formally advertised in a newspaper of general circulation in the county, for a period of time as specified in Section 2-248(c) prior to the date set for submittal of bids or proposals. All purchases with an estimated cost of $25,000 or more shall proceed pursuant to Chapter 2, Article III, § 2-82 pertaining to the purchasing authority of the town manager.

(b) *Ten thousand dollars through $24,999.99.* All purchases having a value between $10,000.00 through $24,999.99 must have at least three written quotes from offerors. The results should be summarized by the originating department, and the purchase reviewed by the finance director, and approved by the town manager. Three quotes are not required in emergency situations or when involving single-source commodities, as determined by the finance director and the town manager. All purchases with an estimated cost of $10,000.00 or more shall proceed in pursuant to Chapter 2, Article III, § 2-82 pertaining to the purchasing authority of the town manager.

(c) *Fifteen hundred dollars through $9,999.99.* All purchases having a value of $1,500.00 through $9,999.99 must have at least three documented quotes obtained by the originating department. The documentation shall include the vendor name, phone number, contact person, and quoted price. The town manager must approve all purchases between the amounts of $1,500.00 and $9,999.99. Appropriate quotes should be submitted to the finance department with the purchase requisition. All purchases having a value of between the amounts of $1,500.00 and $9,999.99 shall proceed in accordance with Chapter 2, Article III, § 2-82 pertaining to the purchasing authority of the town manager.

(d) *One cent through $1,499.99.* All purchases having a value between $0.01 and $1,499.99 may be made using a field purchase order (FPO). It is the responsibility of the originating department to ensure that items are obtained at a competitive price, and that the department has not exceeded the line-item budgetary appropriation for the items purchased. The originating department shall not use field purchase orders to make more than one purchase of the same item within five business days if the total cost is more than $1,499.99.

(e) *Review of purchases.* The finance department may review purchases from time to time to ensure the validity of the purchase, including but not limited to, a confirmation of the need for the items purchased, verification of the department's report and its supporting documentation, the adherence to these purchasing procedures, and the overall integrity of the process used. One copy of each field purchase order shall be immediately forwarded to the finance department by the originating department after completion of the purchase.

(f) *Aggregate Annual Amounts.* All references to bids and purchases and amounts established for bid parameters shall be deemed to be aggregate annual amounts, to the extent feasible by each department. The total annual expected value of the purchase is to be used to determine the type of bid process to be applied. There shall be no artificial division of orders, piecemeal orders or other plans of order diversion or pyramiding to avoid said requirement.

(g) *Unauthorized purchases prohibited.* Unless specifically identified and approved it shall be prohibited for any town employee to order the purchase of any goods or services or make a contract other than through the finance director unless otherwise provided herein. Any purchase or contract made contrary to the provisions hereof are not authorized and shall not be binding upon the town, even though said goods and/or services are used or consumed in support of the effort of the town.

Sec. 2-248. Competitive sealed bid process.

(a) *Threshold amount.* The threshold dollar amount established as policy by the town commission at and above which the competitive sealed bid process shall be used, except as otherwise provided herein shall be $25,000.00.

(b**)** *Invitation for bids.* Shall include the specifications, scope of service, and all terms and conditions applicable to the bid and shall set forth the evaluation criteria to be used to determine the award.

(c) *Publication of notice.* Public notice of the invitation to bid shall be published in a newspaper of general circulation in the county for a period of time, as determined herein, prior to bid submittal deadline, and posted on the Town of Lake Park official web site. The public notice shall state the place, date, and time of bid opening.

(1) For bids estimated to be from $25,000.00 or more and expected to be less than $200,000.00, the public notice of the invitation to bid shall provide a minimum of 21 days for submission of bids.

(2) For bids estimated to be more than $200,000.00 public notice of the invitation to bid shall provide at least 30 days for submission of bids unless determined by the town manager or finance director to not be in the best interest of the town.

(d) *Bid submission.* Bids must be submitted in a sealed envelope no later than the time and date set forth as the bid submittal deadline and at the location specified in the invitation to bid. Any bids received later than the bid submittal deadline or at any other location than as specified in the invitation to bid shall not be accepted and shall be returned unopened to the offeror. It shall be the offerors sole responsibility to ensure that its bid reaches the specified place for receipt of bids by the specified deadline. The town shall bear no responsibility for any failure of the U.S. Postal Service, other courier service or town employee to successfully deliver a bid to the designated delivery location. It is noted that offerors shall be allowed to withdraw their bids at any time prior to bid opening.

