

TOWN OF LOXAHATCHEE GROVES

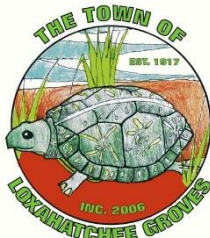
TOWN HALL COUNCIL CHAMBERS

155 F. ROAD, LOXAHATCHEE GROVES, FL 33470

FINANCE ADVISORY AND AUDIT COMMITTEE

AGENDA

JUNE 29, 2026 – 6:00 PM



Tracy Rflowitz (Seat 2) – Chair

Jennifer Stephens (Seat 5) – Vice Chair

Lisa Murray (Seat 1) – Committee Member

Frederick Hoo (Seat 3) – Committee Member Samuel Harrity (Seat 4) – Committee Member

Administration

Board Liaison: David DiLena, CFO, Projected Point Inc.

Board Clerk: Gabriella Croasdaile, Assistant to the Town Clerk

Civility: Being "civil" is not a restraint on the First Amendment right to speak out, but it is more than just being polite. Civility is stating your opinions and beliefs, without degrading someone else in the process. Civility requires a person to respect other people's opinions and beliefs even if he or she strongly disagrees. It is finding a common ground for dialogue with others. It is being patient, graceful, and having a strong character. That is why we say "Character Counts" in Town of Loxahatchee. Civility is practiced at all Town meetings.

Special Needs: In accordance with the provisions of the American with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall within three business days prior to any proceeding, contact the Town Clerk's Office, 155 F Road, Loxahatchee Groves, Florida, (561) 793-2418.

Quasi-Judicial Hearings: Some of the matters on the agenda may be "quasi-judicial" in nature. Town Council Members are required to disclose all ex-parte communications regarding these items and are subject to voir dire (a preliminary examination of a witness or a juror by a judge or council) by any affected party regarding those communications. All witnesses testifying will be "sworn" prior to their testimony. However, the public is permitted to comment, without being sworn. Unsworn comment will be given its appropriate weight by the Town Council.

Appeal of Decision: If a person decides to appeal any decision made by the Town Council with respect to any matter considered at this meeting, he or she will need a record of the proceeding, and for that purpose, may need to ensure that a verbatim record of the proceeding is made, which record includes any testimony and evidence upon which the appeal will be based.

Consent Calendar: Those matters included under the Consent Calendar are typically self-explanatory, non controversial, and are not expected to require review or discussion. All items will be enacted by a single motion. If discussion on an item is desired, any Town Council Member, without a motion, may "pull" or remove the item to be considered separately. If any item is quasi-judicial, it may be removed from the Consent Calendar to be heard separately, by a Town Council Member, or by any member of the public desiring it to be heard, without a motion.

COMMITTEE AGENDA ITEMS

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

ADDITIONS, DELETIONS, AND/OR MODIFICATION TO THE AGENDA

APPROVAL OF THE MINUTES

1. 06/01/2026 - Finance Advisory and Audit Committee Meeting Minutes

PUBLIC COMMENTS

REGULAR AGENDA

2. Continuation on Discussion and Recommendation(s) to the Town Council on the Procurement Policy

COMMITTEE MEMBER COMMENTS

**Lisa Murray (Seat 1), Committee Member
Frederick Hoo (Seat 3), Committee Member
Samuel Harrity (Seat 4), Committee Member
Jennifer Stephens (Seat 5), Vice Chair
Tracy Raflowitz (Seat 2), Chair**

CONFIRMATION OF THE NEXT MEETING DATE

ADJOURNMENT

Published and Posted on June 22, at 4:30 PM

By: Gabriella Croasdaile, Assistant to the Town Clerk/ Board Clerk

TOWN OF LOXAHATCHEE GROVES
TOWN HALL COUNCIL CHAMBERS
155 F ROAD, LOXAHATCHEE GROVES, FLORIDA. 33470
FINANCE ADVISORY AND AUDIT COMMITTEE MINUTES
MONDAY, JUNE 1, 2026 – 5:00 PM – 7:00 PM



Meeting Audio Available Upon Request in the Office of the Town Clerk

CALL TO ORDER

The June 1, 2026, meeting of the Finance Advisory and Audit Committee was called to order at 5:00 PM by Gabriella Croasdaile, Assistant to the Town Clerk.

ROLL CALL & PLEDGE OF ALLEGIANCE

The roll call was called by Gabriella Croasdaile, Assistant to the Town Clerk.

Present:

- Lisa Murray – Seat 1
- Tracy Raflowitz – Seat 2
- Samuel Harrity – Seat 4
- Jennifer Stepehns – Seat 5

Absent:

- Frederick Hoo – Seat 3

Staff Present:

- Jeff Kurtz – Town Attorney
- David DiLena – Chief Finance Officer/ Committee Staff Liaison
- Gabriella Croasdaile– Assistant to the Town Clerk/ Board Clerk

ADDITIONS, DELETIONS AND/OR MODIFICATIONS TO THE AGENDA

There were no additions, deletions, and/or modifications to the agenda.

MOTION: COMMITTEEMEMBER STEPHENS/ COMMITTEEMEMBER RAFLOWITZ MADE A MOTION TO ACCEPT THE AGENDA. MOTION PASSED (4-0).

PUBLIC COMMENTS

There were no public comments at this time.

REGULAR AGENDA

1. Swearing – In of New Members

Assistant to the Town Clerk Croasdaile swore in new members Lisa Murray, Samuel Harranty, and Jennifer Stephens.

2. Appointment of Chair and Vice Chair

MOTION: COMMITTEEMEMBER STEPHENS/ COMMITTEEMEMBER MURRAY MOVED TO NOMINATE TRACY RAFLOWITZ AS CHAIRPERSON. MOTION PASSED (4-0).

Committee Member Rflowitz accepted the nomination.

MOTION: CHAIRPERSON RAFLOWITZ/ COMMITTEE MEMEBR MURRAY MOVED TO NOMINATE JENNIFER STEPHENS AS VICE CHAIRPERSON. MOTION PASSED (4-0).

3. Discussion and Recommendation(s) to the Town Council on the Procurement Policy

The Committee reviewed the Town's Procurement Policy and discussed potential refinements to improve transparency, oversight, and accountability. Discussion focused on sole source procurements and the circumstances under which competitive bidding is not required. Chairperson Stephens emphasized the importance of establishing adequate checks and balances to ensure purchases are appropriately classified as sole source and that items that do not meet the criteria are not improperly categorized.

Attorney Kurtz explained that procurement activity exceeding established thresholds is subject to reporting requirements and noted that purchases over \$10,000 and \$25,000 receive additional oversight.

Vice Chair Stephens suggested implementing a reporting mechanism that would allow Council to more easily identify how purchases are categorized and review the justification supporting those

classifications. The Committee also discussed the value of requiring periodic reviews of the Procurement Policy, with annual review identified as a potential option.

Committee Member Murray raised questions regarding the Town Manager's authority to approve purchases between \$1,000 and \$24,999, including whether there are limits on the frequency of such approvals and what safeguards exist to prevent misuse.

Stephens also inquired about the process for obtaining and evaluating three quotes, specifically whether there are checks and balances in place when selecting among vendors.

Attorney Kurtz stated that there is no formal reporting requirement related to the selection of one quote over another; however, procurements are made in the best interest of the Town and contracts made in best interest must receive four affirmative votes. He further explained that all payments issued by check or electronic funds transfer require two authorized signatures, supported by appropriate backup documentation. Additionally, the Finance Department reviews purchases to verify that all required procurement conditions and procedures have been satisfied prior to payment processing.

Members expressed that they would like to review the policy as a single agenda item in the future due to its dense nature.

Public comment received from Todd McLendon suggesting that the Town receive an opinion from the Inspector General regarding the language in the Charter that states that all contracts must be reviewed by the Town Attorney. To ensure compliance with the Charter he suggests either the Attorney reviews all contracts or a threshold is determined.

4. Discussion and Recommendation(s) to the Town Council on the Palm Beach County Sheriff's Office (PBSO) Services Agreements

Attorney Kurtz provided background on the Town's history with its agreements with the Palm Beach County Sheriff's Office (PBSO), including a previous contract that was ultimately terminated. He noted that there are currently no active negotiations with PBSO and explained that there is no specific formula used to determine the cost of PBSO contracts. Attorney Kurtz stated that PBSO has indicated that a formula-based approach would likely not be favorable to the Town.

Chairperson Raflowitz noted that some of the comparison agreements reviewed by the Committee were dedicated law enforcement district agreements rather than enhanced visibility agreements.

Lisa Murray observed that prior to 2017 PBSO provided a broad range of services to the Town and questioned whether the subsequent increase in costs for enhanced services corresponded to any clearly identifiable increase in service levels.

Attorney Kurtz responded that while the agreements may carry different titles, they are generally similar in nature.

The Committee discussed the distinction between services provided through county taxes and those received under the Town's enhanced service agreement. Chairperson Raflowitz emphasized

the importance of understanding what level of law enforcement service residents would receive if the Town were treated as unincorporated Palm Beach County.

Committee Member Harrity noted that the annual cost of approximately \$600,000 appeared relatively low when considering the provision of dedicated deputies and vehicles, particularly when compared to the cost of establishing and operating an independent police department. He suggested that the Committee further examine the actual differences between the services provided under the current agreement and those available through countywide services to determine whether the additional expense provides measurable value to the Town.

The Committee reviewed year-to-date crime statistics provided by PBSO. Harrity stated that there is value in having dedicated deputies and vehicles assigned to the Town; however, determining whether that value justifies the cost is ultimately a policy decision for the Town Council. The committee concurred with this sentiment and saw this as the actual value of the increase in cost.

Lisa Murray expressed interest in obtaining additional information regarding the services that would be available if the Town were treated as unincorporated Palm Beach County. Jennifer Stephens inquired about the Town Charter's requirement to provide law enforcement services. Attorney Kurtz stated that PBSO's attorneys have not identified any specific case law suggesting the Town is in violation of its Charter obligations and indicated that PBSO is not currently interested in pursuing litigation against the Town.

Public comment received from Todd McLendon where he attempts to break down the contract into a numerical sense and provides information to the committee regarding other contracts and the amount of PBSO employees, total ad valorem, and sworn officers, etc. (Exhibit C)

5. Discussion Regarding Pillars of Strategic Planning

Discussion focused heavily on defining what "rural" means within the context of the Town. Committee members generally agreed that preserving the Town's rural character remains a fundamental priority and identified low-density development, large lot sizes, agricultural uses, equestrian activities, open space preservation, environmental protection, and maintaining the community's unique identity as key components of that vision. Members also discussed the importance of balancing rural preservation with responsible growth, fiscal sustainability, property rights, and long-term financial planning.

The Committee further emphasized the value of maintaining a strong sense of community and resident engagement. Members discussed the importance of fostering a hometown atmosphere through community involvement, public participation, and events that encourage interaction among residents. The discussion included observations regarding the Town's changing character and the desire to strengthen community connections while preserving the qualities that originally attracted residents to the Town.

When identifying strategic pillars, the Committee generally supported rural preservation, agricultural and equestrian heritage, community engagement, fiscal responsibility, and government transparency as key priorities. Members noted that these concepts are interconnected and contribute to protecting property values, maintaining quality of life, and ensuring the Town's long-term sustainability.

The Committee also discussed potential initiatives that could support these strategic priorities, including community events, agricultural education opportunities, promotion of local farms and agricultural businesses, agritourism activities, and increased public awareness of the Town's agricultural and equestrian resources.

As part of the discussion regarding priorities for Town Council consideration, the Committee identified several areas of focus, including long-term financial planning, multi-year budgeting, continued review of procurement and financial transparency practices, evaluation of public safety service agreements and associated costs, infrastructure and drainage improvements, and policies that support the Town's agricultural and equestrian heritage.

Public comment received from Councilmember Anita Kane stating that she agrees with the committee and that she would like to see them have proper time to review documents. That the committee meeting sooner rather than later is helpful.

COMMENTS FROM COMMITTEE MEMBERS:

There were no final comments from committee members at this time.

ADJOURNMENT

With no further business, a motion to adjourn was made by Chairperson Rflowitz and seconded by Vice Chair Stephens. With the next meeting June 29 at 6:00 pm. Motion Passed (4-0).

ATTEST:

**TOWN OF LOXAHATCHEE GROVES,
FLORIDA**

Gabriella Croasdaile
Assistant to the Town Clerk

Tracy Rflowitz
Finance Advisory and Audit Committee Chairperson



Palm Beach County Sheriff's Office

CAU Data Form Report

District : 17

Item 1.

Crime	Weekly				Monthly				Quarterly				Year to Date							
	05/11/26	05/18/26	+/-	Percent Change	Mar	Apr	+/-	Percent Change	4th Qtr	1st Qtr	+/-	Percent Change	01/01/25	01/01/26	+/-	Percent Change				
	05/17/26	05/24/26			2026	2026			2025	2026			05/24/25	05/24/26						
Person																				
Homicide	0	0	—	0	N/C	0	0	—	0	N/C	0	0	—	0	N/C	0	0	—	0	N/C
Robbery	0	0	—	0	N/C	1	0	▼	-1	-100%	0	1	▲	1	INC	0	1	▲	1	INC
Sexual Assault	0	0	—	0	N/C	0	0	—	0	N/C	1	0	▼	-1	-100%	0	0	—	0	N/C
Shooting	0	0	—	0	N/C	0	0	—	0	N/C	0	1	▲	1	INC	1	1	—	0	N/C
Stabbing	0	0	—	0	N/C	0	0	—	0	N/C	0	0	—	0	N/C	0	0	—	0	N/C
Property																				
Burglary Business	0	0	—	0	N/C	0	0	—	0	N/C	0	0	—	0	N/C	1	0	▼	-1	-100%
Burglary Construction	0	0	—	0	N/C	1	0	▼	-1	-100%	0	1	▲	1	INC	2	1	▼	-1	-50%
Burglary Residential	0	0	—	0	N/C	0	0	—	0	N/C	3	1	▼	-2	-67%	1	1	—	0	N/C
Burglary Vehicle	0	0	—	0	N/C	1	1	—	0	N/C	0	1	▲	1	INC	2	2	—	0	N/C
Larceny	0	0	—	0	N/C	1	0	▼	-1	-100%	3	2	▼	-1	-33%	11	2	▼	-9	-82%
Stolen Vehicle	0	0	—	0	N/C	0	0	—	0	N/C	3	0	▼	-3	-100%	4	0	▼	-4	-100%
Stolen Vehicle Recovery	0	0	—	0	N/C	0	0	—	0	N/C	1	0	▼	-1	-100%	1	0	▼	-1	-100%
Vandalism	0	0	—	0	N/C	1	1	—	0	N/C	1	2	▲	1	100%	6	3	▼	-3	-50%
Statistics																				
Arrests And NTAs	1	0	▼	-1	-100%	6	3	▼	-3	-50%	5	16	▲	11	220%	36	23	▼	-13	-36%
Traffic Crashes (3's & 4's)	0	3	▲	3	INC	16	15	▼	-1	-6%	28	45	▲	17	61%	57	68	▲	11	19%
Total Case Reports	8	8	—	0	N/C	53	57	▲	4	8%	128	163	▲	35	27%	278	251	▼	-27	-10%
Total CAD Incidents	111	80	▼	-31	-28%	643	708	▲	65	10%	2,562	1,985	▼	-577	-23%	6,348	3,060	▼	-3,288	-52%
Traffic Stop (1050)	12	4	▼	-8	-67%	85	65	▼	-20	-24%	229	191	▼	-38	-17%	640	283	▼	-357	-56%
Business/Residence (1061)	45	41	▼	-4	-9%	350	418	▲	68	19%	1,770	1,165	▼	-605	-34%	4,640	1,774	▼	-2,866	-62%
CAD Inc.(less 1050 & 1061)	54	35	▼	-19	-35%	208	225	▲	17	8%	563	629	▲	66	12%	1,068	1,003	▼	-65	-6%

The information in this report is based on beats within the district. Miscellaneous incident type codes: PPI,PRI INV,RED,REPO,RMS, TEST and WEL are excluded from the total Case Reports and total CAD Incidents. This report is dynamic and subject to change. Annual current year column reflects year to date.

Exhibit A



Palm Beach County Sheriff's Office
Loxahatchee Groves Response Time Comparison
2025 vs 2026

Data Source: Peregrine



The following data compares response times within Loxahatchee Groves for calls received through 911 that were classified as a priority 0 or 1. The table shows the comparison of periods January 1 – May 25, 2025 and January 1 – May 25, 2026.

Period	911 Calls (Priority 0 & 1)	Average Response Time
Jan 1 – May 25, 2025	42	08:38
Jan 1 – May 25, 2026	61	08:52

Average Response Times by Month

Month	2025	2026
January	09:55	09:55
February	09:16	07:50
March	07:53	08:35
April	08:43	09:51
May (1 st -25 th)	07:14	08:50

Calls with no dispatch and/or arrival times have been omitted.

Municipality	Population	per year contract	Total Ad Valorem	sworn officers	civilian	Total PBSO employees	cost per PBSO employee
Town Of Golf (no contract)		\$0.00					
Glen Ridge (no contract)		\$0.00					
Cloud Lake (no contract)		\$0.00					
Town Of Haverill (no contract)		\$0.00					
South Bay	4,891	\$251,996.00	\$376,318.00	6	3	9	\$27,999.56
Pahoke	5,567	\$630,297.00	\$504,786.00	12	13	25	\$25,211.88
Loxahatchee Groves	3,484	\$680,027.00	\$907,718.00	5	0	5	\$136,005.40
Westlake	6,121	\$1,288,743.00					
Mangonia Park	2,755	\$1,599,156.00	\$1,623,675.00	14	2	16	\$99,947.25
Palm Beach Shores	1359	\$1,648,378.00	\$3,475,900.00	11	0	11	\$149,852.55
South Palm Beach	1,454	\$1,700,311.00	\$2,109,096.00	7	0	7	\$242,901.57
Belle Glade	19666	\$3,087,347.00	\$2,000,324.00	37	42	79	\$39,080.34
Lake Park	8,959	\$4,061,845.00	\$2,715,455.00	23	12	35	\$116,052.71
Royal Palm Beach	39,654	\$9,691,599.00	\$4,658,932.00	55	52	107	\$90,575.69
Greenacres	44,143	\$11,617,421.00	\$8,999,275.00	52	53	105	\$110,642.10
Wellington	61,652	\$11,803,377.00	\$19,646,867.00	68	77	145	\$81,402.60
Lake Worth	41,324	\$15,192,482.00	\$7,902,965.00	85	55	140	\$108,517.73



TOWN OF LOXAHATCHEE GROVES FINANCE ADVISORY AND AUDIT COMMITTEE AGENDA ITEM MEMORANDUM

Item 2.

TO: Finance Advisory and Audit Committee
FROM: Valerie Oakes, Acting Town Manager
DATE: June 29, 2026
SUBJECT: Continuation on Discussion and Recommendation(s) to the Town Council on the Procurement Policy

Legal Sufficiency: N/A

Background:

Town Council is requesting that the Finance Audit and Advisory Committee (FACC) review the Town's current procurement policy.

Following the discussion, the committee may provide recommendations and feedback to the Town Council for further consideration.

Recommendation/Motion:

Recommendation for FAAC to have a discussion regarding the procurement policy. This may include thoughts, opinions, suggestions, etc.

Attachments:

Town of Loxahatchee Groves Procurement Policy updated October 2020.



Administrative Purchasing Policy & Procedures Manual

October 2020

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INTRODUCTION

This Purchasing Policy and Procedures Manual (“Manual”) is intended to guide users through the purchasing process for the Town of Loxahatchee Groves (“Town”) and to establish specific directions, guidelines and requirements for employees and agents of the Town to use in purchasing goods and/or services. This Manual supersedes the entirety of any and all previous Purchasing Policy and Procedure Manuals in effect prior to October 1, 2020.

The Town maintains a unified purchasing system with decentralized responsibility. The Town’s purchasing process provides for increased economy in purchasing activities, enabling the Town to maximize, to the fullest extent practical, the purchasing value of public funds by fostering effective broad-based competition, while ensuring fair and equitable treatment of all vendors who deal with the Town. The Town’s goal is to utilize the most cost-effective methods possible, while maintaining the appropriate quality or service needs. Both commodities and services will be acquired at the lowest and best price, except where otherwise provided by applicable Florida Statutes, Town Ordinances and Resolutions and this Manual. In addition, this manual provides safeguards for maintaining a purchasing system of quality and integrity and also is intended to provide for increased public confidence in the procedures followed by Town purchasing.

The policies and procedures contained herein apply to all expenditures including but not limited to commodities, services, and construction of infrastructure and facilities by the Town regardless of the source of the funds. Additionally, when the purchase or procurement involves the expenditure of federal assistance, other grant programs, or contract funds, the process shall be conducted in accordance with any mandatory requirements, including applicable federal law, regulations and contractual provisions that must be adhered to by the selected vendor. All purchases shall be for a public purpose and in accordance with this Manual, unless otherwise exempt by the provisions hereof.

It is incumbent upon each user to follow purchasing procedures. Further, it is the duty and the responsibility of each Department Director and the Chief Procurement Officer to monitor compliance with all purchasing and procurement policies and procedures. Improper procedures must be corrected while proper procedures must be recognized and encouraged. Purchases cannot be made until properly authorized. This means all appropriate paperwork, including proper signatures, must be completed prior to ordering or entering into any agreement for any goods or services.

PART I: Purchasing Policy
Section I
General Provisions

A. PURPOSE

The purpose of the Purchasing Policy is to provide guidance and support for the formal rules adopted by the Town Council governing the purchasing process contained in the Town’s purchasing ordinance, Ordinance No. 2020-02.

The following principles of procurement govern the procurement of all goods and services and all other acquisitions for value for the Town within the scope of this policy.

1. The Town shall follow generally accepted public procurement practices, and to the extent practicable, implement the legislative intent of Section 287.001, Florida Statutes, where and as applicable.
2. Fair and open competition is essential to public procurement. Such competition is conducive to assuring public confidence that contracts are awarded equitably, economically and efficiently. The implementation of the principles of this policy may not, in every case, result in the most expeditious or inexpensive form of procurement; nevertheless, a sacrifice in time or economy may occasionally be necessary to ensure quality procurement and to preserve a procurement system which fully adheres to Town standards of public accountability.
3. The Town strives to provide the greatest opportunity, for vendor participation through the frequent use of the competitive process. The Town may use certified minority and women business enterprises and will endeavor to actively encourage their participation in the Town's procurement process.
4. Contract negotiations shall be conducted in a manner that ensures that the Town receives fair value for its money, and that contractors receive fair compensation for their goods and services. Written contracts shall clearly set forth the understanding of the parties and provide an agreed upon method of resolving disputes before they occur; therefore, the Town desires to enter into contracts written in clear, concise, and comprehensive language with terms and conditions that are fair and equitable to the contracting parties.
5. Full documentation and monitoring mechanisms are an important means of establishing public confidence in public procurement and of preventing any improper practices.
6. A perception of integrity is essential to retain public confidence in the Town; therefore, Town employees shall neither solicit nor accept privileges, benefits or exemptions for themselves or others from anyone who have or may have business dealings with the Town.

This policy shall apply to all purchasing and contracting activity, except real property, of the Town, as well as the disposal of all Town property other than real property.

For purposes of this manual the purchasing process is defined in five phases as follows:

- | | |
|-------------------------|--|
| 1. Vendor selection | Identification and subsequent selection of the vendor best meeting identified Town requirements for goods and services |
| 2. Town commitment | Process by which the Town commits to do business with a selected vendor. |
| 3. Contract oversight | Process by which the Town ensures the vendor is in compliance with a contract for goods or services. |
| 4. Payment | Procedures for payment for goods and services. |
| 5. Disposition obsolete | Process by which the Town disposes of surplus, or damaged property. |

B. LEGAL PROVISIONS

This policy establishes policies and procedures for an effective, fiscally responsible purchasing program in accordance with the Town's authority pursuant to the Florida Constitution, Chapter 166, Florida Statutes, as well as its Charter and Code of Ordinances. These purchasing policies shall also be governed and construed in accordance with applicable Florida Statutes. These statutes include, for example, the Public Records and Sunshine Laws set forth at Chapters 119, and 286, respectively, the Consultants' Competitive Negotiation Act, F.S. 287.055, Local Bids and Contracts for Public Construction Works, F.S. 255.20, and such other statutes as may be referenced herein. Additionally, the Town and its elected officials, officers and employees shall comply with the standards of conduct for public officers, employees and agents in accordance with Florida Statutes, Chapter 112, and the Palm Beach County Code of Ethics to the extent applicable to the Town.

In any situation where compliance with this policy will place the Town in conflict with State or Federal Law or terms of any grant, or cooperative agreement, the Town shall comply with such Federal or State law, grant requirements, or authorized regulations that are mandated and which are either not reflected in this policy or are contrary to provisions of this policy.

C. REQUIREMENT OF GOOD FAITH

This policy requires all parties involved in the negotiation, development, performance, or administration of Town contracts to act in good faith.

D. ETHICS

All applicable provisions of the Palm Beach County Code of Ethics, and Town Ethics Ordinance are incorporated herein by reference and made a specific part of this manual. Each person involved in the procurement process must adhere to a high standard of ethics. All employees, officers, council members and board members shall be subject to and must abide by the rules and regulations contained in the Palm Beach County Code of Ethics, Palm Beach County Inspector General Ordinance as well as all State laws regarding procurement.

1. **Prohibition Against Contingent Fees:** It shall be unethical for a person to be retained, or to retain a person, to solicit or secure a Town of Loxahatchee Groves Contract upon any agreement or understanding for a commission, percentage, brokerage or contingent fee.
2. **Use of Confidential Information:** It shall be unethical for any Town of Loxahatchee Groves Employee, Official or Agent knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.
3. **Unauthorized Purchases:** No purchases of Goods and Services shall be made in the name of the Town of Loxahatchee Groves or one of its departments, except such as is required for official use by the Town of Loxahatchee Groves or one of its departments. Purchases in the name of the Town of Loxahatchee Groves or a department for personal use by an individual or for other than official use are prohibited, and no Town of Loxahatchee Groves funds will be expended or advanced, therefore.
4. **Disclaimer of Responsibility for Improper Purchasing:** The Town may disclaim responsibility and liability for any purchase, expenditure, or agreement for expenditure arising from a procurement made in its name, or in the name of any governmental body under its authority, by an unauthorized person or any person acting outside this Policy or the authorization or delegation as provided in this Policy.

