

ORDINANCE NO. 01-2007

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA AMENDING CHAPTER 2, ARTICLE V, DIVISION 2, SECTION 2-250 ENTITLED "ALTERNATIVE SOURCE SELECTION" OF THE TOWN CODE OF ORDINANCES PERTAINING TO THE DETERMINATION OF THE MONETARY AMOUNT OF BID SECURITY AND PAYMENT AND PERFORMANCE BOND REQUIREMENTS FOR CONSTRUCTION PROJECTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

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

WHEREAS, the Town Commission has adopted provisions establishing competitive procurement processes for the purchase of goods and services by the Town which have been codified in Chapter 2 of the Code of Ordinances of the Town of Lake Park; and

WHEREAS, the Town Commission has determined that it is in the best interests of the public health, safety and general welfare of the Town to allow for the limited exercise of discretion in determining the required monetary amount of bid security and the payment and performance bonds which are frequently required as a condition of the procurement of construction services and the resulting construction contract; and

WHEREAS, Town staff has recommended to the Town Commission, that Section 2-250 be amended to provide the Town Manager with limited authority to reduce the amount of the bid security and to add other requirements pertaining to the payment and performance bond requirements for construction contracts; and

WHEREAS, the Town Commission, after due notice and public hearings, deems it to be in the interest of the public health, safety and general welfare to amend Section 2-250 of the Town's Code as provided herein.

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

Section 1: The whereas clauses are hereby incorporated herein by reference as true and correct findings of the Town Commission.

Section 2. Chapter 2, Article V, Division 2, Section 2-250 is hereby amended to read as follows:

Sec. 2-250. Alternative source selection.

(h) *Construction services.* The procurement of construction services by the Town and the Community Redevelopment Agency shall be acquired in accordance with the competitive sealed bid process outlined in section 2-248.

(1) Bid security shall be required for all competitive sealed bidding for construction contracts when the total cost of construction price is estimated by the finance director to exceed \$100,000.00. Bid security shall be an original bid bond executed by a surety company admitted and authorized to do business in the state of Florida. Cash, a certificate of deposit, treasurer's check, or a certified cashier's check satisfactory to the town may be tendered in lieu of the bid bond. Nothing contained herein shall prevent the Town from requiring requirement of bid security such bonds on construction contracts under \$200,000.00 as determined in the discretion of the Town Manager to be in the best interest of the Town, when the circumstances warrant. Bid security shall be in an amount deemed sufficient by the Town Manager to insure bid compliance but in no event shall the bid security be less than five percent (5%) of the bid amount, equal to at least ten percent of the amount of the bid.

(2) Bids or proposals which are submitted without the required bid security which do not comply with the surty requirements shall be rejected.

(3) ~~When a~~ Any person, firm or entity who enters into a written construction contract with the Town which is for is awarded in excess of \$200,000.00 or more, shall before commencing the work, execute and deliver to the Town within the time specified by the contract or procurement documents, a payment and performance bond, each in the amount equal to or greater than one hundred percent (100%) of the total contract price, unless the amount of the bonds is reduced to a lesser amount as determined by the Town Commission, but in no event shall the amount of each bond be less than One Hundred percent (100%) of the total contract price. The bonds shall be issued by a surety insurer authorized to do business in the state of Florida as a surety. The required bonds shall also be recorded in the public records of Palm Beach County. At the discretion of the Town Commission, any person or entity entering into a construction contract

which is for \$200,000.00 or less may be exempted from executing the payment and performance bond.

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

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

(6) If at any time after the execution of the contract and the surety bonds, the Town deems the surety or sureties upon such bonds to be unsatisfactory or, if for any reason such bonds cease to be adequate to cover the requirements of the contract, the Town may require the contractor, at its sole expense and within five (5) days after the receipt of notice from the Town, to furnish an additional bond in such form and amount and with such surety as shall be satisfactory to the Town. In such event, no further payment to the contractor shall be deemed to be due under the contract until such new or additional security shall be furnished in manner and form satisfactory to the Town as to protect the interests of the Town and ensure the payment of persons supplying labor and materials under the contract. Final payment of all construction projects shall be approved by the finance director after certification of completion from the community development director.

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

the following bonds or security shall be delivered to the town, and shall become binding on the parties upon the execution of the contract:

a. A performance bond satisfactory to the town, executed by a surety company authorized to do business in the state, or otherwise secured in a manner satisfactory to the town, in an amount equal to 100 percent of the price specified in the contract; and

b. —

1. A payment bond satisfactory to the town, executed by a surety company authorized to do business in the state, or otherwise secured in a manner satisfactory to the town, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to 100 percent of the price specified in the contract.

2. Sureties for all bid bonds, performance bonds and payment bonds must be listed on the U.S. Department of Treasury Listing and the bond amount shall not

~~exceed the maximum amounts specified therein unless stipulated in the invitation to bid.~~

~~3. Nothing herein shall prohibit the town from deleting line items within the invitation to bid and purchasing said items directly from a supplier in an amount not exceeding the bid amount per line item of the successful bidder, without further bidding, in an effort to benefit from the county's tax exempt status.~~

~~4. Final payment of all construction projects shall be approved by the finance director after certification of completion from the community development director.~~

Section 3. If any section, subsection, sentence, clause or provision of this Ordinance is held invalid, the remainder of this Ordinance shall not be affected by such invalidity.

Section 4. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 5. This Ordinance shall become effective immediately upon adoption.

Upon First Reading this 21 day of February, 2007,
the foregoing Ordinance 01-2007, was offered by Commissioner Carey
who moved its approval. The motion was seconded by Commissioner Balius,
and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR PAUL CASTRO	<u>X</u>	_____
VICE MAYOR ED DALY	<u>X</u>	_____
COMMISSIONER CHUCK BALIUS	<u>X</u>	_____
COMMISSIONER JEFF CAREY	<u>X</u>	_____
COMMISSIONER PATRICIA OSTERMAN	<u>X</u>	_____

Upon Second Reading this 7 day of March, 2007, the foregoing
Ordinance 01-2007, was offered by Commissioner Balius who
moved its adoption. The motion was seconded by Commissioner Carey,
and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR PAUL CASTRO	<u>X</u>	_____
VICE MAYOR ED DALY	<u>X</u>	_____
COMMISSIONER CHUCK BALIUS	<u>X</u>	_____
COMMISSIONER JEFF CAREY	<u>X</u>	_____
COMMISSIONER PATRICIA OSTERMAN	<u>X</u>	_____

The Mayor thereupon declared Ordinance No. 01-2007 duly passed and adopted this
7 day of March, 2007.

TOWN OF LAKE PARK, FLORIDA

BY: *Paul Castro*
Mayor Paul Castro

ATTEST:

Vivian Mendez
Vivian Mendez
Town Clerk



Approved as to form and legal sufficiency:
Thomas J. Baird
Thomas J. Baird, Town Attorney