(1) All bids and accompanying documentation received from offerors in response to an invitation to bid become the property of the town, and will not be returned to the offerors. In the event of a contract award, all documentation produced as part of the contract shall become the exclusive property of the town.

(e) *Bid acceptance and evaluation*. Bids shall be accepted from all qualified offerors except as otherwise provided herein and shall be evaluated based on the requirements set forth in the invitation for bid. Unsolicited alternates will not be considered.

The town may, at any time and in its sole discretion, reject all bids and/or re-advertise for bids using the same or different specifications and terms and conditions.

(f) *Bid opening.* Bids shall be opened publicly in the presence of one or more witnesses at the time and place specified in the invitation to bid. At the time of public opening, the town clerk or designee will officiate at all public bid opening of sealed bids, and shall announce and record the name of each bidder, the amount of each bid and such other relevant information as the town manager deems appropriate.

(g) *Public record.* Upon award recommendation or ten days after opening, bids become public records and shall be subject to public disclosure consistent with F.S. ch. 119.

(h) *Cancelling or postponing invitation to bid.* The town manager or finance director may, prior to bid opening, elect to cancel an invitation to bid or postpone the date and/or time of bid submission or opening. In such situations, an addendum will be issued.

(i) *Withdrawal of bids.* An offeror can withdraw its bid up to the time listed for receipt of bids. If an offeror unilaterally withdraws its bid without permission after bid opening, the finance director may suspend the vendor from participating in future bids for up to three years.

(j) *Corrections to bids.* The following shall govern the corrections of information submitted in a bid when the information is a material factor in determining the responsiveness of the bid.

(1) Errors in extension of unit prices or in multiplication, division, addition or subtraction in a bid may be corrected by the finance director or designee prior to award. In such cases, the unit prices bid shall not be changed. When offerors quote in words and in figures on items on the bid sheet and the words and figures do not agree, the words shall govern and the figures shall be disregarded.

(2) Nothing herein is intended to prohibit the acceptance of a voluntary reduction in price from the low offeror after recommendation to award bid to the low offeror, provided such reduction is not conditioned on, or does not result in, the modification or deletion of any specifications or conditions contained in the invitation to bid.

(k) *Standards.* Factors to be considered in determining whether the standard of responsibility for offerors has been met include whether, in the town's determination, an offeror has:

(1) Appropriate financial, material, equipment, facility, and personnel resources, experience, knowledge and expertise, or the ability to obtain them, necessary to indicate its capability to meet all contractual requirements as demonstrated by the offerors submitted bid documents.

(2) A satisfactory record of performance on similar projects as set forth by the offerors submitted bid documents and as verified by the town.

(3) A record of integrity that is satisfactory to the town.

(4) Documented that it is legally established to conduct business and to contract with the town.

(l) *Tie bids.* If two or more offerors are tied, the tie may be broken and the successful offeror selected by the following criteria presented in order of importance and consideration:

(1) Quality of the items or services bid if such quality is ascertainable.

(2) Delivery time if provided in the bids by the offerors.

(3) If it is impossible with any reasonableness to determine if any of the above criteria have been met, or if application of the above criteria do not resolve the issue, the award will be given to that offeror whose bid was received earliest in time by the town as indicated by the time clock stamp impressed upon the bid envelope of each offeror.

(m) *Bid award.* Award will ordinarily be made to the lowest responsive and responsible offeror whose bid meets the requirements and criteria set forth in the invitation for bids. Notice of intent to award, along with a tabulation of the bid/proposal results, shall be posted by the town clerk on the town's official website five business days prior to the commission award. All offerors, or contractors affected by the proposed award of contract will also be notified by the town clerk at the time of posting, via telefax or other means, of the intended award. The award shall be effective upon approval by the town commission and upon issuance of a purchase order, execution of a contract, or written notice of award by the finance director or town manager. The town may reject any bid prior to such issuance. In the event only one bid is received, the town may award to the sole offeror if the bid is deemed to be reasonable and in the best interests of the town or to request new bids. In the event all bids exceed budgeted funds, the finance director, with direction of the town manager, in cooperation with the department director of the originating department, is authorized, when time or economic considerations preclude re-solicitation to negotiate an adjustment of the bid price and/or bid specifications with the low responsive and responsible offeror in order to bring the bid within the amount of budgeted funds.