E. OFFICE OF INSPECTOR GENERAL

Pursuant to Chapter 2, Article XII of the Palm Beach County Code, the Office of Inspector General is created in order to promote economy, efficiency, and effectiveness in the administration of and, as its priority, to prevent and detect fraud and abuse in programs and operations administered or financed by county or municipal agencies. The Office of Inspector General provides independent oversight of county and municipal operations, in accordance with Section 2-422, et. seq. of the County Code. The Inspector General shall be notified in writing prior to any duly noticed public meeting of a procurement selection committee where any matter relating to the procurement of goods or services by the Town is to be discussed. The notice required shall be given to the Inspector General as soon as possible after a meeting has been scheduled. The Inspector General may, at his or her discretion, attend all duly noticed meetings relating to the procurement of goods or services as provided herein, and may pose questions and raise concerns consistent with the functions, authority and powers of the Inspector General. The failure to give written notice, however, does not constitute grounds for a protest regarding such procurement and shall not be the cause for the stay of any procurement, and shall not be the basis to overturn the award of a contract.

F. IMPLEMENTATION

The Council authorizes the Town Manager and/or designee(s) to implement all other policies, practices and procedures necessary to carry out the provisions of this policy. The Manager may adopt administrative policies and procedures which may be amended from time to time at his discretion. The Town Manager may also make minor changes to this purchasing policy; however, substantive changes such as thresholds require approval by the Town Council.

The use of purchasing cards shall be in accordance with this policy and any corresponding administrative policies and procedures.

**Section II
Vendor Selection**

A. PURCHASING AUTHORITY

The Town uses both express and delegated purchasing authority which is the power to bind the Town in a contractual relationship for the procurement of goods and services. The Council is authorized to contract with various vendors including public agencies, for profit and not for profit corporations and/or other organizations/persons. While all procurement authority lies with the Town Council, it may delegate its purchasing authority when deemed to be in the best interests of the Town. Delegation to the Town Administrator of the Council's procurement authority is authorized in accordance with this policy. Any purchasing authority not expressly delegated is retained by the Council.

The following purchasing authority, including execution of contracts and amendments, is delegated to the Town Manager and/or designees acting on his behalf within the following limits to encumber funding shown in Table 1 below:

**TABLE 1 – VENDOR SELECTION THRESHOLDS
FOR SINGLE PURCHASE COST LEVELS / REQUIRED DOCUMENTATION**

AMOUNT	REQUIRED DOCUMENTATION	REQUIRED APPROVAL	AGENDA
Up to \$1,000.00	Open Market	Department Head	No
\$1,000.01 to \$5,000.00	Three documented verbal or written quotes, to extent possible	Town Manager/Designee	No
\$5,000.01 to \$ 24,999.99	Three documented written quotes, to extent possible	Town Manager/Designee	No
\$ 25,000.00 and over	Competitive Selection	Town Council	Yes

In summary,

- The Town may acquire goods and services through direct negotiation or by some other non-competitive selection when the purchase does not exceed \$25,000 and is otherwise properly approved and documented.
- All purchases of and/or contracts for commodities or services between \$1,000 and \$25,000, individually or in the aggregate, shall require the approval of the Town Manager or designee.
- All single purchases of and/or contracts for commodities or services equal to or greater than \$25,000 shall require the approval of Town Council regardless of method of selection followed.

Additionally,

- Purchases exceeding \$25,000 in the aggregate for the same commodity and/or service for the same project or purpose shall not be purchased from the same person or entity during the course of any fiscal year in smaller increments in an attempt to “split purchases” to avoid required competitive selection and/or Council approval.
- The following purchases are subject to separate vendor selection thresholds and methods under Florida Statutes than those noted in Table 1 above:
 - Professional Services Procurements Subject to Consultants' Competitive Negotiation Act ("CCNA"): Procurements of services for architecture, engineering, landscape architecture and land surveying must follow the procedures set forth in §287~055, Florida Statutes (CCNA),
 - Public Improvement Construction Projects: Procurements for construction projects must follow the procedures set forth in §255, Florida Statutes, and
 - Audit Services: When selecting an auditor to conduct the Town's annual financial audit required by §218.39, Florida Statutes, the Town shall follow the auditor selection procedures provided in §218.391, Florida Statutes.

Under no circumstances may known or anticipated annual requirements for goods and services from a vendor be broken into smaller quantities to circumvent the requirement to use a formal vendor selection process. The Town’s purchasing policies are based on the total dollar amount of purchases made with a vendor in a given fiscal year. An annual purchase order must reflect the anticipated total amount of business to be done with a vendor for the year.

The Manager may exempt a transaction(s) from the standard processes of this policy if the transaction presents an emergency or if otherwise exempt in accordance with this policy.

In the event of an emergency, the Manager may provide for expedited competition if practicable and shall also have discretion to suspend or terminate any solicitation or pending procurement when deemed in the best interest of the Town.

B. VENDOR SELECTION METHODS

There are various vendor selection methods that may be used by the Town: Quotes, Invitations to Bid (ITB), Invitations to Negotiate (ITN), Requests for Proposals (RFP), Requests for Qualifications (RFQ), Requests for Information (RFI) and Letters of Interest (LOI).

Quotes, written and/or verbal, are normally used when the expected cost of goods or services is \$25,000 or less. This is the informal method of competitive vendor selection. Quotes must be consistent in content for comparison purposes. Quotes must include the vendor name, contact person, date, a clear description of the goods or services being offered by the vendor, a statement of price, and the terms of the sale. Written quotes may substitute for verbal quotes. Verbal quotes must be documented by the user department and retained on file. Written quotes must be signed and dated by the vendor.

The remaining methods, ITB, ITN, RFP, RFQ, RFI and LOI, are formal competitive vendor selection methods. Competitive vendor selection methods utilize competitive bidding to allow a maximum degree of competition among a number of suppliers offering similar products or services. Formal competitive vendor selection methods must be used when costs are expected to be \$25,000 or more and may be used for smaller purchases when the Town will derive sufficient additional benefit to justify their use.

These methods may also be used for smaller purchases when the Town will derive sufficient additional benefit to justify their use. A determination is made by the Town Manager, after consultation with the user department, as to which formal competitive vendor selection method will be used.

The details of each method of selection are detailed in the accompanying procedures.

The use of existing competitive contracts including piggybacks and cooperative purchases and State/Federal contracts/cooperatives/alliances may serve as an alternate to quotes and/or methods of competitive selection and are encouraged wherever possible.

Exceptions to the required vendor selection methods are permitted in specific instances (See Part C. below in this section) or when pre-approved by Town Manager in other limited instances.

C. EXCEPTIONS TO VENDOR SELECTION THRESHOLDS AND COMPETITIVE SELECTION

The following are exceptions to the vendor selection thresholds and competitive selection methods set forth above, except where State law provides otherwise. Exceptions must be pre-approved by the Town Manager. Purchases not subject to the competitive procurement requirement must still have the same levels of approval as purchases subject to the regular competitive vendor selection process.

1. Town standard, single-source and/or sole-source – only one vendor’s goods or services will meet Town requirements. Approval requires written justification by Town Manager or designee as well as letter from vendor and/or manufacturer confirming such designation. The ability to meet a necessary condition dictated by circumstances such as delivery date and repairs and maintenance of a particular item/location can also create a single-source situation which also must be substantiated and approved.
2. Emergency purchases – where an unexpected turn of events such as an Act of God or other urgent circumstances creates: (1) immediate danger to the public health, safety, welfare; or (2) threat of substantial loss to public or private property; or (3) interruption of essential governmental services, the Town Manager or designee may proceed to procure the goods or services necessitated by the emergency without competition (quotes and/or solicitation as set forth in Table 1 above not required). The Town Manager’s decision and justification shall be documented in writing and any procurement actions that would have otherwise required competitive solicitation and Council approval shall be ratified by Council at its next practicable meeting.
Upon declaration of a state of emergency by the Town and/or County, State and/or Federal government, all bidding requirements may be suspended upon approval of Town Manager who shall still attempt to obtain comparative pricing through verbal and/or written quotes and proposals to the extent practicable.
3. Purchase of goods or services under contracts of the federal government, the State of Florida, or its political subdivisions (also referred to as “piggybacking”).
4. Cooperative Purchasing - Contracts available through the City’s participation in governmental purchasing cooperative groups and/or by extension of contract terms available on an existing contract of another governmental entity (piggyback) generally within the last 3 years.
5. Exempt or open market purchases.

There are also a number of services and activities with characteristics that dictate a different standard for competition. Generally, competitive solicitation procedures will be implemented on an annual basis; however, certain types of contracts are not cost effectively recomputed annually due to administrative burdens. These procurements include, but are not limited to: auditing services, banking services, underwriting services, insurance contracts, third party claim services, and leases. These procurements shall be reassessed at regular intervals to ascertain if the advantages of competition outweigh the administrative burdens associated with annual competition.

The following purchases are by their nature exempt from competitive solicitation and written quote requirements:

- a Academic programs, reviews, lectures, seminars and/or other training programs.
- b Advertising: radio, newspaper, television and other media, if exclusive area of coverage or other factors preclude competition.
- c Auditing and accounting services, except that competition shall be provided where required by applicable law, including Florida Statutes, Sections 218.39 and 218.391.
- d Conference, training and educational expenses.
- e Copyrighted materials (books, videotapes and other processed media), except computer software.
- f Debt service and other financing transaction costs.
- g Food, clothing and other promotional items purchased for resale or distribution to the public.
- h Goods and services provided by not-for-profit organizations.
- i Governmental entities:
 - i reimbursements to or fees payable to governmental agencies;
 - ii fines;
 - iii purchases from or services provided by other governmental entities (i.e. Federal, State, County, or non-profit organizations as permitted by F.S., 255.60) and as noted above, Colleges and Universities as well as grant agreements which may contain provisions or requirements related to purchasing policies, disposition of fixed assets, etc. that differ from this policy, in which case, the grant provision/requirement will take precedence;
 - iv licenses and permits;
 - v refunds; and
 - vi any other payments required by law.
8. Insurance Adjustments and/or items covered under insurance policies: Property Damage approved and paid by insurance as well as payment of all deductibles on other insurance claims are exempt and does not require additional quotes or Council approval.
9. Maintenance service of equipment when services must be performed by the equipment manufacturer, manufacturer's service representative, or a distributor of the manufacturer's equipment (e.g., to avoid warranty issues).
10. Membership dues and sponsorships.
11. Professional services including but not limited to services provided by
 - a. architects
 - b. engineers
 - c. actuaries
 - d. surveyors
 - e. accountants
 - f. environmental experts;

- g. attorneys
 - h. lobbyists;
 - i. financial advisors
 - j. health or medical services involving physicians, examination, diagnosis, treatment, prevention, medical consultation, screening or administration;
 - k. insurance agent(s) of record, broker(s) and/or carriers. Additionally, the Manager or designee may permit insurers to offer supplemental products and coverage to employees, and which are to be paid for by the employees;
 - l. real estate brokers and other related professional services;
 - m. services involving special skill, ability, training or expertise that are in their nature, unique, original or creative;
 - n. professional services as defined by F.S. 287.055, and where the estimated costs are less than the thresholds provided by F.S. 287.055 and 287.017;
 - o. trustees.
12. Performing artists, entertainers and other artistic services which are original and creative in character and skill in a recognized field of artistic endeavor such as but not limited to music, dance, drama, painting and sculpture, photography, culinary arts, fashion design and the like.
 13. Personnel verifications and background checks.
 14. Petty cash purchases.
 15. Publications, including subscriptions.
 16. Real estate transactions in accordance with Section 166.045, Florida Statutes and the Town's Code of Ordinances.
 17. Non-employee recreation instructors (officials, referees, scorekeepers, etc.).
 18. Reimbursement of bid or proposal securities.
 19. Reimbursement for damages to non-vendor or third parties.
 20. Services involving special skill, ability, training or expertise which are in their nature unique, original or creative.
 21. Shipping and freight costs not otherwise included on a Purchase Requisition.
 22. Software licensing renewals, training, product maintenance and standard upgrades;
 23. Temporary staffing including full and/or part-time contractual services
 24. Utilities, postage, refunds, items covered by insurance policies and legal advertising.
 25. Except where prohibited by law, Council may declare by at least a four-fifths affirmative vote as to exempting a particular procurement from this Policy and/or utilizing a different methodology when deemed in the best interests of the Town.

The foregoing enumeration of services deemed to be exempt from the competitive procurement requirements is not intended to be an exhaustive or exclusive list. The Town Manager or his or her designee may determine if a contractual service must be procured through the competitive procurement process, if not expressly indicated herein.

Further, the exemptions herein do not exempt the purchase from Manager and/or Council approval, if required by the threshold limits. Purchases not subject to the competitive procurement requirement must still have the same levels of approval as purchases subject to the regular competitive vendor selection process.

Section III

Competitive Selection Solicitation Process

A. PUBLIC NOTICE

Vendors are encouraged to do business with the Town. Public solicitation ensures that vendors receive the opportunity to offer goods and services and that citizens benefit from competition and fair evaluation of bids and proposals. Specific notice requirements are included in the procedure provisions of this manual.

B. BID / PROPOSAL BOND

Bid bonds (also known as proposal bonds) may be required in conjunction with responses. They guarantee the responders will not withdraw their bids for a specified time period and will accept a contract, if offered, or will forfeit the bond amount.

Bid bonds shall be required for all construction projects when the total contract price is estimated to exceed three hundred and twenty-five thousand dollars (\$325,000). In all other cases the Town reserves the right to require a bid or proposal bond when deemed necessary by the Town Manager. The Town Council in its sole discretion may require public construction payment and performance bonds, other bonds and/or other security on any Town project estimated to cost less than three hundred and twenty-five thousand dollars (\$325,000).

Bid bonds shall be by cash, a certified or cashier's check, a surety bond or an irrevocable standby letter of credit, or other acceptable form of security in an amount not less than five percent (5%) of the amount of response. If a surety bond is provided, the surety company must be authorized to do business as a surety in Florida.

C. CANCELLATION AND/OR POSTPONEMENT

Any solicitation may be cancelled or postponed and any or all bids/proposals/replies may be rejected in whole or in part when it is deemed to be, at the sole discretion of the Town Manager, in the best interests of the Town. Each solicitation shall generally contain a notice of the foregoing. Notice of cancellation shall generally be sent to businesses solicited, vendors which attended a pre-bid meeting, and any actual bidder/proposer/respondent.

D. TIED BIDS AND PROPOSALS

Tied bids are offers where one or more responsive and responsible bidders offer the same low price for an item or group of items, depending on the method of award. In such instances, the tie shall be broken by the Town Manager or designee flipping a coin in the presence of the Town Clerk.

E. DETERMINATION OF BEST BID, RESPONSE OR PROPOSAL

It shall be the responsibility of the selection committee, Town Manager or designee, Town Engineer, when necessary, department director(s) and/or assigned staff to determine best responsible bid, proposal or response which meets the specifications and conditions of the competitive solicitation document. For bids, proposals or responses requiring Town Council approval, the Town Manager shall submit the recommendation of staff or the selection committee to the Town Council.

F. RESERVATION OF RIGHTS

The Council, the Manager and/or designee shall have the authority to waive minor irregularities. Where a mistake or omission is not evident on the face of the bid/proposal/reply, and the bidder/proposer/respondent points out the error with clear and objective evidence before award, it may be permitted to withdraw its bid/proposal/reply in the Town's discretion, and in accordance with this Policy. No bidder/proposer/respondent will be permitted to correct a material irregularity or otherwise cure a bid/proposal/reply which has been rejected by the Town as nonresponsive. Where a bid security has been

required, withdrawal permitted by the Town normally would be without forfeiture of the security.

The Town may accept a voluntary reduction from a low bidder or offeror after bid/proposal/reply opening, if such reduction is not conditioned on, nor results in, the modification or deletion of any condition contained in the competitive solicitation. A voluntary reduction may not be used to ascertain the low responsive/responsible bid or for purposes of ranking of proposals.

Discussions may be conducted with responsible Offerors whose submitted proposal is determined to be reasonably susceptible of being accepted for award, for the purpose of clarification, and to assure full understanding of responsiveness to the solicitation requirements. Offerors shall be afforded fair and equal treatment with respect to any opportunity for discussion and revision of proposals after the opening and prior to award for the purpose of obtaining best and final offers when provided by the terms of the competitive solicitation and this Manual.

The Town further reserves the right to reject any and all bids, proposals, or replies, to terminate a competitive solicitation process, or to otherwise take any action deemed to be in its best interests.

G. PROTEST PROCEDURES

1. Right to protest. After posting of the recommended awardee, any bidder or proposer who is aggrieved in connection with the recommended award may protest in writing to the Town Clerk. The right to protest is limited to those procurements of goods or services solicited through an invitation for bid, request for proposals or other competitive solicitation procedures. Recommended awards less than the mandatory bid or proposal amount cannot be protested. Notwithstanding the above, the Town Manager may, in his or her sole discretion, include the right to protest in any solicitation process if in the best interests of the Town.
2. Notice of protest. The protest shall be submitted within three (3) business days after posting of the award recommendation (excluding Fridays, Saturdays, Sundays and legal holidays). The protest shall be in writing (which includes emails), shall identify the protestor and the solicitation, and shall include a factual summary of the basis of the protest. Such protest is considered filed when it is received by the Town Clerk. Received means that the protest documents must be delivered to the Town Clerk's office by the cut off time period. Neither the Town Manager nor the Special Magistrate shall consider any issue not submitted in writing within the time frame specified for the notice of protest.
3. Authority to resolve. Protests filed in accordance with paragraph (2) hereinabove shall be resolved under the provisions of this section.
 - a) If the protest is not resolved by mutual agreement, the Town Manager, shall issue a decision in writing within a reasonable amount of time. The Town Manager shall have the authority to:
 - i. Uphold the protest. The protest may be upheld based upon a violation of the provisions of this purchasing code or of any other Town ordinance, resolution, policy, or procedure, or upon discovery of an irregularity or procedural flaw that is so severe as to render the process invalid. If the upholding of the protest will result in a change of the recommended awardee, a new recommended award shall be posted in Town hall. If the upholding of the protest will result in a cancellation of the protested solicitation, the Town Manager may then cancel the solicitation.
 - ii. Deny the protest. If the protest is denied, the protestor has the right to request that the protest be referred to the Special Magistrate as described herein below.

- iii. Refer the protest directly to the Special Magistrate with no determination made by the Town Manager, in accordance with paragraph (3)(c) herein below.
 - b) The Town Manager shall issue a written statement of the determination within a reasonable period of time. The written statement shall provide the general rationale for said determination and shall be provided to the protestor and to any other party to the protest.
 - c) Upon receipt of a denial of the protest, the protestor may request a hearing before the Special Magistrate. The request for a hearing shall be in writing to the Town Clerk and shall be made within three (3) business days of issuance of the Town Manager's determination. The request for a hearing shall be accompanied by a protest bond of no less than fifteen hundred dollars (\$1,500.00) or the anticipated actual cost of the proceedings and shall be remitted only in the form of a money order, a certified check, a cashier's check, or a bank check payable to the Town of Loxahatchee Groves.
 - d) At no time shall a protestor, party, or any other person, contact the Special Magistrate regarding any issue pertaining to or involving the protest. Contact between the Town and the Special Magistrate shall be limited to scheduling and other administrative issues, including the provision and copying of public records pertinent to the protest.
- 4. Authority of the Special Magistrate. The Special Magistrate, appointed to hear the Town's code enforcement cases, shall also hear bid protests and shall have the jurisdiction and authority to hear and decide protests.
 - a) The Special Magistrate shall make a recommendation as to whether the protest should be upheld or denied.
 - b) If the Special Magistrate upholds the protest, the Special Magistrate shall either make a recommendation to cancel the solicitation, or to cancel the award recommendation and post a new award recommendation after reevaluation based on the Special Magistrate's determination of the facts in the case. In these instances, the Town shall return the protestor's bond to the protester.
 - c) If the Special Magistrate denies the protest, the special magistrate shall recommend that the Town Manager proceed with the posted award recommendation. In these instances, the protestor's bond shall be forfeited.
 - d) The Town Manager may accept the Special Magistrate's recommendation or, if he/she determines the Special Magistrate's recommendation is not in the Town's best interest, the original award recommendation may be referred to the Town Council for approval. At that time, the Town Council may accept or reject the recommendation of the Special Magistrate.
- 5. Stay of procurement during protests. Notwithstanding anything contained herein to the contrary, in the event of a timely protest, the Town Manager shall stay the award of the contract unless he/she, with the advice of the Town Attorney, makes a determination that the award of the contract without delay is necessary to protect substantial interests of the Town.
- 6. Failure to follow the protest procedure set forth herein shall automatically nullify any protest or claim brought by an aggrieved Proposer.

Section IV Contracts

A. FORM OF CONTRACT

1. Written agreements. Written agreements shall be utilized for all acquisitions of non-real property, goods or services where the total expenditure by the Town (including expenditures during renewal periods, but not expenditures relating to Change Orders) is estimated to be \$10,000 or greater. The Town may utilize a written agreement for any acquisition of less than \$10,000 that the Town deems appropriate. All written procurement agreements must be approved as to form and legality by the Town Attorney.
2. Purchase orders. Where no other form of contract exists, purchase orders, in a preapproved format, shall be utilized for acquisitions of non-real property, goods or services where the total expenditure by the Town is estimated to be greater than \$1,000. The Town may utilize a purchase order for any acquisition of \$1,000 or less that the Town deems appropriate.

B. PAYMENT/PERFORMANCE BOND

All contractors shall furnish to the Town a performance bond executed by a surety company rated A- VII or higher by AM. Best & Co., demonstrate a successful record of continuous operation, and be licensed, admitted and authorized to do business in the State of Florida and/or provide a clean irrevocable letter of credit issued by a bank within Palm Beach County to ensure the faithful performance of services and all obligations arising under the contract in the amount of 100% of the contract value. A clean, irrevocable letter of credit or bond, either of which meeting the requirements of this section, may be substituted for the other upon approval by the Town. The form of this bond or letter of credit, and the Surety Company, shall be acceptable to Town legal counsel and the Contract Administrator and shall be maintained during the term of the contract. The bond(s) shall be endorsed to show the Town as obligee and it shall provide that bond(s) shall not be canceled, limited or non-renewed until after thirty (30) days' notice has been given to the Town. Current performance bonds evidencing required coverage must be in force and on file at the Town at all times.

C. CHANGE ORDERS

Where a contract has been approved by Town Council, the provisions for change orders are as follows:

1. Beyond the Scope of Work. Any Change Order that materially expands or alters the scope of the work in a Town Council approved contract shall be subject to prior approval by the Town Council.
2. Within the Scope of Work. The Town Manager may approve a Change Order provided that it does not alter the scope of the work in a Town Council approved contract and that the cumulative total of all change orders, for the duration of the contract, does not exceed ten percent (10%) of the contract amount or \$25,000.00, whichever is less.
3. Extension of Completion Dates. Any Change Order that extends the original substantial or final completion date of a Town Council approved contract shall be subject to prior approval by the Town Council, except for the time allowed under Article VIII.

D. TERMINATION, SUSPENSION, EXTENSION AND RENEWAL

Where a contract has been approved by Town Council, the provisions for termination, suspension, extension and renewal are as follows:

1. Termination may only be approved by the Town Council. If the Town Manager desires to terminate a Town Council approved contract, the Town Manager may suspend the work under the contract until the Town Council makes a final determination.

2. Extensions. The Town Manager may extend a Town Council approved contract for up to 90 days. The extension of any Town Council approved contract for longer than 90 days shall be subject to prior approval by the Town Council. In the event of an Emergency, the Town Manager may extend a Town Council approved contract without Town Council approval, subject to later ratification by the Town Council.
3. Renewals. When a contract is entered into by the Town pursuant to Town Council approval and provides for one or more renewals by affirmative action of the Town, only the Town Council may approve such renewals.
4. The Town Manager may suspend a Town Council approved contract for up to 90 days. Suspension of a Town Council approved contract for longer than 90 days shall be subject to Town Council approval.

E. COMPLIANCE

The Town, its vendors and contractors must comply with all federal laws, regulations, and requirements, as applicable including Sections 504 and 508 of the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act of 1990, as amended, and other related local, state, and federal laws, as well as other related Town policies.

Section V Property Management

A. CAPITAL ASSETS

The Town shall record all capital assets in the amount of \$5,000.00 or greater for inventory and depreciation purposes.

The Town Manager shall have the authority to dispose of all non-real property that is determined to have a value of less than \$5,000. Surplus non-real property with a value greater than \$5,000 will be subject to Town Council approval prior to its disposal.

B. DISPOSAL OF ASSETS

1. Excess, Surplus, and Obsolete Materials

It shall be the duty of the User Department Head to report all excess, surplus or obsolete materials to the Town Manager. At this point, the Town Manager, in conjunction with the User, will examine alternatives as to the most advantageous disposition of the items. Items could be refurbished or reconditioned, transferred, traded in on new equipment or sold by auction or sealed bid.

The Town Manager shall have the authority to dispose of all non-real property that is determined to have a book value or market value (whichever is greater) of less than \$5,000. Surplus non-real property with a book value or market value (whichever is greater) greater than \$5,000 will be subject to Town Council approval prior to its disposal.

- A. Transfer or Re-use: The most gainful method for handling an item no longer needed by a department is to transfer it to another department that has a use for the item.
- B. Trade-In: In replacing obsolete equipment, it may be financially advantageous to trade-in the old equipment. Requests for bids on the replacement item may call for bid prices with or without trade-in and provide that award may be made either way.
- C. Sale: Excess, surplus and obsolete items not transferred or traded-in may be consolidated and offered for sale by auction or by sealed bid method. Auctions can be traditional or contemporary including online auctions such as www.publicsurplus.com, www.govdeals.com, or similar websites. The consolidated list will be submitted to Town Council for approval before an auction or sealed bid is organized. The property offered for sale will be on an "AS IS/WHERE IS" basis. The sale will be given public notice. Sealed bids will be opened at the time and place announced with the Town, retaining the right to reject any and all.

