

**TOWN OF OCEAN BREEZE
REGULAR TOWN COUNCIL MEETING
AGENDA**

September 14, 2020, 10:30 am
Ocean Breeze Resort Clubhouse Pineapple Bay Room
700 NE Seabreeze Way, Ocean Breeze, FL

PLEASE TURN OFF CELL PHONES

1. Call to Order President De Angeles

- Pledge of Allegiance
- Roll Call

2. Approval of Minutes – Regular Meeting, Monday, August 10, 2020

Budget Workshop Monday, July 22, 2020

(Motion, second, public comments, all in favor)

3. Request Authorization to Advertise for Annual Auditing Services

(Motion, second, public comments, all in favor)

4. Comments from the public on topics not on the Agenda

5. Comments from the Council on topics not on the Agenda

6. Comments from Town Management Consultant – Terry O’Neil

7. Comments from Mayor Ostrand

**8. Announcements – Meetings to be held at Ocean Breeze Resort Clubhouse,
Pineapple Bay Room, 700 NE Seabreeze Way, Ocean Breeze, FL**

- Proposed Budget and Setting of Tentative Millage Rate Hearing,
Wednesday, September 16 at 5:01 pm
- Final Budget and Millage Rate Hearing, Wednesday, September 23 at 5:01 pm
- Regular Town Council Meeting – Monday, October 12, 2020 at 10:30 am

9. Adjourn (Motion, second, public comments, all in favor)

TOWN OF OCEAN BREEZE
MINUTES REGULAR TOWN COUNCIL MEETING
Monday, August 10, 2020, 10:30 a.m.
Ocean Breeze Resort Clubhouse, Pineapple Bay Room
700 NE Seabreeze Way, Ocean Breeze, FL

1. **Call to Order** – President De Angeles called the meeting to order at 10:30 a.m.
 - Pledge of Allegiance – Mayor Ostrand led the Pledge of Allegiance
 - Roll Call – Mayor Karen M. Ostrand, President Kenneth De Angeles, Vice-President Richard Gerold, Council Members Bill Arnold, Kevin Docherty and David Wagner
Absent: Council Member Locatis
 - Staff Present – Town Management Consultant, Terry O’Neil; Town Attorney, Rick Crary; Town Clerk, Pam Orr; and Bookkeeper/Clerical Assistant, Kim Stanton

2. **Approval of Minutes** – Vice President Gerold asked for a correction to the Minutes of the July 13, 2020 Regular Meeting which was on page 6, item 7, and should have read “not” a Town issue.

Council Member Gerold, seconded by Council Member Arnold, made a Motion to approve the Minutes of the July 13, 2020 regular meeting with the correction on page 6, item 7.

President De Angeles asked for public comments.

There were none.

All in Favor: Yes: De Angeles, Gerold, Arnold, Docherty, Wagner; Absent: Locatis; No: None; Motion Passed - 5 - 0

3. Quasi-Judicial Hearing – RESOLUTION NO. 303-2020, PROVIDING FOR A MINOR AMENDMENT TO THE OCEAN BREEZE EAST PUD AGREEMENT ADOPTED BY ORDINANCE NO. 220-2015 AND AMENDED BY RESOLUTION NUMBERS 223-2015, 234-2016 AND 238-2016 AND BY ORDINANCE NO. 241-2016 AND BY RESOLUTION NO. 291-2019; THEREBY APPROVING MINOR CHANGES TO THE PROJECT’S REVISED MASTER SITE PLAN TO PERMIT THE RECONFIGURATION OF RESIDENTIAL DOCKS ALONG THE INDIAN RIVER LAGOON, INCLUDING CONDITIONS FOR THEIR USE; DECLARING SAID CHANGES TO BE CONSISTENT WITH THE TOWN’S COMPREHENSIVE PLAN; PROVIDING PENALTIES FOR PUD VIOLATIONS; PROVIDING FOR CONFLICT PROVISIONS AND A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

Town Clerk, Pam Orr read Title of Resolution 303-2020 into the record.

President De Angeles asked if any Council Members had any exparte communications to disclose.

There were none.

President De Angeles asked for those giving testimony to stand, raise their right hand, and be sworn in.

Attorney Crary administered oath to Marcela Camblor and Terry O’Neil.

President De Angeles asked staff to present testimony, including any evidence, and their recommendation regarding this case.

Mr. O'Neil stated that this item had been continued from the July 13, 2020 hearing. He gave a brief history of the issue including the language for the oversight of the use of the docks. He added that Attorney Crary had been working with Sun's Attorney and that the changes were reflected in items i) and k). He stated that staff recommended approval of Resolution 303-2020.

President De Angeles invited the petitioner to provide testimony and call any witnesses.