(n) *Rejection or award of bids.*

(1) The town reserves the right to accept or reject any and all bids and/or to make award to the lowest responsive and responsible offeror whose bid meets the requirements and criteria set forth in the invitation for bid and whose award will, in the opinion of the town, be in the best interest of and most advantageous to the town.

(2) Factors to be considered in determining whether the standard of responsibility has been met include whether a prospective offeror has provided:

a. Appropriate financial, material, equipment, facility, and personnel resources, experience, knowledge, and expertise, or the ability to obtain them, necessary to indicate its capability to meet all contractual requirements as demonstrated by the offeror in the bid documents;

b. A satisfactory record of performance on similar projects as specifically set forth in the bid submitted by the offeror and verified by the town;

c. A record of integrity that is satisfactory to the town;

d. Documentation that the offeror is a legally established business entity, is in good standing, and is able to conduct business in the state of Florida and to contract with the town;

e. A summary of any and the identification of all parties pertaining to all litigation which the offeror has been a party over the past five years; and

f. All necessary information in connection with the inquiry concerning responsibility including but not limited to any current licenses, permits, insurance, or official documentation of its legal status.

The offeror shall supply the above information or documentation to the town as part of the bid documents it submits to the town pursuant to the town's invitation to bid. If an offeror fails to supply such information the town shall consider the bid documents submitted to be not responsive to the invitation to bid and find the offeror nonresponsive.

(3) The town may conduct a prequalification process to evaluate the responsibility of potential offerors and may then limit acceptance of bids or proposals to those offerors deemed qualified in such process.

(o) *Changes and amendments.* The finance director and/or town manager may authorize changes/amendments for construction, and goods and/or services within the overall scope of the project or procurement pursuant to § 2(10) of Chapter 2, Article III, § 2-82 pertaining to the purchasing authority of the town manager. If the amendment/change order exceeds the maximum amounts herein, the amount of the amendment/change order must be approved by the town commission. If the change is outside the scope of the original project or procurement as determined by the finance director and/or town manager, a new invitation to bid must be issued, unless an emergency or sole source situation exists. Should an emergency or sole source situation exist, a new contract with the existing contractor may be negotiated and presented to the town commission for approval, provided such contractor is qualified and available to perform on the new project, or is capable of securing the services of a qualified subcontractor. Extensions of time frames for completion of contracts may be authorized by the finance director and/or town manager.

A change order to a purchase order must be approved by the finance director and/or town manager for all changes that affect the original dollar amount by an increase of ten (10%) percent or more. Change orders of $10,000.00 or more shall proceed pursuant to Chapter 2, Article III, § 2-82 pertaining to the purchasing authority of the town manager.

Sec. 2-249. Competitive sealed proposal process.

The competitive sealed proposal process shall consist of the following:

(a) *Public notice.* Public notice of the request for proposal or request for statement of qualification shall be given in the same manner as provided for competitive sealed bidding except all RFP or RFQ require a minimum of 21 days for submission of proposals unless determined by the finance director to be not in the best interest of the town.

(b) *Submission.* Proposals must be received no later than the specified time and date and at the location specified for submission in the request for proposal (RFP) or request for statement of qualifications (RFQ). No proposal shall be accepted after such time or at any other location than specified; any proposal received later or at any other location than specified shall be returned unopened.

(c) *Proposal cancellation or postponement.* The town manager, finance director or designee may, prior to the RFP or RFQ due date, elect to cancel or postpone the date and/or time for submission or opening. In such situations an addendum will be issued.

(d) *Discussion with responsible offeror and revisions to* p*roposals as* provided in the request for proposals, discussions may be conducted with any responsible offeror that submits a proposal determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and conformance to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no exchange of information regarding the content or feasibility of the proposals to competing offerors.

An offeror shall not communicate with any town elected or appointed official or employee other than a person listed in the bid or contract documents as the contact person for a particular bid or contract prior to the time an award decision has been made by the town. Any communication between the offeror and the town shall be submitted in writing to the office of the town clerk as listed in the bid or contract documents and shall be solely for the purposes of obtaining information or clarification necessary to develop a responsive, accurate proposal or bid. If an offeror fails to observe this restriction on communications, it shall be grounds for disqualifying the offending offeror from consideration for award of the proposal or bid.

(e) *Proposal evaluation.* Award shall be made to the most responsive, responsible offeror whose proposal is determined to be the most advantageous to the town in accordance with the evaluation criteria contained in the RFP/RFQ. Evaluation of proposals may be made in a multi-step selection process as set forth in the RFP or RFQ.