- D. Junk property: The Town Manager may declare that any non-real property that is determined by the Town Manager to have reached the end of its useful life and/or may expose the Town to potential liability from its continued use or sale and/or whose disposition cost exceeds its value, is junk. Non-real property declared by the Town Manager to be junk shall be disposed of without receipt of consideration (or, if necessary, at a cost to the Town) and shall be rendered useless.
2. Sale to Employees
To avoid any appearance of impropriety in the disposition program, it will be the Town's policy to prohibit the direct sale of surplus property to any Town Employee, Official or Agent. This policy does not prohibit any Town Employee, Official or Agent from extending an offer at a public auction or in the form of a sealed bid.
3. Allocation of Proceeds
Proceeds from the sale of excess or surplus property will go into the Town's general fund.

PART II: Purchasing Procedures

Section I

General Provisions

A. PURPOSE

1. Maintain at all times and under all conditions a continuous supply of Goods and Services necessary for the operation of the Town;
2. Encourage and promote fair and equal opportunity for all persons doing, or seeking to do, business with the Town;
3. Safeguard the quality and integrity of the Town's procurement process;
4. Ensure compliance with laws and regulations pertaining to the procurement of Goods and Services;
5. Manage procurement and inventories of purchased Goods to meet the use requirements of Town departments at the most advantageous cost to the Town;
6. Administer procurement contracts and contract amendments;
7. Properly dispose of all material and equipment declared to be surplus or obsolete; and
8. Ensure the Town provides quality service to our citizens.

The philosophy behind these procedures is one of separating the need for Goods and Services from the function of negotiation and executing the necessary contractual purchase agreement.

B. PURCHASING PROCESS

There are three major elements or stages of the purchasing process, each of which is equally important:

- 1 Planning and scheduling purchasing and purchasing activities to meet program and budgetary objectives:
 Planning is necessary in order to consolidate purchases and achieve economies of scale. Scheduling takes advantage of market cycles by anticipating the best time to buy. Departments that budget effectively estimate their need for commodities and services in advance. From these estimates, a purchasing schedule can be created that takes into account and consolidates Department needs.
- 2 Source Selection:
 This is the process through which solicitations are issued, advertisements run, vendors selected, and commodities or services received. Staff in both user Departments and in Purchasing must work closely to define what is to be purchased. Neither department can do it alone. Together, they develop specifications and scopes of work reflecting the Department's knowledge of its needs in delivering services and Purchasing's knowledge of the market. After both departments decide on the appropriate purchase method and type of contract, Purchasing staff issues the solicitation and receives bids/proposals/replies in response to the competitive solicitation or as otherwise provided in this Manual. Purchasing obtains the executed contracts and ensures the commodities/services are delivered in accordance with the solicitation. This separation of duties is a fundamental aspect of the purchasing process.
- 3 Contract Monitoring and Administration
 This element ensures that the terms of the purchase order or contract are enforced and invoices are paid. Lead responsibility for contract administration falls on Department personnel with advice and support from Purchasing. Invoices are approved and submitted for payment and the quality of commodities and services are monitored and evaluated. If the Department wishes to change the

specifications or scope of services, it consults with Purchasing to negotiate a change order. If the Department is dissatisfied with its purchase, then Purchasing forces corrective action by the vendor. When the contract is completed, the Department staff “closes out” the solicitation by, for example, receiving release of liens from subcontractors, recovering equipment from the vendor, completing and evaluating the purchase, making sure all invoices are paid and the purchase file is complete, and forwarding suggestions for improvements to Purchasing. Purchasing shall notify the vendor of applicable suggestions and comments in writing.

The following outlines the more specific procedures in the purchasing process and transaction cycle

Required Steps	Responsibility
The User Department’s needs are recognized, perceived, or indicated.	User Department
Requisition is prepared, pre-encumbered and forwarded to Purchasing for processing.	User Department
Specifications or scope of services are developed.	User Department
Appropriate source selection or method of purchase, i.e. sealed bidding, sealed proposals, sole source, emergency, or small purchase	Purchasing Division
Preparation of Solicitation documents	Administration
Advertisement of Competitive Solicitation	Clerk
Bid/Proposal/Reply opening	Clerk
Bid tabulations	Administration
Bids/Proposals/Replies reviewed and evaluated for compliance with specifications, criterion or scope of service.	User Department/Administration or when applicable a Selection Committee to recommend awardees(s)
Publish Notice of intent to Award (3-day protest period)	Clerk
Inform offeror(s) of Notice of Award	Administration
Based on award value and approval authority	Manager or Council
Contract and/or Purchase Order.	User Department/Administration
Contract Administration	Purchasing Division/User Department

Section II

Competitive Selection Methods

Purchases of materials, supplies, equipment and contracted services from outside vendors of the Town in the amount of \$25,000 or more shall be acquired through a competitive solicitation. The competitive solicitation shall contain such terms and conditions, including, for example, the scope of the work, minimum qualifications, time for performance, and such other requirements deemed necessary by the Town. Where applicable, the solicitation specifications shall also include all license fees, permit fees, impact fees, or inspection fees that will be payable by the contractor to the Town. The only permitted exceptions to this policy are those authorized in this Manual.

Invitation to Bid (ITB), Invitation to Negotiate (ITN), Request for Information (RFI), Request for Proposals (RFP), Request for Qualifications (RFQ), and Request for Letter of Interest (RLI or LOI) are effective formal procedures for soliciting competition from vendors in the purchasing sector. The ITB is awarded primarily on price alone. The RFP uses several different evaluation criteria, including price, to determine award. The RFQ ranks respondents based on their qualifications and experience. The RLI or LOI, the least formal process, sends out letters to interested parties to see if they are interested in applying for the work being offered. Evaluation is based on the experience of the responders and follow-on discussions with them. The details of each method of selection are outlined below.

A. INVITATION TO BID (ITB)

An ITB is a sealed bid process used when specifications are well-defined, competition is prevalent, and substitutions are allowable. The ITB shall include instructions to bidders, plans, drawings and specifications if any, the conditions for purchase, packaging, delivery, shipping and payment, contract clauses to be included, bid form, and other required forms and documents to be submitted with the bid and the deadline for submitting bids. As a result, prices obtained are generally lower than “list” pricing. Under this type of solicitation, normally the recommendation of award must go to the lowest responsive and responsible bidder. There are generally no other evaluation criteria considered in this type of solicitation.

B. INVITATION TO NEGOTIATE (ITN)

A written solicitation for competitive sealed replies to select one or more vendors with which to commence negotiations for the purchasing of commodities or contractual services. The ITN may, for example, be used when it is determined that a vendor is a single source or when competitive bidding has failed to produce an acceptable result. Additionally, upon request of the Manager, the Council may, by majority vote, utilize an ITN instead of an ITB or RFP process in order to authorize the Manager or designee to purchase items or services by negotiation, and where the process for short listing and/or ranking for purposes of negotiation will be set forth in the ITN.

C. REQUEST FOR INFORMATION (RFI)

Made typically during the project planning phase where staff cannot clearly identify product requirements, specifications, and purchase options. RFIs clearly indicate that award of a contract will not automatically follow. Information gathered through an RFI is commonly used to facilitate the creation of the solicitation documents.

D. REQUEST FOR PROPOSAL (RFP)

An RFP is a formal request from the Town to vendors to submit structured, sealed proposals. The proposal is to provide a solution to a need the Town has specifically identified. The vendor’s experience and qualifications, together with the proposed solution, is evaluated and may take precedence over price. The evaluations of the proposals may be completed by a selection committee comprised of at least three (3) voting members, who have experience with the need identified which may or may not include Town staff. If

selection committee is to be used the committee members are generally selected by the user department, and the Town Manager or designee facilitates the evaluation and selection process.

All RFPs shall state the relative importance of price and any other evaluation criteria. The Town may engage in negotiations with offerors 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 the best and final offer.

E. REQUEST FOR LETTER OF INTEREST (RLI OR LOI)

An LOI is a formal invitation from the Town to vendors to submit an offer to perform a specific job or service. It identifies, in general terms, the work required and directs the respondents to provide a letter regarding the respondent's interest in working with the Town on the particular project(s). Respondents provide a statement of experience and qualifications of key personnel. Costs or fees are not part of the response.

Responses will be evaluated and may be "shortlisted", and the shortlisted vendors may be asked to submit price proposals or engage in negotiations based upon the ranking. The evaluation or ranking may be evaluated by a selection committee and facilitated by the Town Manager or designee as described in the RFP section. Based on the experience and qualifications, the responses are ranked based on the specific evaluation to be utilized for purposes of shortlisting, ranking, and requesting price proposals or negotiations shall be set forth in the RLI. This ranking is presented to the Council requesting authorization to enter into contract negotiations with the top ranked vendor. The resulting contract is then brought back to Council for final approval. An RLI may be used in the discretion of the Town, provided, however, it shall not be used where a different method is required by applicable statute or this Manual. Architectural, legal and management services are examples of when this type of solicitation would be used.

The Town may engage in negotiations with responders for the purpose of clarification to assure full understanding of and conformance to the solicitation requirements. Responders 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 the best and final offer.

F. REQUEST FOR QUALIFICATIONS (RFQ)

An RFQ is a formal invitation from the Town to vendors to submit a statement of qualifications. This approach differs from the traditional request for proposals approach in that it places greater emphasis on the actual qualifications of the potential contractor, (his or her track record), rather than how well the potential contractor responds to detailed project specifications and requirements.

The RFQ identifies the desired minimum qualifications of the firm, a scope of work statement, any project requirements, and states the relative importance of selection criteria that will be used in compiling the short list of prospective firms for further consideration.

Responses are evaluated by a selection committee and facilitated by the Town Manager or designee. Depending on the number of qualification responses received, a shortlist of three to five firms are identified for further consideration. These short-listed firms are then interviewed by the evaluation committee. Based on the interview, experience and qualifications, the short-listed firms are ranked. This ranking is presented to the Council for approval along with a request for the proper Town officials to be authorized to negotiate and execute the contract.

G. CONSULTANTS' COMPETITIVE NEGOTIATION ACT (CCNA) REQUEST FOR QUALIFICATIONS (RFQ)

When applicable, the Town adheres to the procedures established by Florida Statutes, Section 287.055, known as the "Consultants' Competitive Negotiation Act" (CCNA). It is utilized specifically to select professional architects, professional engineers, landscape architects or registered surveyor and mapper. An RFQ is utilized to seek professional qualifications and may also be utilized as the method to solicit other types of services which may be based upon a qualification selection process.

- 1 It is a two-step method with selection of a vendor made by merit or qualifications, followed by negotiation of a contract with the most qualified firm. This section applies only to specific projects where the thresholds set forth at Section 287.055(3) are exceeded, and except in cases of valid public emergencies certified by the Manager.
- 2 Firm(s) desiring to provide professional services for a project with the Town shall timely submit qualifications statements containing evidence of current professional status, capabilities, adequacy of personnel, past record and related experience, list of sub-consultants, financial strength and other information required by the RFQ necessary for evaluation.
- 3 The award of any CCNA contract equal to or in excess of \$25,000 shall be approved by Council. Professional services that cost less than the thresholds established by Florida Statute are not subject to competitive selection as defined in FS 287.055 or this Manual. The policies contained herein are a mere summarization of the procedure contained in Florida Statutes, Section 287.055 and the Town personnel are instructed to refer to such provision for additional detail. In instances where CCNA is not applicable based on monetary thresholds, and in the discretion of the Manager, procurement of professional services may be made by any process authorized by this Manual and may utilize an RFP process where separately sealed price proposals are submitted. In such cases, a Selection Committee shall short list no fewer than three (3) vendors based upon qualifications and rank the vendors based upon merit, and qualifications. The price proposals shall be opened after the short listing, and the final ranking shall consider the price proposals received and in accordance with the process to be further described in the RFP. In the event less than three proposals are received, the Committee shall evaluate and rank the responsive proposals received.

H. CONSTRUCTION SERVICES

The procurement of construction services shall be in accordance with this Manual and where applicable, the Town shall also adhere to the requirements established by Florida Statutes, Sections 255.0525 and 255.20 as more specifically noted below.

I. CONSTRUCTION MANAGEMENT AT RISK

This is a method used to procure a Construction Manager, and which may result in a guaranteed maximum price for construction and time for completion. Such procurements shall be in accordance with this Manual, and in any manner authorized by Florida Statutes, including Sections 255.103 and 287.055, or 255.20.

J. PUBLIC-PRIVATE PARTNERSHIPS

The Town may receive unsolicited proposals or may solicit proposals for qualifying projects as defined by Florida Statutes, Section 287.05712, and may thereafter enter into an agreement in compliance with the aforementioned Statute. The Manager may adopt procedures consistent with this Manual and Section 287.05712 relative to the receipt and consideration of an unsolicited proposal. An unsolicited proposal must contain all of the material and information required by Section 287.05712, and such additional information and technical studies as may be reasonably required by the Town. Additionally, the Town may charge a reasonable fee to cover the costs of processing, reviewing, and evaluating an unsolicited proposal, including, but not limited to, attorney fees and fees for financial

and technical advisors or consultants and for other necessary advisors and consultants. The Town may also require a deposit, the amount of which will be determined at the discretion of the Manager, and which is reasonably calculated to cover the costs to be incurred. In its sole and absolute discretion, the Town may reject or otherwise decide not to consider an unsolicited proposal, and which decision shall not be grounds for a protest. In the event the Town intends to enter into an agreement for the project described in an unsolicited proposal, then it shall first provide notice and allow other proposals to be submitted for consideration in accordance with the requirements of Section 287.05712.

Section III

Competitive Selection Solicitation

Once the appropriate vendor selection method has been determined, the solicitation process will be overseen by the Town Manager or designee, as shown below.

A. SOLICITATION DOCUMENTS

The Town Manager or designee will ensure all solicitation documents are properly prepared, with particular emphasis on effective specifications as discussed below and distributed appropriately. In conjunction with preparation of solicitation documents, the Town Manager or designee will be available to provide information to all potential responders.

- 1 User department prepares scope of work, specifications and plans in conjunction with administration who shall schedule dates for issuing the solicitation, prepare the solicitation documents including submission requirements, date, time and location for receipt of bids; where the bids are to be delivered, description or scope of work, evaluation factors (Selection Committee, if applicable), delivery or performance schedule, contract terms and conditions, warranty and bonding requirements, etc. schedule dates for process from issuing to awarding.
- 2 Prepares the Public Notice. Adequate public notice of the solicitation of bids/proposals shall be given not less than ten (10) calendar days prior to the date set forth in the notice for opening of bids and not less than twenty-one (21) calendar days for proposals.
- 3 Conduct the pre-bid/proposal conference and determine with guidance from the user department whether the conference shall be mandatory or optional.
- 4 Conduct the bid opening; the evaluation; Council approval; and issuance of purchase order and/or contract.
- 5 Prepare any addenda, if changes are made to the solicitation document.
- 6 Pick up all bids/proposals/replies from the Clerk's Office shortly after the bid opening date and time and open bids/proposals/replies publicly at the date and time specified in the solicitation documents. The name of each bidder, and other information deemed appropriate shall be read aloud and recorded in accordance with applicable Florida Statutes.
- 7 Prepare a bid tabulation and together with the user department shall determine the lowest responsible and responsive bidder meeting the specifications. In the event a Selection Committee is required, the Selection Committee Guidelines and Procedures described in Chapter 9 shall be followed.
- 8 Upon completion of the evaluation, prepare a Notice of Intent to award to be displayed publicly in the Clerk's Office and posted on www.demandstar.com and www.loxahatcheegrovesfl.gov.
- 9 Issue a Notice of Award after Council approval, and will request the required insurance certificates, performance bonds, and any other contractual documents required from the vendor.

- 10 Prepare a contract and /or approve a requisition request entered by the user department.
- 11 Forward all solicitation documents including bid documents, sign in sheets, bid tabulations, notice of Selection Committee meetings, and notice of intents, etc. to the Palm Beach County Office of Inspector General to the extent required by applicable Palm Beach County Ordinances.

In instances in which professional services are sought or for services where qualifications, and not price, is the determining factor, the Purchasing Division shall prepare a Request for Qualifications, Invitation to Negotiate, or Request for Letters of Interest following a substantially similar process and as otherwise provided for in this Manual.

B. SPECIFICATIONS

The Town Manager or designee will ensure the solicitation documents include specifications that are as well-defined as possible. The user department is responsible for developing specifications, such as bid specifications, scope of service and evaluation criteria. As the prime user, the department is best aware of any special characteristics, any new developments in the field, as well as the technical specifications of the product or service. The Town Manager or designee may review specifications and make suggestions, such as alternate products, when appropriate.

The Town Manager or designee shall strive to assure that all specifications issued by the Town provide for free and open competition among all vendors and preclude lock-in of any vendor or brand, unless items are purchased under approved sole source or sole brand provisions. Any specification may eliminate some vendors or brands if the vendor or brand does not meet the legitimate needs of the City.

There are many different types of specifications; however, all specifications regardless of the type must be clear and complete. A specification is an essential communication link between the Town and the vendor. The specification must clearly and completely express the needs of the Town in such a manner that the vendor will have the same understanding as that of the Town in what is required. The following are some of the more common type of specifications:

1. Brand Name Specification

A specification using one or more manufacturers' brand names, with identifying model numbers, to describe the acceptable items; all other items will be excluded. Since use of a brand name specification is restrictive of product competition, it may be used only when pre-approved by the Town Manager or designee.

2. Brand Name "or Equal" Specification

These specifications describe the characteristics of the item required by reference to a particular manufacturer's product, referring to that product by its brand name and model number. These specifications describe the standards of quality, performance, and other characteristics needed to meet the requirements of the solicitation and invites bids for equivalent products from any manufacturer. These are often used to obtain low-value, commercially available products, such as janitorial supplies, office supplies and chemicals.

3. Design Specification

A design specification is also known as a material and method of manufacture specification. This type of specification spells out in great detail the physical characteristics including size and shape, the materials to be used and the manner in which they are to be assembled or processed. Design specifications may also reference engineering drawings or plans. A design specification is generally not appropriate for standard commercial items; its use being reserved for "made-to-order" products.

When required, the procurement of the design criteria professional shall be pursuant to Florida Statutes, Section 287.055. The procurement of a design-build firm for a design build project shall be in accordance with this Manual and Section 287.055(9) and shall utilize a competitive proposal selection process. The methodology shall also be set forth in the solicitation document.

4. Performance Specifications

Performance specifications describe the functions which must be performed without or with only a limited reference to materials to be used or construction details. Performance specifications are non-restrictive, they spell out standards of performance, define operating limits, describe a specific task, emphasize dependability and reliability and look at the end result. Performance specifications are non-restrictive and encourage vendors to be innovative and propose a variety of means to accomplish a stated performance measure and to determine whether performance specification has been satisfied.

C. PUBLIC NOTICE

Public notice of the ITB, ITN, RFP, RFQ, RFI and LOI generally shall be given not less than ten (10) calendar days prior to the date set forth in the notice for the opening of the responses. Such notice shall be given by posting on the Town's website and/or Town bulletin board, at a minimum, and may be noticed via online service and/or published in a newspaper of general circulation within Palm Beach County. The notice shall state the place, date, and time of the opening of the responses.

D. RESPONSE SUBMISSIONS

All responses shall be submitted online via the bid portal of the Town's website or delivered to the office of Town Clerk. Printed responses delivered to the Clerk's office must be in sealed envelopes and shall be clearly identified with the name and number of the response on the exterior of the envelope.

E. FORMAL OPENING OF RESPONSES

Responses shall be opened by the Town Clerk or designee at the time and place designated in the public notice. The opening shall be witnessed by staff. No late responses shall be accepted or opened if received after the date and time specified in the public notice. All late responses shall be returned unopened to the bidder.

For ITB responses, names and amounts of each bid shall be read aloud by the Town Clerk or designee, and a list of all responses shall be made available for public inspection after the opening.

For RFP, RFQ and LOI responses, a list of the names of all responders shall be prepared by the Town Clerk or designee and made available for public inspection after the opening of the responses.

All response documents shall become the property of the Town and will not be returned to the responders. When the contract is awarded, all documentation produced as part of the contract shall become the exclusive property of the City.

For an RFP, RFQ or LOI response, the Town Manager or designee, or if an evaluation committee's if used and within a reasonable time period after the response opening, request additional or corrective information of the responder concerning his/her responsibility to perform, and the bidder may voluntarily, after bid opening, provide additional or corrective information concerning his/her responsibility as a vendor.

F. MODIFICATION OR WITHDRAWAL OF RESPONSES

Responses may be modified or withdrawn by an appropriate document duly executed and delivered to the office of the Town Manager at any time prior to the submission deadline. A request for withdrawal or modification must be in writing and signed by a person duly authorized to do so. Any modifications made by the Town to the solicitation documents

prior to the opening of the responses shall be by addenda provided in writing to the same potential responders to whom the original solicitation documents were presented. After expiration of the period for receipt of responses, no withdrawal or modification is permitted, except in extenuating circumstances. If within twenty four (24) hours after responses are opened, any responder files a duly signed written notice with the Town, through the office of the Town Manager and within five (5) calendar days, thereafter demonstrates to the satisfaction of the Town, by clear and convincing evidence, that there was a material mistake in the preparation of the response, or that the mistake is clearly evident on the face of the response document but the intended correct response is not similarly evident, then the responder may withdraw its response document. Thereafter, the responder will be disqualified from further bidding on the contract for which the response was withdrawn.

Section IV

Solicitation Evaluation Process and Award of Contract

Once the solicitation has been completed and all responses have been received and opened, the responses will be evaluated, and a contract awarded as follows:

A. RESPONSIVE AND RESPONSIBLE

1. Responsiveness

Vendors can be determined to be responsive or non-responsive to the solicitation. Vendors are basically responsive to the solicitation if they have provided all the information required as mandatory and have signed the solicitation making the response a bona fide offer. Vendors are basically nonresponsive if they have not provided all the required information or have not signed the solicitation.

Depending on the specifications, vendors who meet or exceed the minimum specifications are considered responsive while those that do not meet the required minimum specifications are considered non-responsive.

2. Responsible

A vendor can also be evaluated to determine if they are “responsible” or “not responsible.” A vendor shall be found to be “not responsible” for reasons including, but not limited to the following;

- The vendor has failed to perform in a satisfactory manner under a prior contract with the Town of Loxahatchee Groves.
- The vendor has shown poor performance based upon comments from previous and current clients, especially those in the governmental sector. The Town reserves the right in all solicitations issued to contact previous vendor clients to determine the satisfaction or dissatisfaction with the work performed.
- A vendor shows a lack of financial resources to assure contract completion on a timely basis.
- A vendor lacks the necessary training and or experience to fulfill the contract requirements with the proper skill level.
- The vendor has inadequate equipment and/or personnel to properly complete all contract requirements in a timely manner.
- The vendor is unable to secure necessary insurance and bonding (if required by the Town).
- The vendor fails to comply with any other factors relating to completion of the contract on a timely basis and in a proper manner as determined by the Town.

B. REJECTION OF RESPONSES

After an initial review of responses, responses may be rejected for any of the following reasons:

- If the evidence submitted by a responder or if investigation of a responder fails to satisfy the Town that the responder is properly qualified to carry out the obligations and to complete the requested work.
- If there is reason to believe collusion exists among responders.
- If the response is not responsive, not delivered by the due date and time or not delivered to the Town Clerk's office, not properly signed or is unsigned, shows serious omissions, alterations in form, additions not called for, conditions or unauthorized alterations, or irregularities of any other kind. The Town reserves the right to waive such technical errors as may be deemed in the best interest of the City.

C. EVALUATION AND AWARD OF CONTRACT - INVITATION TO BID

The contract shall be awarded to the most responsive and responsible responder whose response meets the requirements and criteria set forth in the solicitation documents except as otherwise provided below.

If two or more qualified responders are tied, as reflected by cost, the tie may be broken by the following criteria, presented in order of importance and consideration, as reflected in the solicitation document:

1. Quality of the items or services bid if such quality is ascertainable
2. Delivery time if provided in the response

If the above criteria do not resolve the issue, the award will be given to the response received earliest by the Town as indicated by the Town time clock stamp on the response. This criterion will also be indicated in the solicitation document.

Multiple award contracts may be used only when it is determined by the Town Manager that the use of more than one vendor is in the best interest of the Town.

A recommendation for vendor selection, together with the criteria used for selection, will be presented to Town Council by the Town Manager or designee for approval, along with a request to approve authorization to sign a contract with the recommended vendor.

D. EVALUATION AND AWARD OF CONTRACT - REQUESTS FOR PROPOSALS, REQUESTS FOR QUALIFICATIONS, AND LETTERS OF INTEREST

The award shall be made to the responder whose proposal is the most advantageous to the Town, taking into consideration evaluation criteria set forth in the solicitation document. The vendor selection process may be done through an evaluation committee, (Committee), appointed by the Town Manager and comprised of a member of the user department, together with at least two other members familiar with the goods or services being evaluated. Each committee member shall complete a "Conflict of Interest Statement" upon appointment to the committee and prior to review of submittals (See Attachment 6).

The Committee shall review all qualifications and submittals of those firms responding based on predetermined criteria contained in the solicitation document. The Committee will then score each qualified response using the predetermined criteria.

Depending on the number of qualified responses received, the Committee may reduce the number of responders to be evaluated further to a minimum of three (called a "short list"), based on the ranking (highest points). If less than three qualified responses been received, all qualified responses must be considered. The Committee may choose to hold discussions with all responders on the "short list". Such discussions may encompass formal presentations by each responder.

The format of the discussion must be the same for each responder.

If the Committee requires clarification of the original response, they may request revised proposals.

For an RFP, once the Committee has ranked the qualified responses, the ranking information will be presented to Town Council by the Town Manager or designee with a request for approval along with a request for the proper Town officials to be authorized to negotiate and execute the contract.

For an RFQ or LOI, a recommendation for vendor selection, together with the ranking information, will be presented to Town Council by the Town Manager or designee. Additionally, it will be requested that staff be given direction to negotiate a contract, subject to final Counsel approval.

Following vendor approval by the Council, the next step in the RFQ or LOI process is for the Town Manager and Town Attorney to negotiate a contract with the highest ranked vendor at a compensation determined to be fair and reasonable. If this proves unsuccessful, negotiations will be formally terminated, and negotiations will begin with the next highest ranked vendor. This will continue until an acceptable contract is agreed to or until negotiations with all vendors on the short list have been unsuccessful. If no contract can be negotiated with any vendor on the short list, a new solicitation must be initiated. If a successful contract is negotiated with a vendor, a recommendation will be presented to the Council by the Town Manager or designee to approve the contract with the indicated vendor.