Marcela Cambor, representing Sun Communities, spoke to the Council about the changes in the language which would allow the applicant to move forward with the docks. She referred to the exhibit in the packet provided which included the informational letter provided by Mr. Scott Szafranski, President of Harbor Bay Marine Industries, Inc. regarding the limited size of vessels and the size of the proposed docks.

Vice-President Gerold asked if a resident living on the east side wanted to build a structure along the east seawall, would it have to be a thirty or thirty-five-foot pier, or could a marginal pier be installed if that individual did not want a boat lift.

Ms. Cambor answered that the marginal piers were defined with maximum length and they were such that those piers had to be five feet off the property line. She stated that Sun's goal was to maintain consistency.

Council Member Wagner asked about elevator lifts and construction of elevator lifts versus other lifts.

Ms. Cambor answered that the intent of the language was not to limit to one specific model of lift. She stated that on the finger piers the owner would have the ability to have two lifts, and with the marginal piers the owner would have the ability to have one lift. She added that Sun would be looking for consistency.

Discussion ensued regarding elevator lifts, marginal piers with no additional pilings, clarification of different types of lifts to be used, the fact that the type of lift for the finger piers (with additional pilings on both sides) would be different than the type of lift for the marginal piers (without additional pilings), the proposed site plan, site consistency and boat lifts versus elevator lifts.

Ms. Cambor stated that the technology used would respond to the design presented.

Discussion ensued regarding cradle lifts and installation requirements, four pilings versus six pilings, lift railings and pilings, pilings supporting the piers along with the lift, progress made regarding this PUD amendment, proposed changes to language, FDEP requirements, permitting requirements, lack of detail on the marginal piers, no changes to the length, design and the width of the pier, a possible notation to amend the agreement, support pilings for the dock in addition to pilings for the lifts, steps for permitting, confirmation that the marginal piers would not have pilings outside of what was depicted in the exhibit.

Council Member Wagner stated that he wanted the clarification and specifics because he did not want the applicant to have to come back before the Council for another amendment. He stated the issue should be discussed thoroughly.

Council Member Gerold stated that the amendment was set to be approved once the language in items i) and k) was agreed upon and he proposed approving it.

President De Angeles asked if staff had any questions for the petitioner.

There were none.

President De Angeles asked the petitioner if they wished to offer any rebuttal testimony.

Ms. Cambor answered “no.”

President De Angeles asked for comments from the public.

There were none.

President De Angeles asked for further questions or comments from the Council.

There were none.

President De Angeles asked for the Council to consider a motion to approve the resolution; a motion to approve with conditions; a motion to deny the request; or, a motion to continue the hearing to a date certain.

Vice-President Gerold, seconded by Council Member Docherty, made a motion to approve the amendment with no further conditions.

Roll Call Vote: Yes: De Angeles, Gerold, Arnold, Docherty, Wagner; Absent: Locatis; No: None; Motion Passed - 5 - 0

4. Comments from the public on topics not on the Agenda – There were none.

5. Comments from the Council on topics not on the Agenda – Council Member Docherty provided statistics regarding the Martin County response rates to the 2020 Census. He encouraged everyone to participate in the Census and spoke about the importance of participation and asked for any questions.

There were none.

Council Member Gerold stated that during the last hurricane, residents and guests with recreational vehicles left their sites clean. He commented that the new landscape contractor was doing an excellent job and they were taking extra care not to blow dirt and debris.

President De Angeles asked Council Member Gerold if the Town should send a note to Sun Communities about these positive changes.

Mayor Ostrand stated that Sun should also be thanked for not increasing the rent by the maximum amount allowed because of the pandemic.

6. Comments from Town Management Consultant - Terry O’Neil – There were none.

7. Comments from Mayor Ostrand – There were none.

8. Announcements – Council Member De Angeles announced the following meetings to be held at Ocean Breeze Resort Clubhouse, Pineapple Bay Room, 700 NE Seabreeze Way, Ocean Breeze, Florida:

- Regular Town Council Meeting – Monday, September 14, 2020 at 10:30 am
- Proposed Budget and Tentative Millage Hearing, Wednesday, September 16, 2020 at 5:01 pm
- Final Budget and Millage Rate Hearing, Wednesday, September 23, 2020 at 5:01 pm

9. Adjourn – Council Member Docherty, seconded by Council Member Arnold, made a motion to adjourn the meeting at 11:12 a.m.