(f) *Award.* Notice of the intent to award, along with a tabulation of the bid/proposal results, shall be posted by the town clerk on the town's official website five business days prior to the commission award. All offerors or contractors affected by the proposed award of contract will also be notified by the town clerk at the time of posting, via telefax or other means, of the intended award.

(g) *Special consideration for consulting contracts:*

(1) Negotiations involving the Consultants Competitive Negotiation Act (CCNA) will be conducted by a team selected by the town manager.

(2) Consultant services – non-CCNA. Consultant services for services other than for architecture, engineering, landscape architectural or surveying and mapping services are acquired in compliance with policies outlined in invitation to bid and/or request for proposal.

(3) Design build contracts shall be established in compliance with F.S. § 287.055, known as the Consultants Competitive Negotiation Act (CCNA).

(4) Continuing consultant services. The Consultant's Competitive Negotiation Act (CCNA) does not provide criteria for negotiating a contract for continuing consultant services. Accordingly, the town will establish a selection criteria in the RFP among consultants under continuing consultant services contracts. Consultant services required for any project, which is within the scope of a continuing service contract with the town, which services are within the scope of the Consultant Competitive Negotiations Act, shall be awarded as follows:

(h) The town manager and department director of the originating department shall determine which of the service providers then under continuing contract with the town are potentially capable of providing the required services.

(i) The town manager or finance director shall then request that each such provider submit a proposed scope of services and a fee quotation. The department director of the originating department shall review the proposals received. In the event he/she determines it to be in the best interest of the town, prior to completing his/her review, to enter into negotiations with any service provider which has submitted a proposal with respect to the proposed scope of services, the proposed fee, or both, in order to have the project completed in the most efficient and economical manner possible, upon the conclusion of any such negotiations, the department director shall complete review of the proposals.

(j) Upon completion of the proposals review, the department director of the originating department shall prepare and submit to the finance director and town manager his/her recommendation as to which service provider should, in his/her professional judgment, receive authorization to perform the work. In making such determination he/she shall take into account factors set forth in F.S. § 287.055 (4)(b), with respect to service providers then under continuing contracts with the town and the price for which the services are to be rendered.

(k) The town manager will be the approving authority for all price proposals pursuant to Chapter 2, Article III, § 2-82 pertaining to the purchasing authority of the town manager.

Sec. 2-250. Alternative source selection.

(a) *Small purchases.* Any purchase for an amount less than the mandatory bid amount may be made in accordance with those procedures promulgated in the Code; provided, however, no purchase shall be artificially divided so as to constitute a purchase for an amount less than the mandatory bid amount.

(b) *Sole source purchases.* The town manager may make or authorize a purchase without competitive bid when the department director of the originating department has documented in writing that such good and/or service is the only item that meets the need and is available through only one source of supply. Sole source purchases greater than $10,000.00 must be approved pursuant to Chapter 2, Article III, § 2-82 pertaining to the purchasing authority of the town manager. Written determinations documenting sole source purchases shall be retained for a period of at least three years.

(c) *Emergency purchases.* The town manager or designee may make or authorize emergency purchases as defined herein. The appropriate department director of the originating department shall document in writing that such goods and/or services need to be purchased on an emergency basis. Emergency purchases above the town manager's purchasing authority shall be approved by the town commission at the next regularly scheduled commission meeting. Written determinations documenting emergency purchases shall be retained for a period of at least three years.

(d) *Authority to waive bidding.* Bidding may be waived when it is determined to be not practicable or advantageous for the town as declared by the town commission.

(e) *Cooperative purchasing (piggybacking).* Cooperative purchasing is only allowed for the purchase of the same product or service and limited only to variances in the quantity and or minor features of a product or service. The town may cooperatively purchase from offerors who have been selected after a competitive process and selected by other governmental entities who are subject to competitive solicitations by Florida law. The offeror shall confirm in writing that it will provide the goods or services to the town based upon the terms of the contract which is the subject of the cooperative purchasing. The town and the offeror shall enter into a contract which incorporates the terms of the cooperative purchasing contract. Cooperative purchasing shall be subject to the approval levels specified in § 2-247.

(f) *Construction services.* The procurement of construction services by the town shall be acquired in accordance with the competitive sealed bid process outlined in § 2-248.