E. NOTICE OF AWARD

Upon approval by the Council, the successful vendor will receive a Notice of Award indicating the vendor’s selection. The Notice of Award is contingent on a contract being executed and the required certificates of insurance and applicable bond coverage have been received and approved. If the selected vendor fails to provide the required coverage documents or fails to deliver the signed contract within the specified time, the Town may annul the Notice of Award.

F. BOND RELEASE

All responders’ bid bonds, if required for a solicitation, will be retained until the selected vendor has met all requirements for the final contract award. At that time, the bid bonds of the unsuccessful responders will be returned. If the successful vendor fails to meet these requirements and the Town annuls the Notice of Award, the successful vendor’s bid bond shall be forfeited.

G. NOTIFICATION TO RESPONDENTS

After the contract award has been finalized, Town Manager or designee will notify the remaining respondents of the selection.

Section V

Public Lands & Property – Public Construction

Construction or improvement of a public building, structure, or other public construction works must be awarded pursuant to a competitive solicitation where the estimated cost of the project equals or exceeds \$25,000. Additionally, Florida Statutes, Section 255.20 applies to projects that are estimated in accordance with generally accepted cost accounting principles to cost more than three hundred thousand dollars (\$300,000), and for electrical work estimated to cost more than seventy-five thousand dollars (\$75,000). The statutory threshold amounts shall be adjusted as set forth at Florida Statutes, Section 255.20(2), and in the event of statutory amendment.

A. OPTIONS FOR CONSTRUCTION CONTRACTING

Options for Construction contracting may include:

- General contractor;
- Town construction management;
- Multiple prime contractors managed by a designated general contractor;
- Construction manager;

- Procurement Officer of the finance department; or
- Design-build; or any other commonly accepted construction method utilized by government or industry which may be used to the benefit of The Town.
- Public-private partnership.

B. APPLICABILITY OF RULES

The Provisions of this Manual as to construction projects, and Section 255.20 requiring a competitive award do not apply:

1. When the project is undertaken to replace, reconstruct, or repair an existing public building, structure, or other public construction works damaged or destroyed by a sudden unexpected turn of events, such as an act of God, riot, fire, flood, accident, or other urgent circumstances, and such damage or destruction creates: An immediate danger to the public health or safety; Other loss to public or private property which requires emergency Town action; or an interruption of an essential governmental service.
2. When, after notice by publication in a locally circulated paper, The Town does not receive any responsive bids or proposals.
3. When the project is undertaken as repair or maintenance of an existing public facility.
4. When the project is undertaken exclusively as part of a public educational program.
5. When the funding source of the project will be diminished or lost because the time required to competitively award the project after the funds become available exceeds the time within which the funding source must be spent.
6. When the Town has competitively awarded a project to a private sector contractor and the contractor has abandoned the project before completion or The Town has terminated the contract.
7. When Council, after proper public notice, conducts a public meeting under FS. 286.011 and finds by a majority vote of the Council that it is in the public's best interest to perform the project using its own services, employees, and equipment. The public notice must be published at least 21 days before the date of the public meeting at which Council takes final action. The notice must identify the project, the components and scope of the work, and the estimated cost of the project using generally accepted cost-accounting principles that fully account for all costs associated with performing and completing the work, including employee compensation and benefits, equipment costs and maintenance, insurance costs, and materials. The notice and procedures for Council consideration of the measure must further conform to the requirements of Section 255.20(1)(c)(9). Notwithstanding the above, nothing herein shall be construed as making the requirements or remedies set forth at Florida Statutes, Section 255.20 applicable to projects below the thresholds set forth therein. For projects for which the estimated cost is below the thresholds of Section 255.20, the failure to strictly adhere to the procedures set forth in this section for exempting a construction project from a competitive award shall not be grounds for a protest or other legal challenge to Council's final decision.

Section V I

Public Entity Crimes, Code of Ethics, Debarment

The Public Entity Crimes Act, Section 287.133, Florida Statutes as amended, serves to deny to persons convicted of a public entity crime the opportunity to bid on public entity contracts or to supply goods and services to public entities or to otherwise transact business with public entities. A "public entity crime" means a violation of any state or

federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid, proposal, reply, or contract for goods or services, any lease for real property, or contract for the construction or repair of a public building or public work, involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation. Competitive solicitations shall contain a statement informing persons of the provisions of Florida Statutes, Section 287.133 (2) (a), and requiring the bidder, proposer, or respondent to certify whether it or its affiliates, as defined in Section 287.133, has been convicted of a public entity crime. In accordance with Section 287.133(2)(b), The Town shall not accept a bid, proposal, or reply from, award any contract to, or transact any business in excess of the threshold amount provided in Section 287.017, Florida Statutes, for Category Two from any person or affiliate on the convicted vendor list for a period of 36 months from the date the person or affiliate was placed on the convicted vendor list unless the person or affiliate has been removed from the list. A list of convicted vendors is maintained on the MyFlorida.com web site and the Florida Administrative Weekly published by the State of Florida. Additionally, The Town reserves the right to reject any bid, proposal, or reply as non-responsible, even if the contract value is below the Category Two threshold, where the vendor or affiliate is on the convicted vendor list and for a period of 36 months following the date that the person or affiliate was placed on the convicted vendor list, unless that person or affiliate has been removed from the list.

A. CODE OF ETHICS AND CONDUCT

The Town, including Council members, officers, and employees, shall comply with the standards of conduct for public officers, employees and agents set forth in Florida Statutes, Chapter 112, and the Palm Beach County Code of Ethics (Sec. 2-441 et. seq.). To the extent violations of the ethical standards of conduct set forth in this Manual constitute violations of the State Criminal Code they shall be punishable by law or disciplinary actions prescribed in the Town's Employee Manual. Town employees and officers shall refer to Part III, Chapter 112, Florida Statutes and the Palm Beach County Code of Ethics for more definitive guidance and may consult with the designated Ethics Officer within the Town's Legal Department. By way of example only, Section 2-443(d) of the Palm Beach County Code of Ethics prohibits public officials and employees from entering into any contract or transaction for goods or services with their respective county or municipality. Exceptional circumstances and waivers to this prohibition are set forth at Section 2-443(e). Additionally, Section 2-444 provides specific prohibitions as to the acceptance of gifts by Council members, chief executives, employees and advisory board members. The Palm Beach County Code of Ethics is available at: <http://www.palmbeachcountyethics.com/> Note: In order to avoid the possibility of any misunderstandings regarding compliance with the law and regarding any appearance of impropriety relative to the competitive process for awarding contracts, it is highly recommended that no employee or Public Officers accept anything of value offered from vendors, and that their conduct conform with the above referenced statutes and Code of Ethics.

B. AUTHORITY TO DEBAR OR SUSPEND

1. After reasonable notice to the person or company involved and reasonable opportunity for that person or company to be heard, the Purchasing Manager, after consulting with the Town Attorney, shall have the authority to debar or suspend a person or company, whether a prime contractor/consultant or subcontractor/subconsultant, for cause from consideration for award of future contracts. The debarment shall be for a period commensurate with the seriousness of the cause(s) and shall continue for the entire time set by the Purchasing Manager. Where the offense is willful or egregious, an

indefinite term of debarment may be imposed. The Purchasing Manager shall also have the authority to suspend a person or company from consideration for award of contracts if there is probable cause for debarment. If suspension precedes a debarment, the suspension period shall be considered in determining the debarment period. The Purchasing Manager may suspend the person or company for a period of not more than three (3) months. During the period of debarment or suspension, the person or 61 company and its affiliates (“affiliates” shall have the meaning ascribed by Florida Statutes, Section 287.133), or other companies with any officers or principals the same as the suspended company, may not bid on any the Town contracts, regardless of dollar amount, nor be approved as a subcontractor on any the Town contract. A decision to suspend by the Purchasing Manager shall be in writing, mailed or otherwise furnished immediately to the person or company, and considered a conclusive and final act with no right of appeal. Cause for Debarment. The causes for debarment include the following:

- a. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receipt of stolen property or any other offense indicating a lack of business integrity or business honesty which currently, seriously and directly affects responsibility as a contractor.
 - b. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract, subcontract or in the performance of such contract or subcontract.
 - c. Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals.
 - d. Violation of contract provisions, as set forth below, of a character which is regarded by the Purchasing Manager to be so serious as to justify debarment action.
 - i. Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - ii. A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment.
 - e. Refutation of an offer by failure to provide bonds, insurance or other required certificates within a reasonable time period.
 - f. Refusal to accept a purchase order, agreement, or contract, or to perform thereon provided such order was issued timely and in conformance with the offer received.
 - g. Presence of principals or corporate officers in the business of concern, who were principals within another business at the time when the other business was suspended or debarred within the last three years under the provisions of this Section.
 - h. Violation of the ethical standards set forth in state law.
 - i. Violation of the Cone of Silence, or other ethical standards provided by the Palm Beach County Code of Ethics.
 - j. Any other cause the Purchasing Manager determines to be so serious and compelling as to affect responsibility as a Town contractor including debarment by another governmental entity for any cause listed in this Section.
2. The Purchasing Manager shall issue a written decision to debar. The decision shall state the reason for the action taken and inform the debarred person or company of its rights to administrative appeal. A copy of the decision for the debarment shall be mailed or otherwise furnished immediately to the debarred person or company.

3. Any person or company that is dissatisfied or aggrieved with the notification of the Purchasing Manager's determination to debar or refusal to reinstate, must, within ten (10) calendar days of such notification, appeal said determination to the Manager in accordance with the procedures contained herein. Said appeal shall be in writing and shall state with specificity the grounds therefore and also the action requested of the Manager and shall include the facsimile and e-mail address of the person or company. The Manager shall attempt to settle or resolve the matter, with or without a hearing and within his/her sole discretion. The Manager shall render a decision, in writing, within ten (10) calendar days following receipt of the appeal. In the event the Manager decides to conduct a hearing, the person or company shall be notified by e-mail and facsimile transmitted to the address and facsimile number set forth in the appeal. Hearings which may be conducted shall be informal, and the Florida Rules of Evidence shall not apply. Irrelevant, immaterial or unduly repetitious evidence shall be excluded. All other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs may be considered. The decision of the Manager shall be final and binding unless appealed to the Palm Beach County Circuit Court in accordance with the Florida Rules of Appellate Procedure. Institution of a court action prior to following the procedure set forth in this Manual shall be deemed a failure to exhaust administrative remedies.

4. A debarred person or company may only be reinstated upon submission of an application to the Purchasing Manager. The Purchasing Manager shall make a decision on the application within ten (10) calendar days. Each application for reinstatement (after the term of debarment has been completed or no sooner than three years after debarment in the case of an indefinite debarment) shall include the information set forth at paragraphs 1-5 below. Request for reinstatement during the period of debarment shall include the information set forth at paragraphs 1-5 below, and may only be made if: there is new and material evidence not previously available, dismissal of the indictment or charge or reversal of the conviction, or a bona fide change in ownership or management sufficient to justify a finding of present responsibility. Applications for reinstatement shall include:
 - a. The name, address, telephone number, facsimile number and e-mail address of the party making the request or the party's representative.
 - b. A statement of the financial responsibility of the company.
 - c. A statement of facts indicating how the circumstances that led to the debarment have been cured.
 - d. A list of jobs completed during the time between the debarment and the application.
 - e. A list of all departments of the Town for which the person or company has performed work.

Section VII

Contract Management

The purchase order will be the Town's commitment to conduct business with a vendor and will be subject to the approval authority limits delineated later in this section. Vendors may submit quotes or contracts, depending on the process, whether informal or formal, and the dollar amount of the purchase.

For the informal vendor selection process, normally for purchases under \$25,000, the selection will be accomplished through quotes. For purposes of this manual, the term "quote" will include proposed scope of service statements when submitted as a quote. Quotes must be signed by authorized representatives of the responders when submitted

in writing; however, the Town will not normally sign these documents. When a quote requires a signature by a representative of the Town, it will be processed together with the related purchase order and will be subject to the same approval authority limits as a purchase order. In no instance shall the quote be signed by a person not authorized to be the final approving authority on the accompanying purchase order.

Quotes normally relate to goods and identify the type and quantity of the goods to be provided and possibly the associated payment terms. When the proposed goods or services are more complicated, there will normally be more comprehensive terms involved which would necessitate a formal contract requiring the signature of both the vendor and the Town. Formal contracts will always be required for formal competitive vendor selection situations. This will normally be for purchases greater than \$25,000, which require Commission approval.

Once approved by Council, the contract will be processed with the related Purchase Approval Request (PAR). The Town Council or Town Manager if so, authorized will sign the contract at the same time as he/she approves the PAR. As discussed previously, the formal competitive vendor selection process can be utilized for purchases under \$25,000 when the additional effort is justified. The resulting contract will be processed at the same time as the related purchase approval request in accordance with the approval authority limits discussed in "D" below.

Even when a contract has been signed, the vendor is not authorized to begin work until a fully approved purchase order has been issued.

The following sections will discuss contracts and purchase orders used to commit the Town to do business with a vendor.

A. CONTRACTS AND CONTRACT ADMINISTRATION

1. Contract Period

Unless otherwise provided by law, a contract for supplies or services may be entered into for any time period deemed to be in the best interests of the Town provided the extension beyond the current fiscal year, if any, is included in the solicitation and funds are available for the current fiscal year at the time of contracting. Payment and performance obligations for future fiscal years shall be subject to the availability of funds.

2. Price Adjustment.

Contracts may be awarded with the provisions for upward or downward price adjustments provided this allowance is part of the original bid solicitation and the adjustments are based on a nationally recognized or published index or other criteria acceptable to the City.

3. Advance Payments.

The Town may make advance payments not to exceed one (1) year to vendors for maintenance service contracts and lease agreements when it would be economically efficient to do so, or when the vendor offers a discount for advance payments.

4. Amendments.

Any changes to a contract that materially alter the terms and conditions of a contract or provide for a change in the scope and/or timing of the contract, must be contained in a formal amendment to the contract executed by the same authority as the original contract.

5. Insurance Requirements.

All contracts shall contain requirements for the protection of the Town through sufficient insurance as specified in the bid documents. The selected vendor shall be required to obtain, at the vendor's expense, all required insurance coverage and shall submit evidence of insurance to the Town for approval before the contract award will

be finalized. The Town Manager will review insurance certifications, approving those which comply with the requirements of the solicitation. Non-approved certifications will be returned to the user department with the reasons for non-approval and instructions as to how the certification may be corrected by the vendor. The user department shall not allow a contract to be finalized, nor work commence, until the Town Manager has approved the sufficiency of insurance coverage.

6. Payment and Performance Bonds.

When a contract is estimated to exceed two hundred thousand dollars (\$200,000) for the construction of a public building, for the completion of a public work or for repairs upon a public building, or other public work as provided in Florida Statute Section 255.05, as amended, or when the Town Manager or designee deems it to be reasonably necessary to protect the best interests of the Town, the following bonds shall be executed and delivered to the Town Manager or designee before the contract award will be finalized and shall become binding on the parties upon the execution of the contract:

- a. A performance bond guarantees the selected vendor will perform all requirements of the contract. It protects the Town from loss due to the selected vendor's inability to complete the work. A performance bond satisfactory to the Town in an amount equal to one hundred percent (100%) of the price specified in the contract must be provided to the Town and is conditioned on the selected vendor performing the contract in the time and manner prescribed in the contract.
- b. A payment bond guarantees the selected vendor will make all required payments to the subcontractors and suppliers providing goods and services to the selected vendor. A payment bond satisfactory to the Town in an amount equal to one hundred percent (100%) of the price specified in the contract must be provided to the Town and is conditioned on the selected vendor promptly making payments to all persons and entities supplying labor, materials or commodities used directly or indirectly in the performance of the work provided for in the contract.

7. Indemnification.

All vendors shall indemnify and hold harmless the Town, its officers, agents and employees from any injuries or damages received by any person during any operations connected with the construction project, by use of any improper materials, or by any act or omission of the contractor, or subcontractor, agents or employees.

B. CONSTRUCTION CONTRACT REQUIREMENTS

In addition to the requirements under Section A, the following shall apply to construction contracts:

1. Construction Contract Change Orders.

The Town shall have the right, based on a clause contained in each construction contract, to require changes in quantities, additions or deletions of work or other changes within the original intent of the contract. All change orders, where the amount of the entire contract, including the change order, is over \$25,000 shall be approved, in advance, by the Town Council. The approval of change orders equals to or under this amount for both construction contracts and professional design services shall be approved, in advance, by the Town Manager or his/her designee.

2. Amendments to Construction Contracts.

All changes to construction contracts that materially alter the terms and conditions of the contract or provide for a change in scope of the project beyond the original intent, must be contained in a formal amendment to the contract. Such an amendment must be approved with equal dignity and formality as the original contract and signed by the

individuals holding the positions of the original signatories. If the amendment causes the total dollar amount of the contract to move to the next dollar threshold (see “approval authority limits), approval is required, approval must be given as named for that threshold.

C. ONGOING CONTRACT ADMINISTRATION

After the award of any contract, the user department will ensure that both the Town and the vendor are in compliance with all terms and conditions of the contract, including, but not limited to, maintaining current insurance certificates.

In cases where the vendor does not adhere to delivery and specifications or is in technical breach of a contract, the user department must attempt to rectify the situation with the vendor and maintain written record of these attempts. This written record should contain specific instances of non-compliance with the contract requirements and a timeframe for resolution of the issues involved.

In cases where the user department is unable to rectify a breach of contract with the vendor, the user department may recommend to the Town Manager or Town Council (depending on the amount of the contract) that the contract be cancelled, the vendor be suspended or debarred (the Town will no longer conduct business with the vendor), or to begin appropriate legal action through the Town Attorney.

The Town may suspend a contract for a period not to exceed thirty (30) days following a determination by the Town Manager that there has been a material deviation by the vendor from the requirements of the contract. Any suspension of contract shall be provided in writing to the affected vendor within three (3) working days of such determination. The Town reserves the right to obtain goods or services, which are the subject of the contract, from alternate sources during the suspension period.

Contracts originally approved by the Town Council shall be canceled or revoked only after specific Town Council action.

Section VIII

Purchase Orders and Payments for Goods and Services

A. PURCHASE ORDERS

Purchase orders are to be used for all procurements except as provided herein. A fully executed purchase order (PO) is the user department’s authority to purchase goods or services. In addition to authorization, purchase orders also provide budgetary control as well as a means to monitor compliance and performance or original specifications including volumes, pricing, timing and receipt. A purchase order must reflect the anticipated total amount of business to be done with a vendor for the year. The total shall not be broken into smaller amounts to keep from crossing a dollar threshold with additional approval requirements, including the requirement for formal competitive vendor selection. Without exception, all PO’s must be fully approved before the issuing department may place the order. This is true even when a contract with the vendor has been fully executed. Supporting documentation must be maintained for all purchases and forwarded, as discussed below.

A purchase order is the vendor’s authorization to ship goods or perform services as specified. The purchase order constitutes a contract (in some instances a second contract if a more formal contract is also being utilized) between the Town and the vendor, and as such, is a legal document. The purchase order also reserves (encumbers) the funds within the financial system so the funds cannot be allocated for other purposes before the transaction has been completed and the purchase order fully closed out.

A purchase order will normally be for a specified dollar amount for specified goods or services. Additionally, an open end or blanket purchase order can be issued for a specific

not to-exceed dollar amount and may also be for a specific length of time, not to exceed one fiscal year. The open end or blanket purchase order is utilized to facilitate multiple purchases from a single vendor over a given term as well as for contract payments. Such purchase orders are used to

1. establish an accounting record for routine periodic payments of recurring operating expenses;
2. develop a purchasing relationship, in advance, for repetitively purchased commodities and services. The Blanket Purchase Order is used when the prices or discounts, terms and conditions, and length of contract have been established.

Examples of commodities and services that are expected to be purchased more than once and should be on a Blanket Purchase Order are as follows

1. Gasoline
2. Leases Monthly, quarterly or other periodic recurring payments for services only, e.g., quarterly outside lab testing
3. Insurance
4. Payments on contracts
5. Supplies and materials purchased on a fixed monthly contract and certain recurring purchases of supplies and materials include in budget and approved by Manager or designee.

Purchase orders are not required for certain vendors; where there is no procurement process. For instance, utilities and phone service.

The PO preparer will use the financial system to prepare a PO, including requesting authorization to purchase goods or services. The preparer will enter sufficient information to convey the need for the purchase and include supporting documentation, which varies, depending on the basis of the purchase order. All information related to the purchase order, including but not limited to items listed in Table 3 below, will be scanned into system and maintained in vendor and contract files

TABLE 3 – REQUIRED DOCUMENTATION FOR PURCHASE ORDERS

BASIS OF PURCHASE ORDER	REQUIRED DOCUMENTATION
Three written quotes	Copies of each quote, signed by vendor
Sole Source - Purchase Admin Approval	Written justification
Exempt Contractual Service*	Note exempt category
Emergency procurement	Written justification
Professional services procedures**	Note service category
Cooperative purchasing	Note entity, attach other entity contract
Existing contract – other government entity	Note entity, attach other entity contract
Renewal contract	Copy of contract, executed by both parties
Competitive sealed bidding	Copy of contract, executed by both parties

* Town Purchasing Ordinance No. 2020-02

**Consultants Competitive Negotiations Act, Florida Statutes 287.055

In addition to the required documentation noted in the table above, all purchases which have been submitted to the Town Council for approval must be accompanied by a fully executed Resolution or other approval documentation. When an exception to the formal vendor competitive selection process has been used, the justification must be clearly identified and documented.

1. Approval. Purchase orders and supporting documentation must be approved by Town Manager or designee and include signature of department director and accounting department with respect to funding sufficiency.
2. Changes. Changes on purchase orders may be made at the department user when the change does not exceed 5% or \$50.00 (whichever is greater) of the total amount of the purchase order.
 - a. When a change exceeding 5% or \$50.00 of the total on the Purchase Order is required, the initiating department requests the change by forwarding a written request and brief explanation to the Town Manger or designee for approval. Freight, shipping & handling charges & back-order related changes do not require an explanation.
 - b. If the original PO total was under \$10,000.00 and the change will make the total over \$10,000.00 then a PO Approval form must be filled out and routed for proper approval signatures.
 - c. If the original PO was awarded by Council action, and a change order is being made, sufficient documentation (copy of the resolution, change order, written authorization from the Town Manager etc.) authorizing the change must be submitted before further processing.
 - d. If the original PO total was for less than \$10,000.00 and the change will make the total over \$10,000.00 then the change order must be approved by Council before further processing.
 - e. Changes may also be done to correct errors, omissions, or discrepancies; cover acceptable overruns and freight costs; and incorporate requirements to expand or reduce the scope of goods or services order.
3. Liquidations. A purchase order is liquidated when a partial receipt has been done on a purchase order and the remainder of the total will not be received. When a liquidation is done, the purchase order is closed, and no other transactions can take place against that particular purchase order. Any remaining funds that had been encumbered on that purchase order are released back into the account that had been encumbered.

Accounts Payable is notified by the using department when a purchase order is to be liquidated. The using department documents on the purchase order to liquidate the balance after the invoice has been processed. Accounts Payable then notifies the Town Manager or designee of any purchase orders to be liquidated.

B. INVOICES

Invoices are itemized statements of goods or services provided and are a means of settlement of financial obligations. The timeliness of processing invoices may affect the relationship between the Town and its vendors and must be processed within 30 days of receipt (20 days in the case of construction services), per State Statute 218.70, Local Government Prompt Payment Act. Invoices should contain the following basic information:

- Purchase order number (if applicable)
- Itemized listing of materials or services rendered
- Quantity of each item
- Unit price with extensions
- Discount terms if applicable
- Services provided, including hours and billing rates where applicable

C. SALES TAX

The Town is exempt from sales tax on all direct vendor purchases. Payments made directly to vendors shall exclude any calculation for the payment of sales tax. Staff shall be reimbursed for sales tax paid on small taxable transactions made with personal funds as necessary on behalf of the Town.

D. PAYMENT

1. **Payment on Purchase Order.** The PO instructs vendors to send invoices directly to the user department. The user department should hold the PO while waiting for an invoice. The Town will pay only from an original invoice and not a fax copy or photocopy. The user department will follow the PO "receiving" procedures [as required by the financial system upon completion of implementation] and will then forward the original invoice, with the required approval signatures, and a copy of the PO for payment. Only individuals authorized to normally receive goods or services may do so. The receiving individual must certify that the quantity, brand name, or model ordered is received or that the required services have been provided.
2. **Payment on Check Request.** Check requests should be used only in exceptional situations.
3. **Payment on Petty Cash.** In some instances, it may be necessary for a staff member to go to a local store to purchase small items, in total under \$200, without a purchase order. The staff member will be reimbursed through a Check Request form signed by Town Manager or designee and submitted for payment.

PART III: Attachments

**ATTACHMENT I
Procurement Code**

ORDINANCE NO. 2020-02

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING ITS CODE OF ORDINANCES BY REPEALING CHAPTER 2 “ADMINISTRATION, ARTICLE V “PROCUREMENT” AND ENACTING A NEW ARTICLE V “PROCUREMENT” REGARDING PROCUREMENT REQUIREMENTS; PROVIDING FOR CONFLICT, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the Town Council believes it is necessary to modify its current regulations for the purchasing of goods and services; and,

WHEREAS, the procurement code is codified in Chapter 2, Article V of the Town Code of Ordinances; and,

WHEREAS, the Town Council has determined that the enactment of this ordinance is for a proper municipal purpose and in the best interests of the residents of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, THAT:

Section 1. The foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and incorporated herein by this reference.

Section 2. The Town of Loxahatchee Groves hereby repeals in its entirety Chapter 2 “Administration”, Article V “Procurement” and enacts the following Article V “Procurement” to read as follows:

ARTICLE V. PROCUREMENT

Sec. 2-132. Applicability.

This article applies to the acquisitions of property, goods and services by the town after _____, 2020, as provided for in this article. Any action taken or contracts entered into contrary to the provisions of this article may, in the town's sole discretion, be declared null and void. The town has also adopted a purchasing policy whose regulations shall govern where not in conflict with this article. The town manager may make minor changes to the purchasing policy; however, any substantive change shall require approval by the town council.

Sec. 2-133. Competitive selection.