All in Favor: Yes: De Angeles, Gerold, Arnold, Docherty, Wagner; Absent: Locatis; No: None; Motion Passed - 5 - 0

Respectfully Submitted,

Pam Orr

Town Clerk

Minutes approved: _____

TOWN OF OCEAN BREEZE
MINUTES TOWN COUNCIL BUDGET WORKSHOP
AND SETTING OF TENTATIVE MILLAGE RATE
Monday, July 22, 2020, 5:01 p.m.
Ocean Breeze Resort Clubhouse, Pineapple Bay Room
700 NE Seabreeze Way, Ocean Breeze, FL

1. Call to Order – President De Angeles called the meeting to order at 5:01 p.m.

- Pledge of Allegiance – Mayor Ostrand led the Pledge of Allegiance
- Roll Call – Mayor Karen M. Ostrand, President Kenneth De Angeles, Vice-President Richard Gerold, Council Members Bill Arnold, Kevin Docherty and David Wagner (by phone) Absent: Council Member Locatis
- Staff Present – Town Management Consultant, Terry O'Neil; Town Attorney, Rick Crary; Town Clerk, Pam Orr; Bookkeeper/Clerical Assistant, Kim Stanton; Town Financial Advisor, Holly Vath

2. Budget Workshop – Budget & Tentative Ad Valorem Millage Rate for Fiscal Year 2020/2021 – Holly Vath, Town Financial Advisor – Ms. Vath provided the Council with budget documents and worksheets to be used to develop the preliminary ad valorem rate. She reviewed the Summary of Budget Changes from FY2020 to FY 2021 and explained the reasons for the proposed changes.

She took questions from the Council. Discussion ensued regarding the monthly cell phone stipend for Council members, the decline in revenue sharing from the State of Florida due to the corona virus, the revenue estimating conference reports forthcoming, Council expenses for conference and travel, the proposed overall budget and the Communications/Website line item.

Council Member Docherty, seconded by Council Member Wagner, made a Motion to expense the Council Members cell phones and/or laptops into the budget at the rate of \$85.00 per month.

President De Angeles asked for public comments regarding a cell phone stipend for Council members and the Mayor.

Deirdre Henry stated that she was in favor of the stipend.

Roll Call Vote: Yes: De Angeles, Docherty, Wagner; No: Gerold, Arnold; Absent: Locatis; No: None; Motion Passed - 3 - 2

President De Angeles asked if Attorney Crary could prepare a waiver for the Council Members who did not want to receive the cell phone stipend.

Mr. O'Neil answered that he would share this information with Attorney Crary to find out if this would be required. He stated that staff, at the beginning of each year, would learn whether a Council Member would be submitting for reimbursement. He added that he would check with the Town Attorney to see if there was a form that was required.

Ms. Stanton stated that historically, the Town's Financial Advisor suggested that the Town Clerk document certain Council Members that did not wish to be reimbursed for various out-of-pocket expenses.

Discussion ensued regarding the millage rate, Council expenses for conferences and travel line item, fund balance reserves, the Covid-19 virus, Special Projects line item, outsourcing digitizing versus in-house digitizing.

President De Angeles asked staff what the cost of digitizing the records would have been if that project had been outsourced.

Mr. O'Neil answered that staff would develop those figures and bring it back before the Council at the next budget hearing.

Discussion ensued regarding the general fund balance analysis and the impacts on the general fund reserve balance with the proposed millage rates options, the current state of emergency due to the Covid-19 virus, proposed decrease in the millage rate, historical millage rates, expenditures and revenue, staff recommendations regarding millage rate options and historical fund balance data.

President De Angeles asked for public comments.

There were none.

Council Member Wagner, seconded by Council Member Docherty, made a Motion to adopt Option #1 with a millage rate of **3.6800**.

3. Resolution #305-2020 - A RESOLUTION OF THE TOWN OF OCEAN BREEZE, FLORIDA, DETERMINING A TENTATIVE MILLAGE RATE FOR FISCAL YEAR 2020/2021 AND PROVIDING NOTICE THEREOF TO THE APPROPRIATE AUTHORITIES.

Town Clerk, Pam Orr read the resolution into the record adopting the tentative millage rate for the 2020/2021 fiscal year of the Town of Ocean Breeze, Florida of **3.680**.

Council Member Wagner, seconded by Council Member Docherty, made a Motion to adopt Resolution #305-2020.

Roll Call Vote: Yes: De Angeles, Gerold, Arnold, Docherty, Wagner; Absent: Locatis; No: None; Motion Passed - 5 - 0

4. Comments from the public on topics not on the Agenda – President De Angeles asked for comments from the public on topics not on the Agenda.

There were none.

5. Comments from the Council on topics not on the Agenda – President De Angeles asked for comments from the Council on topics not on the Agenda.

There were none.