(1) Bid security shall be required for all competitive sealed bidding for construction contracts when the total cost of construction is estimated by the town manager or the finance director to exceed $200,000.00. Bid security shall be an original bid bond executed by a surety company admitted and authorized

to do business in the State of Florida. Cash, a certificate of deposit, treasurer's check, or a certified cashier's check satisfactory to the town may be tendered in lieu of the bid bond. Nothing contained herein shall prevent the town from requiring bid security on construction contracts of less than $200,000.00 as determined in the discretion of the town manager to be in the best interest of the town. Bid security shall be in an amount deemed sufficient by the town manager to ensure bid compliance but in no event shall the bid security be less than five percent of the bid amount.

(2) Bids or proposals which are submitted without the required bid security shall be rejected.

(3) Any person, firm or entity that enters into a written construction contract with the town which is for $200,000.00 or more shall, before commencing the work, execute and deliver to the town within the time specified by the contract or procurement documents, a payment and performance bond, each in the amount equal to or greater than 100 percent of the total contract price, unless the amount of the bonds is reduced to a lesser amount as determined by the town commission, but in no event shall the amount of each bond be less than 100 percent of the total contract price. The bonds shall be issued by a surety insurer authorized to do business in the State of Florida as a surety. The required bonds shall also be recorded in the public records of Palm Beach County. At the discretion of the town commission, any person or entity entering into a construction contract which is for $200,000.00 or less may be exempted from executing the payment and performance bond.

(4) In lieu of the bond required by this section, a contractor may file with the town an alternative form of security in the form of cash, a money order, a certified check, a cashier's check, an irrevocable letter of credit, or a security of a type listed in F.S. Chapter 625, pt. IL. Any such alternative form of security shall be for the same purpose and be subject to the same conditions as those applicable to the bond required by this section. The determination of the value of an alternative form of security shall be made by the town manager.

(5) The bond must state on its front page: the name, principal business address, and phone number of the contractor, the surety, the owner of the property being improved, and, if different from the owner, the contracting public entity; the contract number assigned by the contracting public entity, and a description of the project sufficient to identify it, such as a legal description or the street address of the property being improved, and a general description of the improvement. Such bond shall be conditioned upon the contractor's performance of the construction work in the time and manner prescribed in the contract and promptly making payments to all persons defined in F.S. § 713.01, as amended, who furnish labor, services, or materials for the prosecution of the work provided for in the contract.

(6) If at any time after the execution of the contract and the surety bonds, the town deems the surety or sureties upon such bonds to be unsatisfactory or, if for any reason such bonds cease to be adequate to cover the requirements of the

contract, the town may require the contractor, at its sole expense and within five days after the receipt of notice from the town, to furnish an additional bond in such form and amount and with such surety as shall be satisfactory to the town. In such event, no further payment to the contractor shall be deemed to be due under the contract until such new or additional security shall be furnished in manner and form satisfactory to the town as to protect the interests of the town and ensure the payment of persons supplying labor and materials under the contract. Final payment of all construction projects shall be approved by the town manager after certification of completion from the community development director.

(7) Nothing herein shall prohibit the town from deleting line items within the invitation to bid and purchasing said items directly from a supplier in an amount not exceeding the bid amount per line item of the successful offeror, without further bidding, in an effort to benefit from the town's tax exempt status.

Sec. 2-251. Contract document.

(a) *General provisions.* Every procurement of contractual services shall be evidenced by a written agreement embodying all provisions and conditions of the procurement of such services, which provisions and conditions shall not be limited to:

(1) A provision that bills for fees or other compensations for services or expenses be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

(2) A provision allowing unilateral cancellation by the agency for the refusal by the contractor to allow public access to all documents, papers, letters, or other material subject to the provisions of F.S. ch. 119 and made or received by the contractor in conjunction with the contract.

(3) Where feasible, a provision dividing the contract into units of deliverables, which shall include, but not be limited to, reports, findings, and drafts, that must be received and accepted in writing by the contract manager prior to payment.

(4) A provision specifying the criteria and the final date by which such criteria must be met for completion of the contract.