(a) *Sealed competitive method.* Acquisitions of or contract for non-real property, goods or services where the expenditure by the town (including expenditures during renewal

periods, but no expenditures relating to change orders) is estimated to be \$25,000.00 or greater shall be subject to a sealed competitive method, unless the town utilizes one of the methods that is exempt from the sealed competitive method or from obtaining quotes, as provided in this article or the purchasing policy.

- (1) *Competitive bids.* Sealed competitive bids are utilized where price, responsiveness, and responsibility are the sole determining factors.
 - (2) *Competitive Solicitations.* Requests for proposals, requests for qualifications, requests for letters of interest and other competitive solicitations are utilized where price, responsiveness, and responsibility are not the sole determining factors. The town manager may appoint a selection committee to review the submissions received by the town in response to requests for proposals, requests for qualifications, and requests for letters of interest and make a recommendation to the town council. The selection committee shall terminate upon the award of the contract, or such other time as determined by the town council.
 - (3) *Submissions.* It shall be the sole responsibility of the bidder, proposer or responder to have the bid, proposal or response delivered to the town clerk's office before the specified closing date and time. Bids, proposals or responses received after the closing date and time shall not be considered and shall be returned unopened. The clock in the town hall shall govern. All bids, proposals and responses submitted pursuant to a sealed competitive method shall remain sealed until they are opened publicly on the date and time and location stated in the notice to bidders, proposers or responders, or as may be amended by addendum. All bids, proposals or responses must be sealed. No faxed or emailed bids, proposals or responses shall be accepted.
 - (4) *Town's reservation of rights.* The town may utilize a sealed competitive method for any acquisition that the town deems appropriate regardless of the estimated cost of the acquisition. In all competitive selection purchases, the town reserves the following rights:
 - a. Rejection of bids, proposals or other responses. If the town manager/town council determines that it is in the best interests of the town to do so, the town manager/town council may reject any or all bids, proposals or other responses requested in whole or in part. Bids, proposals or other responses requested that are submitted after the due date and time will be disqualified from further consideration.
 - b. Waiver of irregularities. The town manager/town council shall have the authority to waive all nonmaterial irregularities on any and all bids, proposals or other responses requested. Nonmaterial irregularities are those irregularities which do not substantially affect price and/or competition.
 - c. A request for bid, RFP, ITN or other competitive selection procedure utilized by the town may be canceled, in whole or in part, by the town manager/town council when it is in the best interests of the town.
 - d. All costs and fees incurred by any party in preparing and responding to a request for bid, RFP, ITN or other competitive selection procedure used by the town are the sole responsibility of the responding party including all costs and fees related to a protest.
- (b) *Exemptions from purchasing by the sealed competitive method or by obtaining a written quote.*
- (1) *Professional services.* Except as otherwise provided for in Florida law, contracts for professional services (which include but is not limited to services provided by

architects, engineers, surveyors, attorneys, accountants, actuaries, lobbyists and financial advisors) or a consultant with a distinctive field of expertise may be made or entered into by the town manager without utilizing a sealed competitive method or obtaining written quotes. Acquisitions of professional services where the expenditure by the town (including expenditures during renewal periods, but not expenditures relating to change orders) is estimated to be \$25,000.00 or greater shall be subject to approval by the town council.

- (2) *Specialty goods and services.* Acquisitions of or contracts for specialty goods and services (including but not limited to performing artists, artwork, special events, entertainment, and food and beverage) may be made or entered into by the town manager without utilizing a sealed competitive method or obtaining written quotes. Acquisitions of specialty goods and services, where the expenditure by the town is estimated to be \$25,000.00 or greater, shall be subject to approval by the town council.
- (3) *Emergency acquisitions.* The town manager may acquire or contract for non-real property, goods, or services required in contemplation of, preparation for, or during an emergency without utilizing a sealed competitive method or obtaining written quotes regardless of the amount. Emergency acquisitions of non-real property, goods or services where the expenditure by the town is estimated to be \$25,000.00 or greater shall be subject to ratification by the town council as soon as practicable.
- (4) *Sole source and town standard.*
 - a. *Sole source.* The town may acquire or contract for non-real property, goods or services that are available to the town from only one source without utilizing the sealed competitive method or obtaining written quotes. Sole source acquisitions where the expenditure by the town (including expenditures during renewal periods, but not expenditures relating to change orders) is estimated to be \$25,000.00 or greater shall be subject to approval by the town council.
 - b. *Town standard.* Where the town has determined that a particular style, brand, make, or model is the only type that meets the town's requirements for performance, consistency, compatibility or other salient characteristics, and such determination has resulted in there being only one source available to the town, the town may acquire or contract for such goods without utilizing a sealed competitive method or obtaining written quotes. Town standard acquisitions where the expenditure by the town (including expenditures during renewal periods, but not expenditures relating to change orders) is estimated to be \$25,000.00 or greater shall be subject to approval by the town council.
- (5) *Utilization of other governmental entities' contracts.*
 - a. The town may acquire or contract for non-real property, goods or services without utilizing a sealed competitive method or obtaining written quotes where the desired goods or services are the subject of a contract with the state, its political subdivisions or other local governmental entities in the state, with associations in Florida affiliated with state and/or local governmental entities or departments (such as the Florida Sheriffs' Association and the Florida Fire Chiefs' Association) or with the United States government or national cooperatives, provided that the contract is based strictly on competitive bidding and not on any preference, and provided that the form of the contract is acceptable to the town attorney. Acquisitions utilizing other governmental entities' contracts where the expenditure by the town (including expenditures during renewal periods, but not expenditures relating to change orders) is

- estimated to be \$25,000.00 or greater shall be subject to approval by the town council.
- b. Utilization of other government entities' contracts shall only be permitted during the term of the other governmental entity's contract or for one year from the date the other governmental entity awards the bid, whichever is longer.
 - c. If the town desires to utilize another governmental entity's contract, the town shall require the vendor to certify that the price or rate represents the lowest price or rate for the non-real property, goods or services of any contract between the vendor and any other governmental entity within the state.
- (6) *Cooperative acquisitions.* The town may acquire or contract for non-real property, goods or services without utilizing a sealed competitive method or obtaining written quotes where the town participates in joint procurement of non-real property, goods or services with other public entities within the state, including, but not limited to acquisitions made pursuant to interlocal agreements entered into with other governmental entities in accordance with F.S. Ch. 163. Cooperative acquisitions where the expenditure by the town (including expenditures during renewal periods, but not expenditures relating to change orders) is estimated to be \$25,000.00 or greater shall be subject to approval by the town council.
 - (7) *Utilities.* Water, sewer, gas, electrical, and other utility services may be acquired without utilizing a sealed competitive method or obtaining written quotes and without town council approval.
 - (8) *Resale.* Food, beverages and merchandise purchased for resale, may be acquired without utilizing a sealed competitive method or obtaining written quotes and without town council approval.
 - (9) *Employee benefits and health services.* Employee benefits, including payroll processing services, and health related services may be procured/renewed directly through a negotiating process conducted by town staff and/or an expert in the field, or to maintain continuity of employee-health records, and is not subject to competitive procurement methods.
 - (10) *Property, casualty, workers compensation, liability, automobile insurance.* Insurances may be procured/renewed directly through a negotiating process conducted by town staff and/or an expert in the field, or to maintain continuity of insurance records, and is not subject to competitive procurement methods.
 - (11) *The following goods and/or services are approved as exempt purchases.* Exempt purchases are exempt from the competitive selection and written quotation purchase requirements set forth in this purchasing code.
 - a. Utilities-water, sewer, electrical, telephone, solid waste disposal fees and any other utility service where competition is not available.
 - b. Postage and postage meter permits.
 - c. Recording fees.
 - d. Pension benefit payments.
 - e. Debt service payments.
 - f. Unemployment compensation.
 - g. Tax withholding payments (FICA, Medicare, Federal Tax Withholding).
 - h. Payroll deduction liability payments-including but not limited to-voluntary insurance policies, credit union deductions, Section 457 (deferred compensation) contributions, Roth IRA contributions, union dues, flex medical and flex dependent contributions, and garnishments (IRS, child support, court orders).

- i. Pension plan contributions.
 - j. Memberships, dues, subscriptions, publications.
 - k. Advertisements for legal, promotional or informative matters.
 - l. Abstracts of titles or appraisals for real property.
 - m. Court reporting services.
 - n. Expert witnesses.
 - o. Bank analysis fees.
 - p. Merchant fees (credit card processing charges).
 - q. Job related seminars, training and related travel and per diem expenses.
 - r. Tuition reimbursements in accordance with town employment regulations.
 - s. Vehicle tag, title and registration fees.
 - t. Licensed computer software and services where competition is not reasonably available.
 - u. Licensed computer software maintenance renewals.
 - v. Authorized payment of donations or scholarships.
 - w. Payments to service providers needed to maintain town operations such as plumbers, electricians, temporary employment services, computer consultants or air conditioning repair services (this does not include the replacement of capital equipment).
 - x. Goods and/or services provided by governmental agencies.
 - y. Services required by proprietary ownership such as FPL and original equipment manufacturers.
- (12) *Best interest acquisitions.* The town may acquire or contract for non-real property, goods or services without utilizing a sealed competitive method or obtaining written quotes, as set forth in this code or the town's purchasing policy, where the town council declares by at least a four-fifths affirmative vote that the sealed competitive method or obtaining written quotes is not in the best interest of the town. The town council shall make specific factual findings that support its determination, and such contracts shall be placed on a town council agenda. This provision may not be used when the purchasing or procurement method is prescribed by state law, such as F.S. § 287.055 or 255.20, as amended.

Sec. 2-134. Direct acquisitions.

- (a) [*Town manager contract approval.*] The town manager may approve all contracts for the acquisition of goods and services in an amount up to \$25,000.00 provided the funds are included in an adopted budget.
- (b) *Acquisitions of \$25,000.00 and greater.* Acquisitions of or contracts for non-real property, goods or services where the expenditure by the town (including expenditures during renewal periods, but not expenditures relating to change orders) is estimated to be \$25,000.00 or greater shall be subject to prior approval by the town council except for emergency acquisitions, which are subject to subsequent ratification by the town council pursuant to section 2-133(b)(3).
- (c) *Multiple acquisitions from a vendor exceeding \$25,000.00 in any fiscal year.* Acquisitions of or contracts for non-real property, goods or services from the same vendor equal to or exceeding the aggregate \$25,000.00, per project, shall not be permitted from the same vendor during the course of any fiscal year, unless the acquisition is first approved by the town council.

Sec. 2-135. Cone of silence.

Any person participating in a competitive solicitation issued by the town shall comply with section 2-355 of the Palm Beach County Code of Ordinances, as amended.

Sec. 2-136. Authorization to dispose of surplus goods.

- (a) No department shall transfer, sell, trade-in, or otherwise dispose of goods owned by the town without written authorization of the town manager. Disposal of capital assets, as set forth by the purchasing policy, require the approval of the town manager.
- (b) Surplus goods shall be offered to the public or other persons or entities through public auction, established markets, posted prices or other appropriate methods as approved by the town manager in the best interests of the town. Surplus goods may be offered by donation to other governmental entities or to private nonprofit agencies. It is recognized, however, that some types and classes of goods may be sold or disposed of more readily and advantageously by other procedures, including barter. In such cases, the town manager may employ such other means, including appraisal, provided the finance department makes a written determination that such procedure is advantageous to the town.
- (c) Disposal of real property shall be approved by the town council as determined to be in the best interest of the town and in accordance with Florida Statute Section 166.045.

Sec. 2-137. Purchasing protests.

- (a) *Right to protest.* After posting of the recommended awardee, any bidder or proposer who is aggrieved in connection with the recommended award may protest in writing to the town clerk. The right to protest is limited to those procurements of goods or services solicited through an invitation for bid, request for proposals or other competitive solicitation procedures. Notwithstanding the above, the town manager may, in his or her sole discretion, include the right to protest in any solicitation process if in the best interests of the town.
- (b) *Notice of protest.* The protest shall be submitted within three (3) business days after posting of the award recommendation. The protest shall be in writing (which includes emails) and shall identify the protestor and the solicitation and shall include a factual summary of the basis of the protest and shall also include any protest bond, if required by the bid or solicitation. Such protest is considered filed when it is received by the town clerk. Received means that the protest documents must be delivered to the town clerk's office by the cut off time period. No protest shall be considered if not submitted in writing within the time frame allowed for the filing of the notice of protest and including any applicable protest bond.
- (c) *Authority to resolve.* Protests filed in accordance with paragraph (b) hereinabove shall be resolved under the provisions of this section.
 - (1) The town manager shall have the authority to:
 - a. Uphold the protest. The protest may be upheld based upon a violation of the provisions of this purchasing code or of any other town ordinance, resolution, policy, or procedure, or upon discovery of an irregularity or procedural flaw that is so severe as to render the process invalid. If the upholding of the protest will result in a change of the recommended awardee, a new recommended award shall be posted in town hall. If the upholding of the protest will result in a cancellation of the protested solicitation, the town manager may then cancel the solicitation.
 - b. Deny the protest. If the protest is denied, the protestor has the right to request that the protest be referred to a special magistrate as described herein below.

- c. Refer the protest directly to special magistrate with no determination made by the town manager, in accordance with paragraph (c)(3) herein below.
- (2) The town manager shall issue a written statement of the determination within a reasonable period of time. The written statement shall provide the general rationale for said determination and shall be provided to the protestor and to any other party to the protest.
 - (3) Upon receipt of a denial of the protest, the protestor may request a hearing before the special magistrate. The request for a hearing shall be in writing to the town clerk and shall be made within three business days of issuance of the town manager's determination. The request for a hearing shall be accompanied by a protest bond of a minimum amount of \$1,500.00, or the actual cost, if greater which shall be remitted only in the form of a money order, a certified check, a cashier's check, or a bank check payable to the town.
 - (4) At no time shall a protestor, party, or any other person, contact the special magistrate regarding any issue pertaining to or involving the protest. Contact between the town and the special magistrate shall be limited to scheduling and other administrative issues, including the provision and copying of public records pertinent to the protest.
- (d) *Authority of special magistrate.* The special magistrate, appointed to hear the town's code enforcement cases, shall also hear bid protests and shall have the jurisdiction and authority to hear and decide protests.
- (1) The special magistrate shall make a recommendation as to whether the protest should be upheld or denied.
 - (2) If the special magistrate upholds the protest, the special magistrate shall either make a recommendation to cancel the solicitation, or to cancel the award recommendation and post a new award recommendation after re-evaluation based on the special magistrate's determination of the facts in the case. In these instances, the town shall return the protestor's bond to the protestor after deducting any out of pocket costs incurred by the town related to the appeal.
 - (3) If the special magistrate denies the protest, the special magistrate shall recommend that the town manager proceed with the posted award recommendation. In these instances, the protestor's bond shall be forfeited.
 - (4) The town manager may accept the special magistrate's recommendation or, if he/she determines the special magistrate's recommendation is not in the town's best interest, the original award recommendation may be referred to the council for approval. At that time, the council may accept or reject the recommendation of the special magistrate.
- (e) *Stay of procurement during protests.* Notwithstanding anything contained herein to the contrary, in the event of a timely protest, the town manager shall stay the award of the contract unless he/she, with the advice of the town attorney and after consultation with the applicable department head, makes a determination that the award of the contract without delay is necessary to protect substantial interests of the town.

Section 3. Conflict. All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be, and the same are hereby repealed to the extent of such conflict.

Section 4. Severability. If any clause, section, or other part or application of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid,

Effective October 1, 2020

such unconstitutional or invalid part or application shall be considered as eliminated and so not affecting the validity of the remaining portions or applications remaining in full force and effect.

Section 5. Codification. It is the intention of the Town Council of the Town of Loxahatchee Groves that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the Town of Loxahatchee Groves, Florida, that the Sections of this ordinance may be renumbered, re-lettered, and the word "Ordinance" may be changed to "Section", "Article" or such other word or phrase in order to accomplish such intention.

Section 6. Effective Date. This Ordinance shall become effective immediately upon its passage and adoption.

Council Member _____ offered the foregoing ordinance. Council Member _____ seconded the motion, and upon being put to a vote, the vote was as follows:

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS ___ DAY OF _____, 2020.

Council Member _____ offered the foregoing ordinance. Council Member _____ seconded the motion, and upon being put to a vote, the vote was as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>
LISA EL-RAMEY, MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MARGE HERZOG, VICE MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ROBERT SHORR, COUNCIL MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LAURA DANOWSKI, COUNCIL MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PHILLIS MANIGLIA, COUNCILMEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS _____ DAY OF _____, 2020.

**TOWN OF LOXAHATCHEE GROVES,
FLORIDA**

ATTEST:

Lakisha Q. Burch, Town Clerk

Mayor Lisa El-Ramey

Vice Mayor Marge Herzog

APPROVED AS TO LEGAL FORM:

Council Member Laura Danowski

Effective October 1, 2020

Office of the Town Attorney

Council Member Robert Shorr

Council Member Phillis Maniglia

ATTACHMENT II

Purchasing Terms and Definitions

The purchasing profession is characterized by various terms and definitions that may not be commonly used by other disciplines. As a reference, the National Institute of Government Purchasers (NIGP) "Dictionary of Purchasing Terms" is the standard being used by the Town of Loxahatchee Groves. As used in this manual, the following terms shall mean:

Actual Costs: all direct and indirect costs which have been incurred for services rendered, supplies delivered, or construction built, as distinguished from allowable costs only.

Addenda/Addendum: written or graphic instruments issued prior to the opening of formal solicitations which clarify, correct, or change the solicitation documents or the response documents (prior to award of contract) or to contract documents, following award.

Advertising: giving notice in the official local newspaper that sealed responses will be received at a set time and place.

Agent: An Official, Employee, contracted or subcontracted Person who is authorized to act on behalf of the Town of Loxahatchee Groves and represent their interests.

Alternates: substitutes offered by vendors that differ materially from the specifications as set forth in the purchasing solicitation.

Amendment: method of substantially changing the terms and conditions of a response or contract beyond what is specifically required by the contract.

Appeal: specific written objection by an interested Person to a Request for Qualifications, a Request for Quotations, an Invitation for Bid, an Invitation to Negotiate, a Request for proposal, or an award or proposed award of a Contract, with the intention of receiving a remedial result.

Authority to Purchase or Contract:

Authorized Purchases:

Award: acceptance of a bid, offer, or proposal by the proper authority.

Best and Final Offer (BAFO):

Bidder: person or entity submitting a bid or quote to the Town for the supply of Goods or Services.

Bidders' List: current file of vendors who have indicated a desire to supply goods and or services for Town use.

Bid Closing: time and date set for termination of accepting bids.

Bid Bonds (also known as proposal bonds): guarantee the responders will not withdraw their bids for a specified time period and will accept a contract, if offered, or will forfeit the bond amount. They may be by cash, a certified or cashier's check, a surety bond or an irrevocable standby letter of credit

Brand Name or Equal Specifications: a specification limited to one or more items by manufacturers' names or catalog numbers to describe the standard of quality, performance or other salient characteristics needed to meet the City's requirements and which provides for the submission of equivalent products.

Brand Name Specification: a specification limited to one or more items by manufacturers' names or catalogs

Business Location: a permanent office or other site where the vendor operates, conducts, engages in, or carries on all, or a portion of, its business. A post office box shall not be sufficient to constitute a "business location".

Buying Cooperative or Alliance: a group of public entity purchasers organized for the purpose of creating contracts or pricing agreements in order to take advantage of group or quantity buying discounts or special pricing from which members of the group can benefit.

Capital Assets:

Capital Assets Purchases:

Capital Improvement Project: any improvement that The Town undertakes which includes the construction, reconstruction, renovation, repair, modification, or demolition of any facility, building, portion of a building, utility, park, parking lot, structure, road, highway, street improvement, plant, or other improvement to real property necessary in carrying out the functions of the Town. VOW

Change Order: a written order amending a purchase order to correct errors, omissions, or discrepancies in purchase orders to cover acceptable overruns and freight costs; incorporate requirements to expand or reduce the scope of goods or services ordered; or to direct other changes in contract execution to meet unforeseen field, regulatory or market conditions.

Chief Procurement Officer: The Town Manager, or his or her designee, who is responsible for the procurement of commodities and services as well as the management and disposal of commodities.

Commodity: any of the various supplies, materials, goods, merchandise, equipment, and other personal property. VOW

Competitive Award: a procurement based upon the outcome of one of the competitive processes set forth in this Policy, where award is made based on the lowest quotation or Bid submitted by a responsible and responsive Bidder or to the most qualified or advantageous Proposer based on the qualitative and/or quantitative factors identified for the procurement. A Competitive Award can be made even if only a single bid or proposal has been received from a Bidder or Proposer who is determined to be responsible and responsive.

Competitive Bids or Offers: the solicitation of two or more bids or offers submitted by responsive and qualified bidders or offerors.

Competitive Selection and Negotiations: methods of purchasing whereby qualified professional firms are invited to submit replies or "letters of interest" and are shortlisted by an appropriately appointed Selection Committee. The Committee may also be responsible for negotiation of a contract, subject to approval by the awarding authority as set forth in this Manual and the solicitation documents.

Competitive Solicitation: the process of requesting and receiving sealed bids, proposals or replies in accordance with the terms of a competitive process, regardless of the method of procurement.

Construction: the process of building, altering, repairing, improving or demolishing any public structure or building or other public improvements of any kind to any public real property. It does not include the routine operation, routine repair or routine maintenance of existing structures, buildings or real property.

Construction Change Order: is a written order authorized by the proper authority, directing the contractor to make changes, which the changes clause of the construction contract authorizes.

Consultants Competitive Negotiation Act (CCNA): the common name for Section 287.055 of the Florida Statutes concerning the purchasing of Architectural, Engineering (including testing), Landscape Architecture, and Registered Land Surveying and Mapping Services.

Continuing Contract: a type of contract for professional services authorized by the CCNA whereby a firm provides professional services to The Town for projects in which the estimated construction cost of each individual project under the contract does not exceed \$2,000,000, for study activity if the fee for such professional services for each individual study activity under the contract does not exceed \$200,000, or for work of a specified nature as outlined in the contract required by The Town, with the contract being for a fixed term or with no time limitation except that the contract must provide a termination clause. Firms providing professional services under continuing contracts shall not be required to bid against one another.

Contract: all types of binding agreements, including purchase orders, of the Town of Loxahatchee Groves, regardless of what they may be called, for the purchasing of supplies and contractual services.

Contract: means all types of Town agreements for the purchase or disposal of Goods, Services, or Professional Services regardless of what they may be called, including contracts for a fixed price, cost plus a fixed fee, incentive contracts, and contracts providing for the issuance of job or task orders, leases, letter contracts and purchase orders. Contracts also include amendments, modifications and supplemental agreements with respect to any of the foregoing. Every Contract must be duly authorized and approved prior to execution.

Contract Extension: an Amendment to a Contract that includes an increase in the term of a Contract, for which no options to renew the Contract beyond the current expiration date exist.

Contract Renewal: means an exercise of an approved, existing option to increase the term of a Contract. Options to renew a Contract are often done in annual increments.

Contractor: any person or business entity having a contract with the Town of Loxahatchee Groves to perform a service or sell a product (same as vendor).

Contractual Services: the rendering of time and effort by a contractor rather than furnishing specific supplies. Contractual services shall not include exempt contractual services as more specifically identified in the Purchasing Ordinance.

Cooperative Purchasing: the purchasing conducted by or on behalf of more than one governmental entity.

Designee: duly authorized representative of a person holding a superior position

Emergency: a situation that occurs suddenly and unexpectedly and demands immediate action to prevent delays which may vitally affect the health, safety or welfare of the public or Town Employees and affects the continuation of services to the citizens, and/or serious loss or injury to the Town. Emergency shall also mean a condition, malfunction, or occurrence in which the immediate procurement of an item (i.e. Good, Services, or Professional Service) is essential to comply with regulatory requirements.

Emergency Purchase: A purchase made to alleviate a situation in which there is a threat to health, welfare, or safety under certain conditions defined as an emergency by the jurisdiction, that does not allow for the normal, competitive purchasing procedures.

Employee: an individual drawing a salary or wage from the Town whether on a fulltime or part-time basis. The term shall encompass all members of the Council without regard to whether or not such individuals are compensated. A contracted third party shall be considered as an "employee" for the purposes of this Policy only.

Evaluation Committee: is a group of persons appointed to rank in preferential order those professional firms or individuals interested in providing services on a particular project.

General Services: support services performed by an independent contractor requiring specialized knowledge, experience or expertise. The service rendered does not consist primarily of acquisition of equipment or materials. Examples of general services are janitorial, pest control services, and maintenance of equipment. General services are normally procured through requests for proposals or invitations to bid. Purchasing of general services may include subjective evaluation factors of the submitting firms.

Gifts: shall be as set forth in Section 2-444 of the Palm Beach County Code of Ethics

Goods: Supplies or anything purchased or available for purchase, other than real property or services.

Governmental Agency: any agency of the Federal, State, or any Local Government.

Governmental Agency: any federal, state or local department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment or official of the executive, legislative, or judicial branch of any government in the United States of America.

GSA Contracts: contracts entered into by the General Services Administration of the federal government (also known as GSA schedules) and are multiple-award contracts containing prices to be utilized by all federal government agencies. GSA contracts also contain the most preferred customer clause, making the prices contained in the GSA contracts equivalent with those that are given to the most preferred customer of the vendor.

Invitation to Bid (ITB): a written solicitation for competitive, sealed bids with the title, date, and time of the public bid opening designated therein and specifically defining the supplies or contractual services for which bids are sought. The Invitation to Bid shall be used when the Town can establish precise specifications that define the scope of work for which a contractual service is required or that define the actual supplies required.

Invitation To Negotiate (ITN): documents used for soliciting competitive proposals in which negotiation of price and other factors is to commence after receipt of proposals and prior to recommendation of award. This process may be used when the scope of work is complex or difficult to define, if strict comparison of Services or Goods required may be difficult because components are likely to vary among Proposers or in any situation when it is in the Town's best interest to negotiate prior to recommendation of award to obtain the Services or Goods that best meet the Town's needs, price and other factors being considered.

Invoice: a document supplied by the providing contractor or vendor which itemizes charges for the purchase of supplies, materials, equipment or services that have been furnished. It is the means by which the supplier informs The Town of its Orders and should contain the same basic information as the Purchase Order or as required by contract.

Late Bid/Proposal: a Bid or proposal received after the time or date such bid or proposal was due, as stated in the Solicitation Documents.

Letter of Interest (Request for Letter of Interest - LOI): a method of selecting a vendor whereby all vendors are invited to submit a summary of their qualifications and state their interest in performing a specific job or service.

Mandatory Bid Amount: the dollar amount at which the formal bid process is required, unless an exemption is provided in the Ordinance.

Master Contract: an agreement of several years duration that provides for the use of Work Authorizations to authorize specific scopes of work as the need arises.

Minor Irregularity:

Multiple Award Contracts: contracts which provide awards to more than one vendor for the same item.

Negotiated Award: a procurement made as the result of negotiations between the Town and a Supplier, such as a Sole Source Procurement or another instance, including competitive Invitation to Negotiate, where a Contract award based on direct negotiations with a Supplier of Goods or Services is appropriate.

Negotiations for Professional Services: the act of determining terms, condition, and prices for the performance of professional services. An appropriately appointed negotiation committee will negotiate with the top-ranked candidate from the competitive selection of professional service firms, in an attempt to reach agreement on a contract for approval by the awarding authority, and for the provision of services to the Town.

Notice of Award: the written notice by the Town to the apparent successful bidder or offeror stating that upon compliance by the apparent successful bidder or offeror with the conditions precedent to the contract within the time specified, the Town will sign and deliver the contract.

Official: any elected or appointed person who holds office or serves in a position of public capacity.

Obsolete Property: any personal property belonging to the Town which can no longer be used for its intended purpose, which has completed its useful life cycle, or whose use has become economically impracticable as determined by the Town Manager or designee.

Payment Terms: the established due date for payments by the Town to pay an invoice. Absent any agreement otherwise stated, the Town's payment term will be Net 30.

Performance/Public Construction Bond: a bond provided by a contractor/supplier in which a surety guarantees to the Town that the Goods are delivered, or the Services are performed in accordance with the Contract documents. A letter of credit issued by a financial institution that meets the Town's requirements may, at the discretion of the Town, be substituted for the performance bond.

Person: any business, entity, company, firm, individual, union, committee, club or other organization or group of individuals.

Personal Property: all Town owned property other than real estate.

Practicable: satisfactory and within reason when considering price, performance, availability, compatibility with specified operation, and public safety.

Preference:

Pre-Qualification: the part of a competitive procurement process in which the Town determines, based on standards developed for a specified product or service, which interested Vendors meet those standards and are eligible for further consideration in the purchasing process.

Procedural Requirements:

Professional Services: services rendered by an independent contracting individual or firm having expertise in a particular industry or subject matter due to specialized education, training, licensure or skill, and consisting primarily of advice reports,

conclusions, recommendations or other outputs resulting from the time and effort of the service provider, as opposed to the acquisition of specific commodities, or of services not requiring any specialized education, licensing, training or skill (e.g. janitorial services). Professional Services include but are not limited to evaluations, consultations, management systems, management consulting, compiling statistical data, support of planning and operating activities, appraisal services, and research and development studies or reports.

Professional Services: any services where the Town is obtaining advice, instruction, or specialized work from an individual specifically qualified in a particular area. Professional service may include a report, or written advice which may be lengthy; however, the main thrust of the service is not considered labor, but the exercise of intellectual ability. The purchasing of professional services does not lend itself to normal competitive bidding and price competition alone. These services may be procured by Letter of Interest or Requests for Proposals and selected through competitive selection and negotiation.

Professional Services: include any services where the Town is obtaining advice, instruction, or specialized work from an individual or firm specifically qualified in a particular area. Professional services may include a report, or written advice which may be lengthy; however, the main thrust of the service is not considered labor, but the exercise of intellectual ability. The purchasing of professional services does not lend itself to normal competitive bidding and price competition alone. These services may be procured by letter of interest in response to a Request for Qualification or Request for Proposals and selected through competitive selection and negotiation. Those services within the scope of the practice of architecture, professional engineering, landscape architect, or registered land surveying, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered land surveyor in connection with his professional employment or practice will be procured in accordance with the CCNA, where applicable, and this Manual.

Project: used in relation to professional services meaning the fixed capital outlay study or planning activity described in the public notice requesting professional services. A project may constitute a grouping of minor construction, rehabilitation, or renovation activities or a project may constitute a grouping of substantially similar construction, rehabilitation, or renovation activities. In relation to non-professional services, the term shall have the meaning ascribed to it by the competitive solicitation.

Proposals (Request For Proposals - RFP): a written solicitation for sealed proposals with the title, date and hour of public opening designated. A Request for Proposals shall include, but is not limited to, general information, functional or general specifications, statement of work, proposal instructions and evaluation criteria.

Proposer: a Person submitting a proposal or qualifications to the Town for the supply of Goods, Services, or Professional Services

Public Improvements: Municipal and other public buildings, bridges, tunnels, streets, trails, and sidewalks.

Purchase Order: a purchaser's document to formalize a purchase transaction with the vendor, conveying acceptance of a vendor's proposal. The purchase order should contain statements as to quantity, description, and price of the supplies, services, or construction ordered and applicable terms as to payment, discounts, date of performance, transportation, insurance and other factors or suitable references, pertinent to the purchase and performance by the vendor. The purchase order

constitutes a contract between the Town and the vendor and, as such, is a legal document.

Purchase Order, Open-end or Blanket: a purchase order whereby a vendor provides supplies, services, or construction on demand or on a prescribed schedule not to exceed the amount of the purchase order. An open-end purchase order may be used as a release and encumbrance document to authorize the Using Agency to order any predetermined amount from an open–end contract on an as–needed basis.

Purchasing: the process of securing materials, services, repairs, leases and rentals necessary for the operation and support of the Town. The renewal, renegotiations and changes to Contracts, leases and agreements are functions of purchasing.

Qualifications (Request For Qualifications – RFQ): An RFQ is a formal invitation from the Town to vendors to submit a statement of qualifications. The RFQ identifies the desired minimum qualifications of the firm, a scope of work statement, any project requirements, and states the relative importance of selection criteria that will be used in compiling the short list of prospective firms for further consideration.

Quote: notice by a vendor to the buyer stating the prices, terms, and conditions under which he/she will furnish certain goods or services.

Request for Proposals (RFP): all documents utilized for soliciting proposals for Goods, Services, or Professional Services, including those attached or incorporated by reference. These include a scope of work and all contractual terms and conditions applicable to the procurement. This method is used when factors in addition to price are considered for award.

Responsible Bidder or Responsible Offeror: a person or business entity having the capability in all respects to fully perform the contract requirements and the experience, ability, reliability, capacity, facilities, equipment, financial resources and credit which will give a reasonable expectation of good faith performance.

Responsive Bidder or Responsive Offeror: a person who has submitted a bid, which conforms in all material respects to the Invitation to Bid or Request for Proposals.

Rotating Contractor List:

Selection Committee: A group of persons appointed to rank in preferential order those persons, firms or entities interested in providing services on a particular project and to negotiate a final contract with the highest ranked firm, and for final approval by the awarding authority.

Services: the furnishing of labor, time, and effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term shall not include employment agreements or collective bargaining agreements but shall include both professional and general services.

Scope of Work: may include any function and other criteria that will be required to perform the work and a description of any requirement for inspection, testing, or delivery.

Shortlisting: the part of a competitive procurement process in which the Town determines, based on criteria developed for a specified Good, Service, or Professional Service which of the interested Vendors are the best qualified to be eligible for further consideration in the purchasing process.

Sole Brand: the only known reasonable brand capable of fulfilling the needs of the City.

Sole-Source Procurement: identifying and using, without first completing a competitive process, one source for Goods or Services, when that source is the only one available that can fulfill a given Purchasing need of the Town.

Solicitation Documents: an Invitation for Bids, Request for proposals, Request for Qualifications, or an Invitation to Negotiate including all of the associated forms and documents of each solicitation, or any other types of documents used by the Town to procure Goods, Services, or Professional Services.

Specifications: any description of the physical or functional characteristics or of the nature of a supply, service or construction item that is prepared by the requesting department. It may include a description of any requirement for inspecting, testing, or preparing a supply, service or construction item for delivery. Specifications may also contain provisions for inclusion of factors that will lead to the ultimate calculation of lowest total cost. All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the Town's needs and shall not be unduly restrictive.

State Contracts: are annual term contracts released by the State of Florida Department of Management Services Purchasing Division or any other State of Florida Agency (University, College etc.) that may be utilized at the option of local government using agencies.

Supplies: All property, including but not limited to, equipment, material, printing and leases but specifically excluding the acquisition of leasehold interests in real property by the Town.

Surety: an organization who, for a consideration, promises in writing to make good the debt or default of another organization. The Surety must be satisfactory to the Town and licensed to do business in Florida.

Surplus Property: any personal property belonging to the Town, which is capable of being used but is in excess of the normal operating requirements of the Town.

Term Contract: An indefinite quantity contract wherein a party agrees to furnish commodities or contractual services during a prescribed period of time, the expiration of which concludes the contract.

Town: the Town of Loxahatchee Groves and, as the context warrants, those persons or bodies authorized to act on its behalf, including but not limited to the Council, Committees, and staff.

Town Manager: the principal purchasing official for the Town who is responsible for purchasing of commodities and contractual services, as well as the management and disposal of commodities. Where Town Manger is used in this document, it may be a designee when assigned.

Town Standard: refers to those situations where the Town has determined that a particular style, brand, make, or model is the only type that meets the Town's requirements for performance, compatibility or other salient characteristics.

User Department: any department or division of the Town which utilizes any goods, services, or construction procured.

Vendor: any person or business entity having an actual or potential contract with the Town to perform a service or sell a product and may be a sole proprietor, partnership, corporation, limited liability company, joint venture or other business entity recognized by law (same as contractor).

ATTACHMENT III

Green Purchasing Guidelines

The Town recognizes its responsibility to minimize negative impacts on the environment while promoting a healthy community and sustainable economy. The purpose of these guidelines is to provide information, and resources to assist in the selection of materials, products or services that strengthen the Town's commitment to environmental, economic and community sustainability, but will not result in increased costs or expenditures. While it is the preference of the Town to utilize "Green" products, items purchased must be cost effective and within budgeted allowance. Further, the guidelines of this Chapter are aspirational, and shall not create grounds to protest the solicitation or intended award decision.

A. BEST PRACTICES

1. Purchase durable and reusable goods
 - a. Use life cycle analysis to determine the best long-term value to:
 - a. Consider durability & repair ability of products;
 - b. Invest in products with extended warranties; iii. Conduct routine maintenance; and iv. Eliminate single use items such as non-rechargeable batteries.
2. Specify product and packaging take-back: Utilize vendors who offer an Extended Product Responsibility (EPR) program, especially take-back, recycle, and disposal programs to ensure equipment and products are disposed of properly without the added cost.
3. Buy goods in bulk or concentrated form: Be careful to estimate demand properly. Purchasing more than is needed, can create excess waste.
4. Know what you are purchasing. Select products with environmentally friendly standards whenever possible and cost effective.
5. Utilize locally produced materials and supplies when possible and cost effective.
6. Procure remanufactured goods and use refurbishing services (when practical) such as for toner cartridges, computer upgrades, carpet repairs and furniture refurbishment.
7. Purchase goods containing fewer toxic compounds
 - a. Printing ink low in volatile organic compounds (VOC).
 - b. Chrome and chlorine free cleaning supplies.
8. Reduction of paper use
 - a. Purchase office equipment that has duplex capability.
 - b. Maximize use of electronic application processing, review and storage of data.
 - c. Electronic placement of orders whenever possible.
9. The Town will use p-card or Electronic Funds Transfer (EFT) to make payments on purchases whenever possible.

B. GUIDELINES

These Green Purchasing Guidelines highlight environmental and economic impacts to consider when selecting products. These and other considerations do not necessarily include or exclude products or services but should be factored in to ensure informed purchasing decisions. These guidelines are intended as a general guide to assist employees in the selection of products for purchase on behalf of the Town; provided, however that they do not require the purchase of products that do not perform adequately or products that are not available at a competitive price.

1. Whenever possible and cost-effective employees shall purchase recycled and environmentally friendly products.
2. Whenever possible and cost effective the Town shall purchase fuel efficient vehicles.
3. Whenever possible, and cost effective, the Town will attempt to purchase paper products with a minimum 33% post-consumer recycled content, including but not limited to, copier and printer paper and other office paper products. Additionally, the Town also desires to purchase other paper products with recycled content wherever possible.
4. When purchasing printed materials, the Town shall specify that the product be produced on recycled paper stock, and/or a recycled paper stock option.
5. Whenever possible, and cost effective, the recycled option shall be selected over any non-recycled stock. Additionally, if available and cost effective, the Town will request the use of environmentally friendly ink, such a soybean-based inks.
6. Whenever possible, and cost effective, the Town will specify the use of non-paper products with recycled content to be utilized for applications. Such requests may include the purchase of building materials with recycled content as may be appropriate.
7. The Town shall make every effort to purchase products that have minimal deleterious effects on the environment, in terms of toxicity, biodegradability, impacts on pollution of the air and water supply. This shall include minimizing the purchase of items that emit harmful chemicals such as formaldehyde or methane.
8. Whenever possible, and cost effective, the Town will purchase energy efficient fixtures and equipment for use by employees. the Town may utilize a value analysis process to determine which product or products provide the Town with the lowest overall cost of operation over the life of the product, and award criteria or specifications may provide for or require products that produce the lowest overall life cycle cost over the course of the product life.
9. When purchasing electrical appliances, the Town shall purchase, whenever available and cost effective, products that are certified as being "Energy Star" compliant through the Federal Energy Star program. This shall include the purchase of computer equipment and monitors.
10. The Town shall promote its use of recycled and other environmentally preferable products by publicizing its sustainable procurement program. Materials produced for advertising, conferences, press releases, and other communications with clients and citizens shall emphasize the Town's commitment to environmental and community stewardship.

The goal of these Green Purchasing Guidelines is to ensure environmental impacts of our purchasing decisions are minimized or eliminated by obtaining goods and services from manufacturers and vendors who share the Town's commitment to the environment, the community and the local economy.

ATTACHMENT IV ADA Compliance Guidelines

Information and technology need to be accessible. Accordingly, all information and technology purchases to be used by more than one person require an accessibility review for ADA compliance prior to purchase.

A. CONTRACTS

When a contract is used to engage a company to provide programs and services to the Town it is recommended that the following language be incorporated into the contract, or added as an addendum:

_____(Company) acknowledges and warrants that their Programs and services are currently in compliance and during the Term of this Agreement shall remain in compliance with all applicable Federal disabilities laws and regulations, including without limitation the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, Part 1194. _____(Company) agrees to promptly respond to, resolve and remediate any complaint regarding accessibility of its products or services in a timely manner and provide an updated version to Customer at no cost. Customer reserves the right to request, from _____(Company), a timeline by which accessibility standards will be incorporated into the Programs and _____(Company) shall provide such a timeline within a commercially reasonable duration of time. _____(Company) further agrees to indemnify and hold harmless Customer from any claims arising out of its failure to comply with the requirements of this section. Failure to comply with these requirements shall constitute a material breach of this Agreement and shall be grounds for termination of this Agreement by Customer as set forth in Section _____.

These warranties will not apply if the Programs are: (i) modified or altered in any way (other than by _____ (Company) or with the specific prior written consent of _____(Company)); (ii) not updated with the corrections, patches, fixes, updates, improvements or enhancements that _____(Company) may make available from time to time; (iii) used in any manner or for any purpose not specifically permitted by this Agreement or the documentation.

B. CONTRACT RENEWALS

When a contract is renewed, an accessibility compliance clause or addendum (similar to what is above) should be added to the contract if it does not already appear. In addition, an accessibility review of the product is required if the contract does not have an accessibility clause or addendum. If the product is not fully accessible, an accessibility exception may be made depending on circumstances and the vendor contacted to determine remediation timeframe.

C. PAYMENT/MAINTENANCE ON EXISTING CONTRACTS

Once a contract has been signed, subsequent payments to the vendor (i.e. to pay for maintenance) will not require an accessibility review unless the contract (or maintenance contract) is being renewed. If the contract is being renewed, an accessibility compliance clause or addendum (similar to what is above) should be added to the contract. If the accessibility clause or addendum is not added to the new contract, then the product must be reviewed for accessibility and will require an accessibility exception if the product is not fully accessible.

Current invoices and additional licenses for an existing product previously purchased (prior to adoption of accessibility review requirement), can be processed without requiring an accessibility review until renewal but no greater than 2 years.

D. “OFF-THE-SHELF” OR BOXED PRODUCTS

When working with “off the shelf” or boxed products (for instance, pre-packaged products from a vendor such as shrink-wrapped software or on-line downloads):

1. Request information with respect to the accessibility of the products from sales representatives or by direct contact with the manufacturer. Suggested wording is:

The Town requires that all information and technology must be compliant with Sections 504 and 508 of the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act of 1990, as amended, and other related local, state, and federal laws, as well as other related Town policies. Please provide either a statement on the accessibility of [name of product or service], or a current Voluntary Product Accessibility Template (VPAT) for the software? If [name of product or service] is not fully compliant, do you have (or would you be willing to create) a roadmap for accessibility that can be provided to the Town?

2. Search for '508' or 'VPAT' on the manufacturer's website

Regardless of method, the product must be reviewed for accessibility.

E. RFP, RFQ, OR RLI LANGUAGE

The following wording with respect to accessibility is recommended an RFP, RFQ or RFI for information or technology products or services:

In the requirements section include:

Accessibility:

The Town requires that all purchases be accessible according to Sections 504 and 508 of the Rehabilitation act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended.

In section listing the various questions that vendors need to respond to include:

Accessibility

x.x.0. Are all interfaces (both for administrators and end-users) that are part of your product compliant with Section 508 and/or WCAG 2.0 AA?

x.x.1. Describe your accessibility conformance testing process.

x.x.2. Have you ever worked with Accessibility as a functional requirement?

x.x.3. Who will pay to remediate any necessary fixes after purchase?

x.x.4. Provide a Voluntary Product Accessibility Template (VPAT) for your product.

x.x.5. If your product is not fully accessible, do you have a roadmap to make your product fully compliant? If so, include your roadmap.

F. WEBSITE OR WEB-BASED CONTENT CREATED OR PROVIDED BY A VENDOR

Although the vendor must provide accessibility testing results, there should be a clause in the contract for remediation of the site or content if it is determined that the site is not fully accessible. The clause should also state that remediation must be done in a reasonable timeframe at no charge to the Town, provided there is still an active maintenance contract.

G. DOCUMENTATION

If a VPAT (Voluntary Product Accessibility Template) has sections that are labeled as “Supports with Exceptions” or “Not Supported” then the product is not fully

accessible and other products which are fully accessible should be considered. If a VPAT is not available, but the vendor has an accessibility statement, it should clearly state if the product is fully accessible, or compliant, with Section 508 of the Rehabilitation Act, as amended, or (if web-based content) WCAG 2.0.

If the product is fully accessible, the information (e.g. a URL to the accessibility statement or VPAT, or written statement from vendor stating full compliance) must be included with the contract, purchase order and subsequent invoices.

H. ACCESSIBILITY EXCEPTIONS

In the event that no product which meets the Town’s business needs is fully accessible or the product selected does not have a VPAT or a statement of accessibility, the Town Manager may grant exception based on circumstances. The approval of exception should be electronically attached to the vendor file and purchase orders indicating that it has been approved for purchase(s) for the specified period.

ATTACHMENT V

Standard Terms and Conditions For Purchase Orders

PURPOSE & SCOPE: Under the authority of the Town of Loxahatchee Groves' purchasing code and policies, the purpose of this Purchase Order (PO) is to establish terms and conditions for the sale and purchase of commodities and/or services between you (Vendor) and the Town of Loxahatchee Groves (Town). This PO does not establish Vendor as the exclusive source of the items under contract. Unless otherwise stated on this PO, the terms and conditions of this PO shall supersede any terms and conditions in Vendor's bid, quote or other written materials submitted to the Town by Vendor.

TERMINATION: This PO may be terminated in whole or in part by the Town at any time by written notice to Vendor. The effective date of termination shall be stated in the notice. If terminated prior to complete delivery and/or acceptance of commodities and/or services, Vendor shall be paid by Town for commodities and/or services provided to the date of termination without penalty, indirect costs or expense to the Town whatsoever. The Town shall be entitled to a right of offset if it determines that the commodities or services delivered are rejected as unsatisfactory; Vendor causes an unreasonable delay in delivery; or, erroneous payments have been made to Vendor.

INVOICING AND PAYMENT:

- A. Taxes: The Town does not pay Federal Excise and State taxes on direct purchases.
- B. Cost and Risk of Loss: Unless specifically agreed to by Town in this PO, Town terms are "F.O.B. Destination".
- C. Invoicing and Payment: Vendor shall be paid upon submission of one original and one copy of an invoice clearly referencing this PO with a sufficient salient description to identify the commodities and/or services for which payment is requested. The invoice must contain the Vendor's Federal Employer Identification Number. The Town's payment terms are "Net Thirty Days" after delivery, inspection and acceptance or final inspection of commodities and/or services. Any other terms of payment must be approved by the Town and appear on this PO to be binding upon the Town.
- D. Budgeting and Appropriations: The Town's performance and obligation to pay under this PO is contingent upon appropriate budgeting and appropriations by the Town Council.

INSPECTION AND ACCEPTANCE OF COMMODITIES:

- A. For Vendor-installed products, the date of acceptance is the date the Town accepts the product as installed and in good working order, as determined by any appropriate acceptance testing, and the Town shall certify in writing to the Vendor when the product is accepted (if training or other post-installation services are included in the PO, the acceptance shall be conditional). Until acceptance, risk of loss or damage shall remain with the Vendor.
- B. For Town-installed products, the date of acceptance shall be the delivery date. Until acceptance, risk of loss or damage shall remain with the Vendor.
- C. When the Town rejects a product, the Vendor shall remove it from the premises within ten days after notification of rejection. If rejected, risk of loss shall remain with the Vendor. If Vendor fails to remove the product within ten days after notification of

rejection, the product shall be deemed abandoned by the Vendor and the Town shall have the right to dispose of the product as its own property. Vendor shall reimburse the Town for costs and expenses incurred in storing or effecting removal or disposition of rejected product.

INSPECTION AND ACCEPTANCE OF SERVICES: Each phase of services, including quality of work, rendered under this PO is subject to the Town's inspection during both the Vendor's operations and after completion of the tasks. When Vendor is satisfied with the completion of the contracted work, and prior to acceptance of any phase, Vendor shall submit a written request for inspection to Town. After inspection, Town will issue a punch-list of unfinished items or deficiencies as applicable. Once the punch-list is complete, Vendor shall submit written request for final inspection. If contracted work passes final inspection, services will be deemed acceptable.

WARRANTY: Unless a longer period is provided herein, applicable manufacturer, for the contracted commodities and/or services, Vendor shall provide to the Town a one-year warranty as follows:

- A. against poor workmanship for all services rendered by Vendor;
- B. for all products, materials or equipment provided by the Vendor in the course of providing services to the Town; and,
- C. for all commodities sold to the Town.

The warranty period shall begin on the date of acceptance by the Town.

INDEMNITY: The Vendor shall be fully liable for the action of its agents, officers, employees, partners or subcontractors and shall fully indemnify, defend and hold harmless the Town and its officers, agents and employees from suit, action, damages and costs of every name and description, including attorney's fees, arising from or relating to personal injury, damage to real or personal property and infringement of a trademark, copyright, patent trade secret or intellectual property, that is alleged to be caused in whole or in part by Vendor, its agents, officers, employee, partners or subcontractors; provided however, that the Vendor shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the Town, its officers, agents or employees.

COMPLIANCE WITH LAWS: The Vendor shall comply with all laws, rules, codes, ordinances and licensing requirements that are applicable to the conduct of its business and this PO, including those of federal, State and local agencies having jurisdiction and authority.

WARRANTY OF ABILITY TO PERFORM: The Vendor warrants that neither it nor any affiliate is currently on the convicted vendor list maintained pursuant to section 287.133, Florid Statutes; and, under section 287.135, Florida Statutes, by doing business with the Town, the Vendor certifies that it is not participating in a boycott of Israel.

DISPUTE RESOLUTION: Any dispute concerning performance of this PO shall be decided by the Town Manager or his or her designee, who shall reduce the decision to writing and serve a copy on the Vendor. The decision of the Town Manager (or designee) shall be final and conclusive unless within ten days from the date of receipt, the Vendor files an appeal to the Town Council. The decision of the Town Council on the appeal shall be final. Without limiting the foregoing, the exclusive venue of any legal or equitable litigation that arises out of or relates to this PO shall be the appropriate state court in Palm Beach County, Florida; in any such action, Florida law shall apply without reference to conflicts of law principles, and the Vendor waives any right to jury trial that it may have.

MISCELLANEOUS PROVISIONS:

- A. Independent Contractor: The Vendor, together with its agents, distributors, resellers, subcontractors, officers and employees, shall have and always retain under this PO the legal status of independent contractor, and in no manner shall they be deemed employees, joint venture, partner, agent, representative or other relationship of the Town.
- B. Confidential Data: If during the course of providing the contracted commodities and/or services, either party becomes aware of or comes into possession of certain confidential or proprietary information or documents of the other party, the receiving party shall not use, copy or disclose such information or documents unless required by Florida law or court order.
- C. Insurance: Unless otherwise stated in this PO, the Vendor shall maintain (i) general liability insurance (including coverage for death, bodily injury, products and completed operations liability and property damage) in an amount no less than \$1M/occurrence, \$2M/aggregate; (ii) worker's compensation and employees' liability insurance in compliance with Chapter 440, Florida Statutes;
- D. (iii) business automobile liability insurance (occurrence form policy) in an amount of \$500,000/occurrence (combined single limit for bodily injury and property damage); or, as mutually agreed by the Town in writing. The Town may require that it be named as additional insured on all policies (except Workers' Compensation) and proof of same shall be submitted prior to delivering any commodities or services to the Town.
- E. Sovereign Immunity: This PO shall not be construed as constituting a waiver of any rights to sovereign immunity granted to Town under the laws and Constitution of the State of Florida.
- F. Entire Agreement: This PO shall constitute the entire agreement between the parties in regard to its subject matter. Neither party has relied on verbal or other statements, inducements or representations in entering into this PO.
- G. Attorney Fees: Except as it relates to indemnification, each party shall pay its own costs in proceeding to interpret or enforce this PO in any dispute.
- H. Severability: If any term or condition of this PO is held invalid or unenforceable, it shall not affect any other term or condition of this PO.
- I. Notice: Any notice required by this PO shall be delivered by hand delivery or certified mail and address to the party to whom such notice is intended to be given as the last known address of the party's place of business.
- J. Assignment: This PO may not be assigned in whole or in part by Vendor without the Town's prior written consent.
- K. Waiver: The failure of any party to enforce at any time any of the terms or conditions of this PO shall in no way be construed to be a waiver of any such term or condition or any right of any party thereafter to enforce each and every term and condition of this PO.
- L. Third-Party Beneficiaries: This PO is not intended to nor shall it create any third-party beneficiaries.
- M. Survival: Termination of this PO by the Town shall terminate each party's obligations under this PO except for the terms in sections 6, 7 and 10.
- N. Discrimination: Vendor doing business with the Town is prohibited from discriminating against an employee or client because of race, color, religion, disability, sex, age, origin, marital status or sexual orientation.
- O. MSDS: If Vendor is delivering any toxic substance as part of this PO, the Vendor

must comply with Chapter 442, Florida Statutes, and the order must be accompanied by a Material Safety Data Sheet (MSDS).