(5) A provision specifying that the offeror (contractor) shall maintain the following insurance coverages in the amounts specified below during the term of the contract and any extensions thereof:

a. Workers' compensation insurance for all employees of the contractor for statutory limits in compliance with applicable state and federal laws. Notwithstanding the number of employees or any other statutory provisions to the contrary, coverage shall extend to all employees of the contractor and all subcontractors. Employers liability limits shall be not less than $1,000,000.00 each accident; $1,000,000.00 disease-policy limit; and $1,000,000.00 disease-each employee.

b. Comprehensive general liability of $1,000,000.00, per occurrence, premises and operations, independent contractors, products and completed operations, personal and advertising injury, XCU coverage, and a contractual liability endorsement $2,000,000.00 aggregate.

c. Business auto liability of $1,000,000.00 per occurrence or combined single limit for bodily injury and property damage liability. This insurance shall be an "any-auto" policy including hired and non-owned auto liability coverage.

The town shall be included as an additional named insured under the general liability and automobile liability policies and a waiver of subrogation against the town shall be included in all workers' compensation policies. Current valid insurance policies meeting the requirements herein identified shall be maintained during the term of the contract, and any extensions thereof. A current certificate of insurance issued not more than 30 calendar days prior to the submission of the bid documents demonstrating the required coverages shall be submitted with the offeror's bid documents. There shall be a 30 day notification to the town in the event of cancellation or modification of any stipulated insurance policy. It shall be the responsibility of the contractor to ensure that all subcontractors are adequately insured or covered under their policies.

All certificates of insurance shall be subject to the town's verification and approval as part of the town's evaluation of the bid or proposal. The town may require the contractor to provide a complete certified copy of the insurance policy(ies). If the contractor includes the installation of machinery and/or equipment into an existing structure, the comprehensive general liability policy must include an endorsement covering same, including installation and transit.

The required insurance coverages shall be issued by an insurance company duly authorized and licensed to do business in the State of Florida with minimum qualifications in accordance with the latest edition of A.M. Best's Insurance Guide: Financial Stability: B+ to A+.

All required insurance shall preclude any underwriter's rights of recovery or subrogation against the town with the express intention of the parties being that the required coverages protect both parties as the primary insurance for any and all losses covered by the above described insurance.

Violation of the terms of such insurance requirements shall constitute a material breach of the contract by the contractor and the town, at its sole discretion, may cancel the contract and all rights, title and interest of the contractor shall thereupon cease and terminate.

(6) A provision specifying that the contract may be renewed for a period that may not exceed three years or the term of the original contract, whichever is longer, specifying the renewal price for the contractual service as set forth in the bid, proposal, or reply; specifying that costs for the renewal may not be charged; and, specifying that renewals are contingent upon satisfactory performance evaluations conducted by the town and subject to the availability of funds.

(7) A provision specifying that the execution of the contract does not violate the Public Entity Crimes Act (F.S. § 287.133), and certifying that the offeror or its subcontractor(s) under the contract have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within 36 months from the date of submitting the bid or proposal for the contract.

(b) *Signing of written agreement.* The written agreement shall be signed by the town manager and/or the mayor and an authorized representative of the contractor prior to the rendering of any contractual service, except in the case of a valid emergency as certified by the town manager.

Sec. 2-252. Protested solicitations and awards.

(a) *Right to protest.* Any actual or prospective offeror that is allegedly aggrieved in connection with the solicitation or pending award of a contract may protest to the town's finance director.

(b) *Notice.*

(1) A written notice (e.g., letter, etc.) that a bid protest will be filed must be submitted to the office of the finance director no later than 5:00 p.m. Eastern Time, three business days from the time of initial posting of notice of intent to award. The notice of bid protest must be in writing, and must identify the protestant and the solicitation involved, and shall include a factual summary of the basis of the protest.

(2) The formal written protest must then be filed at the office of the finance director no later than 5:00 p.m. Eastern Time, within five business days after the date of filing the notice of bid protest. The formal written bid protest shall contain at a minimum the following information:

a. Identification of the name, address and contact information of the protestant and the solicitation involved;

b. A clear, brief, statement of the facts, legal arguments and other grounds on which the protest is based;

c. Identification of any applicable statutes, or ordinance(s), or other legal authority(ies) which the protestant deems applicable to the solicitation involved; and

d. A clear statement, in writing, of the specific nature of the relief requested by protestant.

e. Any additional written or physical materials, objects, statements, and arguments, which the protestant deems relevant to the issues raised in the request for review.

The protestant shall mail a copy of the notice of protest and the formal written protest to the finance director, and shall provide the town manager with evidence of such mailing.