P. Modification: This PO may not be modified unless agreed to in writing by the Town's authorized representative.

ATTACHMENT VI Agreement for Professional Services

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made and entered into this ____ day of _____, 20____, by and between the Town of Loxahatchee Groves, Florida, hereinafter referred to as "Town", and _____, hereinafter referred to as "Consultant".

WITNESSETH:

WHEREAS, the Town has provided notice of the desired professional services and carried out the proper selection process pursuant to and in accordance with the Consultant's Competitive Negotiation Act; and,

WHEREAS, the Town represents that it is a Florida municipal corporation with the authority to engage the Consultant and accept the obligation for payment for the services desired; and,

WHEREAS, the Town desires to engage the Consultant to perform certain professional services regarding _____in accordance with this Agreement and as set forth in the RFQ for this project and as set forth in Consultant's initial proposal, dated _____, incorporated herein as Exhibit "A"; and

WHEREAS, the Consultant desires to provide such professional services in accordance with this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual benefits which will accrue to the parties hereto in carrying out the terms of this Agreement, it is mutually understood and agreed as follows:

Effective October 1, 2020

SECTION 1: INCORPORATION OF RECITALS. The foregoing Recitals are incorporated into this Agreement as true and correct statements.

SECTION 2: CONSULTANT'S SERVICES. The Consultant shall design the expansion of the Town Police Department building and develop any bid and contract documents and perform the services as more specifically set forth in the RFQ and attachments, which is attached hereto as Exhibit "A" and incorporated herein.

SECTION 3: INDEPENDENT CONTRACTOR RELATIONSHIP. No relationship of employer or employee is created by this Agreement, it being understood that Consultant will act hereunder as an independent contractor and none of the Consultant's, officers, directors, employees, independent contractors, representatives or agents performing services for Consultant pursuant to this Agreement shall have any claim under this Agreement or otherwise against the Town for compensation of any kind under this Agreement. The relationship between the Town and Consultant is that of independent contractors, and neither shall be considered a joint venture, partner, employee, agent, representative or other relationship of the other for any purpose expressly or by implication.

SECTION 4: TERM, TIME, LIQUIDATED DAMAGES AND TERMINATION.

a. Term. The term of this Agreement shall commence upon the approval of this Agreement by the Town Council and shall be for the term necessary to complete all services as set forth in the Consultant's proposal (Exhibit "A") unless earlier terminated as stated herein. The term may be extended by written agreement of the parties for further services related to those services identified herein. However, further services under this Agreement must comply with Florida's Consultants' Competitive Negotiations Act, section 287.055, Florida Statutes, as may be applicable.

b. Time for Completion. Time is of the essence in the performance of this Agreement. The Consultant shall at all times carry out its duties and responsibilities as expeditiously as possible and in accordance with the project schedule set forth in Exhibit "A".

c. Force Majeure. Neither party hereto shall be liable for its failure to perform hereunder due to any circumstances beyond its reasonable control, such as acts of God, wars, riots, national emergencies, sabotage, strikes, labor disputes, accidents, and governmental laws, ordinances, rules, or regulations. The Consultant or Town may suspend its performance under this Agreement as a result of a force majeure without being in default of this Agreement, but upon the removal of such force majeure, the Consultant or Town shall resume its performance as soon as is reasonably possible. Upon the Consultant's request, the Town shall consider the facts and extent of any failure to perform the services and, if the Consultant's failure to perform was without its or its subconsultants' fault or negligence, the schedule and/or any other affected provision of this Agreement may be revised accordingly, subject to the Town's rights to change, terminate, or stop any or all of the services at any time. No extension shall be made for delay occurring more than seven (7) days before a notice of delay or claim therefore is made in writing to the Town. In the case of continuing cause of delay, only one (1) notice of delay or claim is necessary.

d. Termination without cause. Either party may terminate this Agreement at any time with or without cause by giving not less than ten (10) days written notice of termination.

e. Termination for cause. Either party may terminate this Agreement at any time in the event that the other party engages in any act or makes any omission constituting a material breach of any term or condition of this Agreement. The party electing to terminate this Agreement shall provide the other party with written notice specifying the nature of the breach. The party receiving the notice shall then have three (3) business days from the date of the notice in which to remedy the breach. If such corrective action is not taken within three (3) business days, then this Agreement shall terminate at the end of the three (3) day period without further notice or demand.

f. Early Termination. If this Agreement is terminated before the completion of all services by either party, the Consultant shall:

1. Stop services on the date and to the extent specified including without limitation services of any subconsultants.
2. Transfer all work in progress, completed work, and other materials related to the terminated services to the Town in the format acceptable to Town.
3. Continue and complete all parts of the services that have not been terminated.

g. Effect of Termination. Termination of this Agreement shall not affect any rights, obligations, and liabilities of the parties arising out of transactions which occurred prior to termination. Notwithstanding the foregoing, the parties acknowledge and agree that the Town is a municipal corporation and political subdivision of the state of Florida, and as such, this Agreement (and all Exhibits hereto) are subject to budgeting and appropriation by the Town of funds sufficient to pay the costs associated herewith in any fiscal year of the Town. Notwithstanding anything in this Agreement to the contrary, in the event that no funds are appropriated or budgeted by the Town's governing board in any fiscal year to pay the costs associated with the Town's obligations under this Agreement, or in the event the funds budgeted or appropriated are, or are estimated by the Town to be, insufficient to pay the costs associated with the Town's obligations hereunder in any fiscal period, then the Town will notify Consultant of such occurrence and either the Town or Consultant may terminate this Agreement by notifying the other in writing, which notice shall specify a date of termination no earlier than twenty-four (24) hours after giving of such notice. Termination in accordance with the preceding sentence shall be without penalty or expense to the Town of any kind whatsoever; however, Town shall pay Consultant for all services performed under this Agreement through the date of termination.

SECTION 5: COMPENSATION.

a. Payments. The Town agrees to compensate a total lump sum amount which shall not exceed that amount set forth in Consultant's initial proposal, attached as Exhibit "A". The parties understand that Consultant shall submit other proposals regarding different phases of the project which shall be brought before the Council for approval. The Town shall not reimburse the Consultant for any additional costs

incurred as a direct or indirect result of the Consultant providing service to the Town under this Agreement and not set forth in Exhibit "A".

b. Invoice. The Consultant shall render an invoice to the Town for services upon completion of the services. The invoice will be reviewed, and if all services have been deemed acceptable, paid within thirty (30) days following the Town's receipt of the Consultant's invoice.

SECTION 6: INSURANCE

Without limiting any of the other obligations or liabilities of the Consultant, the Consultant shall, at his own expense, provide and maintain in force, until all of its services to be performed under this Agreement have been completed and accepted by the Town (or for such duration as it otherwise specified hereinafter), the following insurance coverages:

1. Worker's Compensation Insurance to apply to all of the Consultant's employees in compliance with the "Worker's Compensation Law" of the State of Florida and all applicable Federal Laws.

a. Employer's Liability with limits of \$100,000 per person, \$500,000 per occurrence and \$100,000 per each disease.

2. Comprehensive General Liability with minimum limits of one million dollars (\$1,000,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability policy, without restrictive endorsements other than ISO Endorsement GL 21 06 (Engineers, Architects, or Survey-or Professional Liability exclusion), as Filed by the Insurance Services Office and must include:

a. Premises and/or Operations

b. Independent Contractors

c. Products and Completed Operations - Consultants shall maintain in force until at least three years after completion of all services required under this Agreement, coverage for Products and Completed Operations, including Broad Form Property Damage.

d. Broad Form Property Damage

e. Contractual Coverage applicable to this specific Agreement.

f. Personal Injury Coverage with minimum limits of coverage equal to those required for Bodily Injury Liability.

3. Business Automobile Liability with minimum limits of three hundred thousand dollars (\$300,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office and must include:

a. Owned Vehicles

b. Hired and Non-Owned Vehicles

c. Employers' Non-Ownership

4. Professional Liability Insurance with minimum limits per occurrence of \$1,000,000.00. Coverage shall be afforded on a form acceptable to the Town. Consultant shall maintain such professional liability insurance until at least one year after a Certificate of Occupancy is issued. Consultant shall insure that sub-consultants used for any portion of the project, maintain adequate levels of Professional Liability Insurance.

5. Prior to commencement of services, the Consultant shall provide to the Town Certificates of Insurance evidencing the insurance coverage specified in the foregoing Paragraphs 1, 2, 3, 4. All policies covered within subparagraphs 1, 2, 3, 4, shall be endorsed to provide the Town with thirty (30) days' notice of cancellation and/or restriction. The Town shall be named as an additional insured as to Consultant's liability on policies referenced in subparagraphs 2. The required Certificates of Insurance shall not only name the types of policies provided, but also shall refer specifically to this Agreement and section and to the above paragraphs in accordance with which insurance is being furnished, and shall state that such insurance is as required by such paragraphs of this Agreement. The Consultant shall also make available to the Town a certified copy of the professional liability insurance policy required by paragraph 4 above for the Town's review. Upon request, the Consultant shall provide copies of all other insurance policies.

6. If the initial insurance policies required by this Agreement expire prior to the completion of the services, renewal Certificates of Insurance of policies shall be furnished thirty (30) days prior to the date of their expiration. For Notice of Cancellation and/or Restriction; the policies must be endorsed to provide the Town with thirty (30) days' notice of cancellation and/or restriction.

7. The Consultant's insurance, including that applicable to the Town as an Additional Insured, shall apply on a primary basis.

SECTION 7: COMPLIANCE AND DISQUALIFICATION. Each of the parties agrees to perform its responsibilities under this Agreement in conformance with all laws, regulations and administrative instructions that relate to the parties' performance of this Agreement.

SECTION 8: ASSIGNMENT. The Town and the Consultant each binds itself and its successors, legal representatives, and assigns to the other party to this Agreement and to the partners, successors, legal representatives, and assigns of such other party, in respect to all covenants of this Agreement subject to budget considerations and requirements of law; and, neither the Town nor the Consultant will assign or transfer their interest in this Agreement without the written consent of the other.

SECTION 9: EQUAL OPPORTUNITY EMPLOYEMENT. Consultant agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment advertising; lay-off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant

agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth this non-discrimination clause. This provision applies to all Consultant's subcontractors and it is the responsibility of Consultant to ensure subcontractor's compliance.

SECTION 10: PROHIBITION AGAINST CONTINGENT FEES. The Consultant warrants that he/she has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement, and that he has not paid or agreed to pay any persons, company, corporation, individual or firm, other than a bona fide employee working solely for the Consultant any fee, Council, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

SECTION 11: INTEREST OF THE CONSULTANT. The Consultant covenants that it presently has no interest and shall not acquire any interest, direct or indirect, in any Project to which this Agreement pertains or any other interest which would conflict in any manner or degree with the performance of its services hereunder. The Consultant further covenants that in the performance of this Agreement, no person having such interest shall be employed.

SECTION 12: COMPLIANCE WITH LAWS. The Consultant shall comply with the applicable requirements of State and applicable County laws and all Codes and Ordinances of the Town as amended from time to time, and that exist at the time of building permit issuance.

SECTION 13: WAIVER OF JURY TRIAL. TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

SECTION 14: ACCESS AND AUDITS. The Consultant shall maintain adequate records to justify all payments made by the Town under this Agreement for at least three (3) years after completion of this Agreement and longer if required by applicable federal or state law. The Town shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the Consultant's place of business. In no circumstances will Consultant be required to disclose any confidential or proprietary information regarding its products and service costs.

SECTION 15: NONDISCRIMINATION. The Consultant warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.

SECTION 16: AUTHORITY TO PRACTICE. The Consultant hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business and provide the services required under this Agreement, and that it will at all times conduct its business and provide the services under this Agreement in a reputable manner. Proof of such licenses and approvals shall be submitted to the Town upon request.

SECTION 17: SEVERABILITY. If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

SECTION 18: PUBLIC ENTITY CRIMES. Consultant acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier or sub-contractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. The Consultant will advise the Town immediately if it becomes aware of any violation of this statute.

SECTION 19: NOTICE. All notices required in this Agreement shall be sent by hand-delivery, certified mail (RRR), or by nationally recognized overnight courier, and if sent to the TOWN shall be sent to:

ATTN: TOWN MANAGER
TOWN OF LOXAHATCHEE GROVE
155 F ROAD
LOXAHATCHEE GROVES, FL 33470.

and if sent to the Consultant, shall be sent to:

The foregoing names and addresses may be changed if such change is provided in writing to the other party. Notice shall be deemed given upon receipt.

SECTION 20: ENTIRETY OF AGREEMENT. The Town and the Consultant agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

SECTION 21: WAIVER. Failure of a party to enforce or exercise any of its right(s) under this Agreement shall not be deemed a waiver of that parties' right to enforce or exercise said right(s) at any time thereafter.

SECTION 22: PREPARATION AND NON-EXCLUSIVE. This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation. This is a non-exclusive Agreement and the Town reserves the right to contract with individuals or firms to provide the same or similar services.

SECTION 23: MATERIALITY. All provisions of the Agreement shall be deemed material. In the event Consultant fails to comply with any of the provisions contained in this Agreement or exhibits, amendments and addenda attached hereto, said failure shall be deemed a material breach of this Agreement and Town may at its option provide notice to the Consultant to terminate for cause.

SECTION 24: LEGAL EFFECT. This Agreement shall not become binding and effective until approved by the Town. The Effective Date is the date this Agreement is executed by the Town.

SECTION 25: NOTICE OF COMPLAINTS, SUITS AND REGULATORY VIOLATIONS. Each party will promptly notify the other of any complaint, claim, suit or cause of action threatened or commenced against it which arises out of or relates, in any manner, to the performance of this Agreement. Each party agrees to cooperate with the other in any investigation either may conduct, the defense of any claim or suit in which either party is named and shall do nothing to impair or invalidate any applicable insurance coverage.

SECTION 26: SURVIVABILITY. Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.

SECTION 27: COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties as of the effective date at such time as all the signatories hereto have signed a counterpart of this Agreement.

SECTION 28: PALM BEACH COUNTY IG. In accordance with Palm Beach County ordinance number 2011-009, the CONSULTANT acknowledges that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. The CONSULTANT has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.

SECTION 29: AGREEMENT DOCUMENTS AND CONTROLLING PROVISIONS. This Agreement consists of this Agreement and Exhibit "A". The parties agree to be bound by all the terms and conditions set forth in the aforementioned documents. To the extent that there exists a conflict between the terms and conditions of this Agreement and Exhibit "A", the terms and conditions of this Agreement shall prevail. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

SECTION 30: OWNERSHIP OF DELIVERABLES. The deliverables, work product, specifications, calculations, supporting documents, or other work products which are listed as deliverables by the Consultant in Exhibit "A" to the Town shall become the

property of the Town. The Consultant may keep copies or samples thereof and shall have the right to use the same for its own purposes. The Town accepts sole responsibility for the reuse of any such deliverables in a manner other than as initially intended or for any use of incomplete documents.

SECTION 31: REPRESENTATIONS and BINDING AUTHORITY. By signing this Agreement, the undersigned on behalf of the Consultant hereby represents to the Town that he/she has the authority and full legal power to execute this Agreement and any and all documents necessary to effectuate and implement the terms of this Agreement on behalf of the Consultant for whom he/she is signing and to bind and obligate such party with respect to all provisions contained in this Agreement.

SECTION 32: JURISDICTION; VENUE. The Consultant hereby covenants, consents and yields to the jurisdiction of the State Civil Courts of Palm Beach County, Florida. Any dispute between Consultant and the Town shall be governed by the laws of Florida with venue in Palm Beach County.

SECTION 33: INTERNAL DISPUTE BETWEEN OWNER AND CONSULTANT. The Town Manager shall be the final decision maker regarding internal disputes between Town and Consultant.

SECTION 34: PUBLIC RECORDS.

Consultant shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the Town as provided under section 119.011(2), Florida Statutes, specifically agrees to:

- (a) Keep and maintain public records required by the Town to perform the service.
- (b) Upon request from the Town's custodian of public records or designee, provide the Town with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Contract and following completion of this Contract if the Consultant does not transfer the records to the Town.
- (d) Upon completion of this Contract, transfer, at no cost, to the Town all public records in possession of the Consultant or keep and maintain public records required by the Town to perform the service. If the Consultant transfers all public records to the Town upon completion of the Contract, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the Contract, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Town, upon request from the Town's custodian of public records or designee, in a format that is compatible with the information technology systems of the Town.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT 561-793-2418, lburch@loxahatcheegrovesfl.gov, OR BY MAIL AT TOWN OF LOXAHATCHEE GROVES, 155 F ROAD, LOXAHATCHEE GROVES, FL 33470.

SECTION 35: LIMITATION OF LIABILITY. IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY PUNITIVE, SPECIAL, EXEMPLARY, INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSSES OR DAMAGES.

SECTION 36: INDEMNIFICATION. The Consultant agrees to indemnify and hold harmless the Town, its council members, mayor, officers, employees, and attorneys of, from, and against liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees (at all trial and appellate levels), to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Consultant, its agents, officers, subconsultants, employees, or anyone else employed or utilized by the Consultant in the performance of this Agreement. The Consultant's liability hereunder shall include all reasonable attorney's fees and costs incurred by the Town in the enforcement of this indemnification provision. This includes claims made by the employees of the Consultant against the Town and the Consultant hereby waives its entitlement, if any, to immunity under Section 440.11, Florida Statutes. The obligations contained in this provision shall survive termination of this Agreement and shall not be limited by the amount of any insurance required to be obtained or maintained under this Agreement.

It is the specific intent of the parties hereto that the foregoing indemnification complies with Section 725.08, Florida Statutes, as amended. Consultant expressly agrees that it will not claim, and waives any claim, that this indemnification violates Section 725.08, Florida Statutes, as amended. Nothing contained in the foregoing indemnification shall be construed as a waiver of any immunity or limitation of liability the Town may have under the doctrine of sovereign immunity or Section 768.28, Florida Statutes.

SECTION 37: FISCAL NON-FUNDING. In the event sufficient budgeted funds are not available for a new fiscal period, the Town shall notify the Consultant of such occurrence and this Agreement shall terminate on the last day of the current fiscal period without penalty or expense to the Town. The Consultant will be paid for all services rendered through the date of termination.

IN WITNESS WHEREOF, the Town has caused these presents to be executed in its name by its Mayor, and attested and its official Seal to be hereunto affixed by its Town Clerk, and the Consultant has hereunto set its hand and Seal the day and year first written above.

TOWN OF LOXAHATCHEE GROVES

By: _____
Mayor

ATTEST

Town Clerk

Approved as to form and legal sufficiency:

Town Attorney

CONSULTANT: _____

By: _____

Print Name: _____

Title: _____

STATE OF _____)
COUNTY OF _____)

Sworn to (or affirmed) and subscribed before me by means of physical presence or online notarization, this _____ this _____ day of _____, 2020, by _____

(Signature of Notary Public-State of Florida)

(Print, type, or stamp commissioned name of Notary public)
Personally Known ____ OR Produced Identification ____
Type of Identification Produced: _____

ATTACHMENT VII

Standard Piggyback/Cooperative Purchasing Agreement

This Agreement for _____ (“Agreement” hereafter) is made as of the _____ day of _____, 20XX, by and between the Town of Loxahatchee Groves, 155 F Road, Loxahatchee Groves, Florida 33470, a municipal corporation organized and existing under the laws of the State of Florida, hereinafter referred to as the TOWN, and _____, a corporation authorized to do business in the State of Florida, hereinafter referred to as the CONTRACTOR.

RECITALS

WHEREAS, the TOWN is in need of a contractor to perform _____ services (“SERVICES” hereinafter) for the TOWN; and,
WHEREAS, _____ through its competitive selection process awarded the Contract (“CONTRACT” hereafter) to the CONTRACTOR for substantially the same services sought by the TOWN; and,
WHEREAS, the TOWN requested, and the CONTRACTOR has executed this Agreement with the TOWN for performing the SERVICES based on the pricing and terms and conditions of the CONTRACT; and,
WHEREAS, the TOWN desires to accept CONTRACTOR’s pricing by piggy-backing the CONTRACT including all terms, conditions and pricing therein.
NOW THEREFORE, in consideration of the mutual promises set forth herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Recitals. The parties agree that the recitals set forth above are true and correct and are fully incorporated herein by reference.
2. CONTRACT. The CONTRACT with the CONTRACTOR is hereby expressly made a part of this Agreement as fully as if set forth at length herein. The TOWN shall have all rights, obligations and remedies authorized to the governmental entity under the CONTRACT and all associated and applicable Contract Documents as defined therein.
3. Agreement. In accordance with the terms and conditions in the CONTRACT and pricing therein, the CONTRACTOR shall perform as requested by the TOWN.
4. Contract Documents and Conflict of Terms and Conditions. The Contract Documents for this Agreement are comprised of the following:
 - A. All written modifications and amendments hereto;
 - B. This Agreement;
 - C. CONTRACT (including the Bid, Contractors Proposal and Contract).The Contract Documents of this Agreement are intended to be complementary and interpreted in harmony so as to avoid conflict with the words and phrases interpreted in a manner consistent with construction and design industry standards. In the event of any inconsistency, conflict or ambiguity between or among the Contract Documents of this Agreement, the Contract Documents of this Agreement shall take precedence in the following order:
 - A. All written modifications and amendments hereto;
 - B. This Agreement;
 - C. The CONTRACT.
5. Compensation to Contractor. Payments by the TOWN to the CONTRACTOR under this Agreement shall not exceed the amount of compensation, on the unit basis for each item (where an item is specified), as set forth under the CONTRACT.

Effective October 1, 2020

CONTRACTOR waives consequential or incidental damages for claims, disputes or other matters in question arising out of or relating to this Agreement. The TOWN will not expend more than the amount in the approved Budget as it may be adopted each year for the SERVICES over the term of this Agreement.

6. Miscellaneous Provisions.

6.1 The TOWN and CONTRACTOR each binds itself, its partners, its successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

6.2 CONTRACTOR shall maintain the insurance as required in the CONTRACT applicable to the work being performed hereunder. Said insurance will name the TOWN as an additional insured.

6.3 Headings and References & Exhibits: The headings contained in this Agreement are inserted for convenience of reference only and shall not be a part or control or affect the meaning hereof. All references herein to exhibits are to the exhibits hereto, each of which shall be incorporated into and deemed to be a part of this Agreement.

6.4 Counterparts: This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall be deemed to be an original, but each of which together shall constitute one and the same instrument.

6.5 Entire Agreement; Amendment and Waiver: This Agreement (together with the Exhibits hereto) supersedes any and all prior negotiations and oral or written agreements heretofore made relating to the subject matter hereof and, except for written agreements, if any, executed and delivered simultaneously with or subsequent to the date of this Contract, constitutes the entire agreement of the parties relating to the subject matter hereof. This Contract may not be altered or amended except by a writing signed by the parties hereto. No waiver of any of the terms or conditions of this Contract shall be effective unless in writing and executed by the party to be changed therewith. No waiver of any condition or of the breach of any term, covenant, representation, warranty or other provision hereof shall be deemed to be construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of any breach of any other term, covenant, representation, warranty or other provision contained in this Contract.

6.6 Successors and Assigns: This Contract shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

6.7 Governing Law; Consent to Jurisdiction: This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Florida. Each of the parties hereto (a) irrevocably submit itself to the exclusive jurisdiction of the Fifteenth Judicial Circuit Court in and for Palm Beach County, Florida for state actions and jurisdiction of the United States District Court for the Southern District of Florida, Palm Beach Division, for the purposes of any suit, action or other proceeding arising out of, or relating to, this Contract; (b) waives and agrees not to assert against any party hereto, by way of motion, as a defense of otherwise, in any suit, action or other proceeding, any claim that it is not personally subject to the jurisdiction of the above-named courts for any reason whatsoever; and (ii) to the extent permitted by applicable law, any claim that such suit, action or proceeding by any part hereto is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper or that this Agreement or the subject matter hereof may not be enforced in or by such courts.

6.8 Third Party Beneficiary rights: This Agreement shall create no rights or claims whatsoever in any person other than a party herein.

6.9 Severability: If any one or more of the provisions of this Agreement shall be held to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

6.10 Effective date, term and renewal: The effective date of this Agreement is the date the Agreement is approved by the TOWN Council. The term of this Agreement shall be for a term to mirror the CONTRACT which shall expire on _____. This Agreement may be renewed subject to approval by the TOWN Council and in accordance with the CONTRACT renewal.

6.11 Public Records: Public Records: CONTRACTOR shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the TOWN as provided under section 119.011(2), Florida Statutes, specifically agrees to:

(a) Keep and maintain public records required by the TOWN to perform the service.
 (b) Upon request from the TOWN's custodian of public records or designee, provide the TOWN with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Contract and following completion of this Contract if the CONTRACTOR does not transfer the records to the TOWN.

(d) Upon completion of this Contract, transfer, at no cost, to the TOWN all public records in possession of the CONTRACTOR or keep and maintain public records required by the TOWN to perform the service. If the CONTRACTOR transfers all public records to the TOWN upon completion of the Contract, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the Contract, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the TOWN, upon request from the TOWN's custodian of public records or designee, in a format that is compatible with the information technology systems of the TOWN. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT 561-793-2418, lburch@loxahatcheegrovesfl.gov , OR BY MAIL AT TOWN OF LOXAHATCHEE GROVES, 155 F ROAD, LOXAHATCHEE GROVES, FL 33470.

6.12 Preparation: This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

6.13 PALM BEACH COUNTY IG: In accordance with Palm Beach County ordinance number 2011-009, the CONTRACTOR acknowledges that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. The CONTRACTOR has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.

6.14 All notices required in this Agreement shall be sent by certified mail, return receipt requested, and sent to the addresses appearing on the first page of this Agreement.

6.15 The TOWN is exempt from payment of Florida State Sales and Use Tax. The CONTRACTOR shall not be exempted from paying sales tax to its suppliers for materials used to fill contractual obligations with the TOWN, nor is the CONTRACTOR authorized to use the TOWN'S Tax Exemption Number in securing such materials.

7. Indemnity.

The parties recognize that the CONTRACTOR is an independent contractor. The CONTRACTOR agrees to assume liability for and indemnify, hold harmless, and defend the TOWN, its council members, mayor, officers, employees, agents, and attorneys of, from, and against all liability and expense, including reasonable attorney's fees, in connection with any and all claims, demands, damages, actions, causes of action, and suits in equity of whatever kind or nature, including claims for personal injury, property damage, equitable relief, or loss of use, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the CONTRACTOR, its agents, officers, Contractors, subcontractors, employees, or anyone else utilized by the CONTRACTOR in the performance of this Contract. The CONTRACTOR's liability hereunder shall include all attorney's fees and costs incurred by the TOWN in the enforcement of this indemnification provision. This includes claims made by the employees of the CONTRACTOR against the TOWN and the CONTRACTOR hereby waives its entitlement, if any, to immunity under Section 440.11, Florida Statutes. The obligations contained in this provision shall survive termination of this Contract and shall not be limited by the amount of any insurance required to be obtained or maintained under this Contract.

Subject to the limitations set forth in this Section, CONTRACTOR shall assume control of the defense of any claim asserted by a third party against the TOWN and, in connection with such defense, shall appoint lead counsel, in each case at the CONTRACTOR's expense. The TOWN shall have the right, at its option, to participate in the defense of any third-party claim, without relieving CONTRACTOR of any of its obligations hereunder. If the CONTRACTOR assumes control of the defense of any third-party claim in accordance with this paragraph, the CONTRACTOR shall obtain the prior written consent of the TOWN before entering into any settlement of such claim. Notwithstanding anything to the contrary in this Section, the CONTRACTOR shall not assume or maintain control of the defense of any third party claim, but shall pay the fees of counsel retained by the TOWN and all expenses, including experts' fees, if (i) an adverse determination with respect to the third party claim would, in the good faith judgment of the TOWN, be detrimental in any material respect to the TOWN's reputation; (ii) the third party claim seeks an injunction or equitable relief against the TOWN; or (iii) the CONTRACTOR has failed or is failing to prosecute or defend vigorously the third party claim. Each party shall cooperate, and cause its agents to cooperate, in the defense or prosecution of any third party claim and shall furnish or cause to be furnished such records and information, and attend such conferences, discovery proceedings, hearings, trials, or appeals, as may be reasonably requested in connection therewith.

It is the specific intent of the parties hereto that the foregoing indemnification complies with Section 725.06, Florida Statutes, as amended. CONTRACTOR expressly agrees that it will not claim, and waives any claim, that this indemnification violates Section

725.06, Florida Statutes. Nothing contained in the foregoing indemnification shall be construed as a waiver of any immunity or limitation of liability the TOWN may have under the doctrine of sovereign immunity or Section 768.28, Florida Statutes. IN WITNESS WHEREOF, the TOWN and CONTRACTOR have caused this Agreement to be executed the day and year shown above.

TOWN OF LOXAHATCHEE GROVES, FLORIDA

By: _____
Mayor

ATTEST

Town Clerk

Approved as to form and legal sufficiency:

Town Attorney

CONTRACTOR: _____

By: _____
Print Name: _____
Title: _____

[Corporate Seal]

STATE OF FLORIDA)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20XX

by _____, as _____ of _____, a corporation authorized to do business in the State of Florida, and who is personally known to me or who has produced the following _____ as identification.

Notary Public

Print Name: _____
My commission expires: _____

**ATTACHMENT VIII
Standard Master Agreement**

THIS AGREEMENT is made this _____ day of _____, 2020 between the **Town of Loxahatchee Groves**, Florida, a municipal corporation, hereinafter the "TOWN", with its office located at 155 F Road, Loxahatchee Groves, Florida 33470, and _____, a company authorized to do business in the State of Florida, hereinafter the "CONTRACTOR", with a mailing address of _____.

RECITALS

WHEREAS, the TOWN is a municipal corporation organized and existing pursuant to the Charter and the Constitution of the State of Florida;

WHEREAS, the TOWN is in need of a contractor to provide various types of rock for TOWN roads;

WHEREAS, CONTRACTOR submitted a proposal for the material requested;

WHEREAS, the CONTRACTOR further warrants that it is experienced and capable of providing the material hereunder in a professional and competent manner;

WHEREAS, the TOWN finds awarding the contract to the CONTRACTOR as described herein serves a valid public purpose.

NOW THEREFORE, the TOWN hereby engages the services of the CONTRACTOR, and in consideration of the mutual promises herein contained, the sufficiency of which is hereby acknowledged by both parties, the parties agree as follows:

1. SCOPE OF WORK

1.1 The scope of work is to provide various types of rock material to the TOWN.

1.2 The CONTRACTOR represents to the TOWN that the services and materials provided under this Agreement shall be in accordance with accepted and established trade practices and procedures recognized in the CONTRACTOR's trade in general and that the materials shall conform to the highest standards and in accordance with this Agreement.

1.3 The CONTRACTOR represents that it is licensed to do business in the State of Florida and holds and will maintain all applicable licenses required for the work to be completed under this Agreement. The CONTRACTOR further warrants its capability and experience to perform the work provided for herein in a professional and competent manner.

2. USE OF AGENTS OR ASSISTANTS

2.1 To the extent reasonably necessary to enable the CONTRACTOR to perform its work hereunder, the CONTRACTOR shall be authorized to engage the services of any agents or assistants which it may deem proper, and may further employ, engage, or retain the services of such other persons or corporations to aid or assist in the proper performance of its duties. All costs of the services of, or expenses incurred by, such agents or assistants shall be paid by the CONTRACTOR.

3. FEE AND TERM

Effective October 1, 2020

3.1 For the goods/services to be provided under this Agreement, the CONTRACTOR shall be entitled to payment as set forth in CONTRACTOR's proposal, as set forth in Exhibit "A".

3.2 Should the TOWN require additional services or materials, not included in this Agreement, fees and payment for such work will be set forth in a separate Addendum, as authorized in accordance with the TOWN's procurement code prior to any such additional goods being provided by the CONTRACTOR.

3.3 This Agreement shall become effective upon approval by both parties and shall be for a period of three (3) years, unless terminated earlier, as provided below. The Agreement may be renewed for two one-year periods upon the consent of both parties.

4. MAXIMUM COSTS

4.1 The CONTRACTOR expressly acknowledges and agrees that the total cost to provide the goods shall be specified in the CONTRACTOR's proposal, and no additional costs shall be authorized without prior written approval from the appropriate authority.

5. INVOICE

5.1 The CONTRACTOR shall submit an itemized invoice to the TOWN for approval prior to receiving compensation. The CONTRACTOR shall be paid within thirty (30) days of receipt of an approved invoice for the goods.

6. COPIES OF DATA/DOCUMENTS

6.1 Copies or original documents prepared by the CONTRACTOR in relation to work associated with this Agreement shall be provided to the TOWN. Data collected, stored, and/or provided shall be in a form acceptable to the TOWN and agreed upon by the TOWN.

7. OWNERSHIP

7.1 Each and every report, draft, work product, map, record, and other document reproduced, prepared, or caused to be prepared by the CONTRACTOR pursuant to or in connection with this Agreement shall be the exclusive property of the TOWN.

8. DEFAULTS, TERMINATION OF AGREEMENT

8.1 If the CONTRACTOR fails to satisfactorily perform the work specified in this Agreement; or, is in material breach of a term or condition of this Agreement, the Town Manager may give written notice to the CONTRACTOR specifying defaults to be remedied. Such notice shall set forth the basis for any dissatisfaction and suggest corrective measures. If the CONTRACTOR does not remedy defaults within the allotted time or commence good faith steps to remedy the default to the reasonable satisfaction of the Town Manager, the TOWN may take such action to remedy the default and all expenses related thereto shall be borne by the CONTRACTOR including, without limitation, utilization of another CONTRACTOR to provide for such work; and/or, the TOWN may withhold any money due or which may become due to the CONTRACTOR for such expense and/or work related to the claimed default. Alternatively, or in addition to the foregoing, if after three (3) days the CONTRACTOR has not remedied defaults or commenced good faith steps to remedy defaults to the satisfaction of the Town Manager, the TOWN may elect to terminate this Agreement. No compensation shall be paid for de-

mobilization, take-down, disengagement wind-down, lost profits or other costs incurred due to termination of this Agreement under this paragraph 8.1.

8.2 Notwithstanding paragraph 8.1, the TOWN reserves the right and may elect to terminate this Agreement at any time, with or without cause, upon notice from the TOWN Manager. At such time, the CONTRACTOR would be compensated only for the goods provided to the date of termination. In the event material has been ordered or is in the process of being manufactured, the TOWN must pay for all material ordered or manufactured. No compensation shall be paid for demobilization, take-down, disengagement wind-down, lost profits or other costs incurred due to termination of this Agreement under this paragraph 8.2.

9. INSURANCE

9.1 The CONTRACTOR, **if delivering the material to the Town**, shall, at its own expense, procure and maintain throughout the term of this Agreement, with insurers acceptable to the TOWN, the types and amounts of insurance conforming to the minimum requirements set forth below. The CONTRACTOR shall not commence services until the required insurance is in force and evidence of insurance acceptable to the TOWN has been provided to, and approved by, the TOWN. An appropriate Certification of Insurance shall be satisfactory evidence of insurance. Until such insurance is no longer required by this Contract, the CONTRACTOR shall provide the TOWN with renewal or replacement evidence of insurance at least thirty (30) days prior to the expiration or termination of such insurance.

A. The CONTRACTOR shall maintain, during the life of this Agreement, commercial general liability, including contractual liability insurance in the amount of \$1,000,000 per occurrence and \$2,000,000 aggregate, to protect the CONTRACTOR from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Agreement, whether such operations be by the CONTRACTOR or by anyone directly employed by or contracting with the CONTRACTOR.

B. The CONTRACTOR shall maintain, during the life of this Agreement, comprehensive automobile liability insurance in the minimum amount of \$1,000,000 combined single limit for bodily injury and property damages liability to protect the CONTRACTOR from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by the CONTRACTOR or by anyone directly or indirectly employed by the CONTRACTOR.

C. The CONTRACTOR shall maintain, during the life of this Agreement, Workers' Compensation Insurance and Employer's Liability Insurance for all employees as required by Florida Statutes.

All insurance, other than Worker's Compensation, to be maintained by the

CONTRACTOR shall specifically include the TOWN as an "Additional Insured".

9.2 The insurance provided by the CONTRACTOR shall apply on a primary basis. Any insurance, or self-insurance, maintained by the TOWN Council shall be excess of, and shall not contribute with, the insurance provided by the CONTRACTOR. Except as otherwise specified, no deductible or self-insured retention is permitted.

9.3 Compliance with these insurance requirements shall not limit the liability of the CONTRACTOR. Any remedy provided to the TOWN by the insurance provided by the TOWN shall be in addition to and not in lieu of any other remedy (including, but not limited to, as an indemnitee of the CONTRACTOR) available to the TOWN under this Agreement or otherwise.

9.4 Neither approval nor failure to disapprove insurance furnished by the CONTRACTOR shall relieve the CONTRACTOR from responsibility to provide insurance as required by this Agreement.

9.5 The CONTRACTOR's failure to obtain, pay for, or maintain any required insurance shall constitute a material breach upon which the TOWN may immediately terminate or suspend this Agreement. In the event of any termination or suspension, the TOWN may use the services of another contractor without the TOWN incurring any liability to the CONTRACTOR.

9.6 At its sole discretion, the TOWN may obtain or renew the CONTRACTOR's insurance, and the TOWN may pay all or part of the premiums. Upon demand, the CONTRACTOR shall repay the TOWN all monies paid to obtain or renew the insurance. The TOWN may offset the cost of the premium against any monies due the CONTRACTOR from the TOWN.

10. WAIVER OF BREACH

10.1 The waiver by either party of any breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of that same or any other provision.

11. INDEMNITY

11.1 The parties recognize that the CONTRACTOR is an independent contractor. The CONTRACTOR, **if delivering material to the Town**, agrees to assume liability for and indemnify, hold harmless, and defend the TOWN, its council members, mayor, officers, employees, agents, and attorneys of, from, and against all liability and expense, including reasonable attorney's fees, in connection with any and all claims, demands, damages, actions, causes of action, and suits in equity of whatever kind or nature, including claims for personal injury, property damage, equitable relief, or loss of use, to the extent

caused by the negligence, recklessness, or intentionally wrongful conduct of the CONTRACTOR, its agents, officers, Contractors, subcontractors, employees, or anyone else utilized by the CONTRACTOR in the performance of this Contract. The CONTRACTOR's liability hereunder shall include all attorney's fees and costs incurred by the TOWN in the enforcement of this indemnification provision. This includes claims made by the employees of the CONTRACTOR against the TOWN and the CONTRACTOR hereby waives its entitlement, if any, to immunity under Section 440.11, Florida Statutes. The obligations contained in this provision shall survive termination of this Contract and shall not be limited by the amount of any insurance required to be obtained or maintained under this Contract.

11.2 Subject to the limitations set forth in this Section, CONTRACTOR shall assume control of the defense of any claim asserted by a third party against the TOWN and, in connection with such defense, shall appoint lead counsel, in each case at the CONTRACTOR's expense. The TOWN shall have the right, at its option, to participate in the defense of any third-party claim, without relieving CONTRACTOR of any of its obligations hereunder. If the CONTRACTOR assumes control of the defense of any third-party claim in accordance with this paragraph, the CONTRACTOR shall obtain the prior written consent of the TOWN before entering into any settlement of such claim. Notwithstanding anything to the contrary in this Section, the CONTRACTOR shall not assume or maintain control of the defense of any third party claim, but shall pay the fees of counsel retained by the TOWN and all expenses, including experts' fees, if (i) an adverse determination with respect to the third party claim would, in the good faith judgment of the TOWN, be detrimental in any material respect to the TOWN's reputation; (ii) the third party claim seeks an injunction or equitable relief against the TOWN; or (iii) the CONTRACTOR has failed or is failing to prosecute or defend vigorously the third party claim. Each party shall cooperate, and cause its agents to cooperate, in the defense or prosecution of any third party claim and shall furnish or cause to be furnished such records and information, and attend such conferences, discovery proceedings, hearings, trials, or appeals, as may be reasonably requested in connection therewith.

11.3 It is the specific intent of the parties hereto that the foregoing indemnification complies with Section 725.06, Florida Statutes, as amended. CONTRACTOR expressly agrees that it will not claim, and waives any claim, that this indemnification violates Section 725.06, Florida Statutes. Nothing contained in the foregoing indemnification shall be construed as a waiver of any immunity or limitation of liability the TOWN may have under the doctrine of sovereign immunity or Section 768.28, Florida Statutes.

12. ENTIRE AGREEMENT AND ORDER OF PRECEDENCE

12.1 This Agreement consists of the terms and conditions provided herein and, the CONTRACTOR's proposal. To the extent that there exists a conflict between

this Agreement and the remaining documents, the terms, conditions, covenants, and/or provisions of this Agreement shall prevail and then the proposal. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

12.2 This Agreement supersedes any and all other Agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other Agreement, statement, or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding.

13. ASSIGNMENT

13.1 Nothing under this Agreement shall be construed to give any rights or benefits to any party other than the TOWN and the CONTRACTOR. All duties and responsibilities under this Agreement shall be for the sole and exclusive benefit of the TOWN and the CONTRACTOR and not for the benefit of any other party. The CONTRACTOR shall not assign any right or interest in this Agreement, and shall not delegate any duty owned, without the TOWN's prior written consent. Any attempted assignment or delegation shall be void and totally ineffective for all purposes and shall constitute a material breach upon which the TOWN may immediately terminate or suspend this Agreement.

13.2 In the event the TOWN consents to an assignment or delegation, the assignee, delegate, or its legal representative shall agree in writing to personally assume, perform, and be bound by this Agreement's covenants, conditions, obligations and provisions.

14. SUCCESSORS AND ASSIGNS

14.1 Subject to the provision regarding assignment, this Agreement shall be binding on the heirs, executors, administrators, successors, and assigns of the respective parties.

15. WAIVER OF TRIAL BY JURY

15.1 TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

16. GOVERNING LAW AND REMEDIES

16.1 The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of Florida and venue shall be in Palm Beach County, Florida.

16.2 No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing

at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

17. TIME IS OF THE ESSENCE

17.1 Time is of the essence in the delivery of the goods as specified herein.

18. NOTICES

18.1 All notices hereunder must be in writing and, unless otherwise provided herein, shall be deemed validly given on the date when personally delivered to the address indicated below; or on the third (3rd) business day following deposit, postage prepaid, using certified mail, return receipt requested, in any U.S. postal mailbox or at any U.S. Post Office; or when sent via nationally recognized overnight courier to the address indicated below. Should the TOWN or the CONTRACTOR have a change of address, the other party shall immediately be notified in writing of such change, provided, however, that each address for notice must include a street address and not merely a post office box. All notices, demands or requests from the CONTRACTOR to the TOWN shall be given to the TOWN address as follows:

Town Manager
TOWN of Loxahatchee Groves
155 F road
Loxahatchee Groves, Florida 33470

All notices, demands or requests from the TOWN to the CONTRACTOR shall be given to the CONTRACTOR address as follows:

19. SEVERABILITY

19.1 Should any part, term or provision of this Agreement or any document required herein to be executed be declared invalid, void or unenforceable, all remaining parts, terms and provisions hereof shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby.

20. DELAYS AND FORCES OF NATURE

20.1 The CONTRACTOR shall not be considered in default by reason of a delay in timely performance if such delay and failure arise out of causes reasonably beyond the control of the CONTRACTOR or its subcontractors and without their fault or negligence. Upon the CONTRACTOR's request, the TOWN shall consider the facts and extent of any such delay and failure to timely perform the work for

reason beyond the control of the CONTRACTOR and, if the CONTRACTOR'S delay and failure to timely perform was without it or its subcontractors' fault or negligence, as determined by the TOWN in its sole discretion, the time of completion shall be extended for any reasonable time that the TOWN, in its sole discretion, may decide; subject to the TOWN'S rights to change, terminate, or stop any or all of the work at any time. If the CONTRACTOR is delayed at any time in the progress of the work by any act or neglect of the TOWN or its employees, or by any other CONTRACTOR employed by the TOWN, or by changes ordered by the TOWN, unavoidable casualties, or any causes beyond the CONTRACTOR'S control, or by delay authorized by the TOWN pending negotiation or by any cause which the TOWN, in its sole discretion, shall decide justifies the delay, then the time of completion shall be extended for any reasonable time the TOWN, in its sole discretion, may decide. No extension of time shall be made for any delay occurring more than five (5) days before a claim therefore is made in writing to the TOWN. In the case of continuing cause of delay, only one (1) claim is necessary. The CONTRACTOR'S sole remedy for a delay in completion of the work for any reason will be an extension of time to complete the work and CONTRACTOR specifically waives any right to seek any monetary damages or losses for a delay in completion of the work, including, but not limited to, waiving any right to seek monetary amounts for lost profits, additional overhead, salaries, lost productivity, efficiency losses, or any other alleged monetary losses which may be allegedly suffered by CONTRACTOR due to a delay in completion of the work.

20.2 Neither party shall be considered in default in the performance of its obligations hereunder or any of them, if such obligations were prevented or delayed by any cause, existing or future beyond the reasonable control of such party which include but are not limited to acts of God, labor disputes or civil unrest.

21. COUNTERPARTS

21.1 This Agreement may be executed in counterparts, each of which shall be an original, but all of which shall constitute one and the same document. Each of the parties shall sign a sufficient number of counterparts, so that each party will receive a fully executed original of this Agreement.

22. LIMITATIONS OF LIABILITY

22.1 Under no circumstances shall either party be liable to the other for any consequential, incidental, special, punitive, or any other form of indirect or non-compensatory damages.

23. PUBLIC ENTITY CRIMES

23.1 CONTRACTOR acknowledges and agrees that a person or affiliate who has been placed on the convicted CONTRACTOR list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or

public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a CONTRACTOR, supplier or sub-CONTRACTOR under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted CONTRACTOR list. CONTRACTOR will advise the TOWN immediately if it becomes aware of any violation of this statute.

24. PREPARATION

24.1 This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

25. PALM BEACH COUNTY INSPECTOR GENERAL

25.1 In accordance with Palm Beach County ordinance number 2011-009, the CONTRACTOR acknowledges that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. The CONTRACTOR has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.

26. ENFORCEMENT COSTS

26.1 All parties shall be responsible for their own attorneys' fees, court costs and expenses if any legal action or other proceeding is brought for any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to the Contract's execution, validity, the obligations provided therein, or performance of this Contract, or because of an alleged breach, default or misrepresentation in connection with any provisions of this Contract.

27. PUBLIC RECORDS

Public Records: CONTRACTOR shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the TOWN as provided under section 119.011(2), Florida Statutes, specifically agrees to:

- (a) Keep and maintain public records required by the TOWN to perform the service.
- (b) Upon request from the TOWN's custodian of public records or designee, provide the TOWN with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Contract and following completion of this Contract if the CONTRACTOR does not transfer the records to the TOWN.
- (d) Upon completion of this Contract, transfer, at no cost, to the TOWN all public records in possession of the CONTRACTOR or keep and maintain public records required by the TOWN to perform the service. If the CONTRACTOR transfers all public records to the TOWN upon completion of the Contract, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the Contract, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the TOWN, upon request from the TOWN's custodian of public records or designee, in a format that is compatible with the information technology systems of the TOWN.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT 561-793-2418, lburch@loxahatcheegrovesfl.gov, OR BY MAIL AT TOWN OF LOXAHATCHEE GROVES, 155 F ROAD, LOXAHATCHEE GROVES, FL 33470.

28. COPYRIGHTS AND/OR PATENT RIGHTS

28.1 CONTRACTOR warrants that there has been no violation of copyrights and/or patent rights in the manufacturing, producing or selling the goods, shipped or ordered, as a result of this proposal and the CONTRACTOR agrees to hold the TOWN harmless from any and all liability, loss, or expense occasioned by any such violation.

29. COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH

29.1 CONTRACTOR certifies that all services, material, equipment, etc., provided in this bid meets all OSHA requirements. CONTRACTOR further certifies that, if the services, material, equipment, etc., provided, is subsequently found to be deficient in any OSHA requirements in effect on date of delivery or performance, all costs necessary to bring the services, material, equipment, etc. into compliance with the aforementioned requirements shall be borne by the CONTRACTOR.

30. FEDERAL AND STATE TAX

30.1 The TOWN of Loxahatchee Groves is exempt from Federal Tax and State Tax for Tangible Personal Property. The Procurement Official will sign an exemption certificate submitted by the successful Proposer. CONTRACTORS or CONTRACTORS doing business with the TOWN of Loxahatchee Groves shall not be exempted from paying sales tax to their suppliers for materials to fulfill contractual obligations with the TOWN, nor shall any CONTRACTOR/CONTRACTOR be authorized to use the TOWN's Tax Exemption Number in securing such materials.

31. PROTECTION OF PROPERTY

31.1 The CONTRACTOR shall at all times guard against damage or loss to the property of the TOWN or of other contractors and shall be held responsible for replacing or repairing any such loss or damage. The TOWN may withhold payment or make such deductions as deemed necessary to insure reimbursement or replacement for loss or damage to property through negligence of the successful CONTRACTOR or its agents. The CONTRACTOR shall be responsible to safeguard all of their property such as tools and equipment while on site. The TOWN will not be held responsible for any loss of CONTRACTOR property due to theft or vandalism.

32. DAMAGE TO PERSONS OR PROPERTY

32.1 The responsibility for all damage to person or property arising out of or on account of work done under this Contract shall rest upon the CONTRACTOR, and he/she shall save the TOWN, its employees, officials and agents thereof harmless from all claims made on account of such damages.

33. FISCAL NON-FUNDING

In the event sufficient budgeted funds are not available for a new fiscal period, the TOWN shall notify the CONTRACTOR of such occurrence and this Agreement shall terminate on the last day of the current fiscal period without penalty or expense to the TOWN. The CONTRACTOR will be paid for all services rendered through the date of termination.

35. SCRUTINIZED COMPANIES

35.1 As provided in F.S. 287.135, by entering into any agreement with the TOWN, or performing any work in furtherance hereof, the CONTRACTOR certifies that CONTRACTOR and CONTRACTOR's affiliates, suppliers, subcontractors and consultants that will perform hereunder that at the time the CONTRACTOR submits a bid or proposal for a contract or before the CONTRACTOR enters into or renews a contract with an agency or local governmental entity for goods or services of \$1 million or more, the company must certify that the CONTRACTOR is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List and that it does not have

business operations in Cuba or Syria. Also, at the time a CONTRACTOR submits a bid or proposal for a contract or before the CONTRACTOR enters into or renews a contract with an agency or local governmental entity for goods or services of any amount, the CONTRACTOR must certify that it is not participating in a boycott of Israel. If the Town determines, using credible information available to the public, that a false certification has been submitted by the CONTRACTOR, the TOWN's Agreement may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of the Agreement shall be imposed, pursuant to Section 287.135, Florida Statutes.

IN WITNESS WHEREOF the parties hereto have made and executed this Agreement on the day and year first above written.

TOWN OF LOXAHATCHEE GROVES, FLORIDA

By: _____
Mayor

ATTEST:

Town Clerk

Approved as to form and legal sufficiency:

Town Attorney

CONTRACTOR: _____

By:

Print Name:

[Corporate Seal]

Title:

STATE OF _____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by _____, as _____(title), of _____, a company authorized to do business in the State of Florida, and who is personally known to me or who has produced the following _____ as identification.

Notary Public

Print Name:

My Commission