(3) The formal written protest is considered filed with the town when it is received by the finance director and is not timely filed unless it is received by the finance director within the times specified above. Failure to file a written notice of bid protest and subsequent formal written protest within the time period specified shall result in relinquishment of all rights of protest by the offeror and abrogation of any further bid protest proceedings.

(4) These protest procedures shall be the sole remedy for challenging an award of bid or proposal. Offerors are prohibited from attempts to influence, persuade or promote through any other channels or means. Such attempts shall be cause for suspension in accordance with subsection 2-253(a).

(c) *Authority to resolve.* The finance director shall attempt to resolve the protest in a fair and equitable manner, and shall render a written decision within 10 business days to the protestant. The protestant may appeal such decision, in writing to the finance director within five business days of the date of the written decision, whereby a protest committee, comprised of the finance director, town manager, town attorney, and the department director of the originating department, shall have the authority to settle and resolve the protest.

(d) *Proceedings.* The finance director shall serve as the presiding officer of the protest committee in a nonvoting capacity. The town clerk shall give reasonable notice to all substantially affected persons or businesses prior to the date scheduled to consider the appeal of the protest.

(1) At or prior to the protest proceeding, the protestant may submit any written or physical materials, objects, statements, affidavits, and arguments which the protestant deems relevant to the issues raised.

(2) In the proceeding, the protestant, or its representative or counsel, may also make an oral presentation of the evidence and arguments. However, neither direct nor cross examination of witnesses will be permitted, although the presiding officer and other protest committee members may make whatever inquiries deemed pertinent to a determination of the protest.

(3) The judicial rules of evidence shall not apply and the protest committee shall base its decision on such information adduced in the course of the proceeding upon which reasonable prudent persons rely in the conduct of their affairs.

(4) A quorum of the committee consists of a majority of protest committee members. A decision shall be rendered by a majority vote of the committee members in attendance.

(5) If it is deemed that the solicitation or award is in violation of law or the procedures outlined herein, the solicitation or award shall be cancelled or revised.

(6) If it is determined that the solicitation or award should be upheld, the finance director shall promptly issue a decision on behalf of the protest committee in writing stating the reason for the action with a copy furnished to the protestant and all substantially affected persons or businesses. The decision shall be final and conclusive as to the town. Any party may arrange for the proceedings to be stenographically recorded, and shall bear the expense of such recording. The proceedings shall be open to the general public.

(e) *Stay of procurement during protests.* In the event of a timely protest, the finance director shall not proceed further with the solicitation or with the pending award of the contract until the finance director, with the advice of the town attorney and after consultation with the department director of the originating department makes a determination that the award of the contract without delay is necessary to protect substantial interests of the town.

(f) *Reservation of powers to settle actions pending before the courts.* Nothing in this section is intended to affect the existing powers of the town commission to settle actions pending before the courts.

(g) *Damages.* In the event that a court of competent jurisdiction upholds the protestant's claim, the court awarded damages on behalf of the protestant shall be solely limited to bid/proposal preparation costs.

Sec. 2-253. Suspension and debarment.

(a) *Suspension.* An offeror may be suspended for a period not to exceed two years as determined by the finance director based upon the following:

(1) Offeror defaults or fails to fully comply with the conditions, specifications, or terms of any current or previous bid, quotation, proposal or contract with the town;

(2) Offeror commits any fraud or misrepresentation or provides false information in connection with a bid, quotation proposal or contract with the town;

(3) Offeror is charged by a court of competent jurisdiction with the commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

(4) Offeror is charged by a court of competent jurisdiction with the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a town government contractor. If charges are dismissed or the offeror found not guilty, the suspension shall be lifted automatically upon written notification and proof of final court disposition provided by the offeror to town;

(5) Offeror becomes insolvent, has proceedings in bankruptcy instituted against it, or compounds its debts or assigns over its estate or effects for payment thereof, or has a receiver or trustee appointed over its property;

(6) Offeror violates the ethical standards set forth in local, state, or federal law;

(7) Offeror fails to comply with the minority or women business enterprise participation or minority or women business enterprise requirements of an awarded contract; or

(8) Any other cause the finance director determines to be so serious and compelling as to materially and adversely affect responsibility of a business to perform as a town government contractor, including but not limited to suspension by another governmental entity for substantial cause.

(b) *Debarment.* An offeror may be permanently debarred for the following:

(1) Default or failure to fully comply with the conditions, specifications, drawings, or terms of a bid, proposal or contract with the town twice in any three-year period.

(2) Conviction by or judgment obtained in a court of competent jurisdiction for commission of those offenses in connection with the offeror's commercial enterprise stated in subsections (b)(3) and (b)(4) of this section. If the conviction or judgment is reversed through the appellate process, the debarment shall be removed immediately upon written notification and proof of final court disposition from the offeror to the town.

(3) Placement of the offeror or its subcontractor(s) on the convicted vendor list maintained by the State of Florida Department of Management Services within thirty-six months from the date of submittal of the bid or proposal.

(c) *Decision.* After the finance director has determined there is cause to suspend or debar an offeror, the finance director shall notify the offeror in writing of the debarment or the period of suspension and the reasons for the action taken.

(d) *Finality of decision.* The suspension or debarment shall be final and conclusive unless the suspended or debarred offeror initiates protest proceedings pursuant to section 2-252 within 21 days after the date of notification.

Sec. 2-254. Inspections and tests.

(a) The finance director or department director of the originating department may inspect, or arrange for the inspection of, all deliveries of supplies, materials, equipment or contractual services to determine conformance with specifications set forth in the order of contract.

(b) Any originating department which has the staff and facilities for adequate inspection may be authorized by the finance director to inspect deliveries made to it.

(c) The finance director shall have the authority to require chemical and/or physical tests or samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with the specifications. For such tests, the finance director shall have the authority to make use of any facilities of the town where such tests may be competently performed or an outside laboratory may be utilized. Should the product fail such testing, the town may require the offeror to pay the town for any expense incurred in testing.

Sec. 2-255. Equal opportunity/minority and women business enterprise.

(a) The town shall use its best efforts to ensure that minority and women businesses shall have an equitable opportunity to participate in the town's procurement process and that no business shall be excluded from participation in, denied benefits of, or be otherwise discriminated against in connection with the award and performance of any contracts with the town because of race, color, religion, national origin, age, sexual orientation, gender, marital status, handicap or physical impairment.

(b) This division shall be read consistently with the Florida Civil Rights Act, F.S. ch. 760, and shall not repeal existing or subsequently enacted town minority/women business enterprise ordinances.

Sec. 2-256. Bid preferences.

The town shall provide a five percent bid preference for one of the following criteria, and the specific application of that preference must be included in the RFP:

(1) To local merchants whose principal office is within the town's boundaries, and who have maintained a valid town business tax receipt for the previous two years; or

(2) To certified minority or Florida veteran owned business enterprises pursuant to the Florida Office of Supplier Diversity.

Sec. 2-257. Conflict of interest.

The standards of conduct for public officers and employees as set forth in the Palm Beach County Code of Ethics and F.S. §112.313 Part III are hereby adopted and incorporated herein by reference as if fully set forth herein.

Secs. 2-258--2-280. Reserved.

Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 4. Repeal of Laws in Conflict. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. Codification. The Sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "Ordinance" may be changed to "section", "article", or any other appropriate word.

Section 6. Effective Date. This Ordinance shall take effect immediately upon adoption.

Upon First Reading this 21 day of May, 2014, the foregoing Ordinance was offered by Commissioner O'Rourke, who moved its approval. The motion was seconded by Commissioner Rapoza and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR JAMES DUBOIS	✓	
VICE-MAYOR KIMBERLY GLAS-CASTRO	✓	
COMMISSIONER ERIN FLAHERTY	✓	
COMMISSIONER MICHAEL O'ROURKE	✓	
COMMISSIONER KATHLEEN RAPOZA	✓	

PUBLISHED IN THE PALM BEACH POST THIS 25 DAY OF May, 2014

Upon Second Reading this 4 day of June, 2014, the foregoing Ordinance, was offered by Commissioner O'Rourke, who moved its adoption. The motion was seconded by Commissioner Flaherty and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR JAMES DUBOIS	✓	
VICE-MAYOR KIMBERLY GLAS-CASTRO	✓	
COMMISSIONER ERIN FLAHERTY	✓	
COMMISSIONER MICHAEL O'ROURKE	✓	
COMMISSIONER KATHLEEN RAPOZA	✓	

The Mayor thereupon declared **Ordinance No.** 06-2014 duly passed and adopted this 4 day of June, 2014.

TOWN OF LAKE PARK, FLORIDA

BY: _____
Mayor, James DuBois

ATTEST:

_____
Town Clerk, Vivian Mendez
(Town Seal)

Approved as to form and legal sufficiency:

_____
Town Attorney, Thomas J. Baird