6. Comments from Town Management Consultant - Terry O'Neil – There were none.

7. Comments from Mayor Ostrand – There were none.

8. Announcements – Council Member De Angeles announced the following meetings to be held at Ocean Breeze Resort Clubhouse, Pineapple Bay Room, 700 NE Seabreeze Way, Ocean Breeze, Florida:

- Regular Town Council Meeting – Monday, August 10, 2020 at 10:30 am
- Regular Town Council Meeting – Monday, September 14, 2020 at 10:30 am
- Proposed Budget and Tentative Millage Hearing, Wednesday, September 16, 2020 at 5:01 pm
- Final Budget and Millage Rate Hearing, Wednesday, September 23, 2020 at 5:01 pm

9. Adjourn – Council Member Arnold, seconded by Council Member Docherty, made a motion to adjourn the meeting at 6:13 p.m.

All in Favor: Yes: De Angeles, Gerold, Arnold, Docherty, Wagner; Absent: Locatis; No: None; Motion Passed - 5 - 0

Respectfully Submitted,

Pam Orr
Town Clerk

Minutes approved: _____

Memorandum

To: Town Council and Mayor
From: Terry O'Neil, Town Management Consultant
CC: Holly Vath, Town Finance Advisor
Date: August 21, 2020
Re: Request for Proposals (RFP) for annual auditing services

To keep abreast of market conditions, as a rule of thumb local governments in Florida seek new proposals for annual auditing services roughly each five years. In the case of Ocean Breeze, for the sake of continuity in dealing with the recently completed \$1.3 million Indian River Drive Storm Water Project, the town's engagement with the auditing firm of Burger, Toombs, Elam, Gaines & Frank has lasted somewhat longer at seven years. With the IRD project now complete and its multiple grants successfully closed out, staff is now requesting Council approval to publish a new Request for Proposals (RFP). It should be noted that Berger Toombs has done excellent work for the town and that the firm will be encouraged to respond to the RFP if published.

Next steps

Assuming approval to proceed, advertising will occur December 1. Responses will be due in six weeks. Thereafter, unless the Council directs otherwise, a three-person committee, consisting of Council Member Bill Arnold, who volunteered at the Council's July meeting, City of Stuart Financial Services Director, Louis J. Boglioli and myself, will review and rank the proposals. The committee's rankings and choice of top firm will be brought forward for Council consideration in February or March. Auditing work by the newly selected firm is expected to begin in the Spring of 2021.

Staff recommendation

Direct staff to advertise for auditing services and proceed with the review and selection process.

Attached documents:

- Draft RFP
- Ranking form

LEGAL NOTICE FOR RFP #2020-001

INDEPENDENT AUDITING SERVICES

The Town of Ocean Breeze, Florida is soliciting qualified Certified Public Accounting firms to negotiate for the audit of the Town's financial statements for the fiscal years 2020 through 2022 in accordance with the requirements of Section 218.39, Florida Statutes, that each local government entity shall have an annual financial audit of its accounts and records completed within nine (9) months of each fiscal year-end. This agreement will be awarded for an initial three (3) year period with the possibility of four additional one-year contract extensions.

A complete RFP package may be obtained by contacting the Town Clerk at P.O. Box 1025, Jensen Beach, Florida 34958, by email at townclerk@townofoceanbreeze.org or by calling (772) 334-6826 (Monday – Friday 9AM – 2PM). The Town of Ocean Breeze is not responsible for the content of any RFP package received through any 3rd party bid service or any source other than the Town of Ocean Breeze Town Clerk's Office.

In compliance with the Americans with Disabilities Act (ADA), anyone desiring to attend this proposal opening who needs a special accommodation should contact the Town Clerk at 772-334-6826 at least 48 hours in advance of the meeting, excluding Saturday and Sunday.

Firms desiring to provide the services described above shall submit one (1) original and five (5) copies with **one (1) electronic copy (PDF format preferred) on a CD or flash drive** of their proposals, containing all of the required information **no later than 12:00 noon, Friday, January 15, 2021**. Submittals will be accepted by hand delivery overnight delivery or by U.S. Mail. Submittals must be sent to the Town of Ocean Breeze, 1508 NE Jensen Beach Blvd. Jensen Beach, FL 34957. Submittals received after that date and time will not be accepted or considered and will be retained unopened. Submittals will be opened as soon as practicable thereafter.

Mail/Overnight/Hand Deliver Submittal Responses to:

Town of Ocean Breeze
Town Clerk
1508 NE Jensen Beach Blvd.
Jensen Beach, FL 34957

Mark outside of envelope: RFP #2020-001 Independent Auditing Services

Publish Date:

PART I GENERAL INFORMATION

1.1 OVERVIEW

This Request for Proposal (RFP) provides guidelines for the submission of proposals in response to this solicitation for the Town of Ocean Breeze, a municipality located in Martin County, Florida, for qualified Certified Public Accounting firms, hereinafter referred to as the auditor, to express an opinion on the fair presentation of its financial statements for the fiscal years 2020 through 2022 in accordance with the requirements of Section 218.39, Florida Statutes, which requires each local government entity to have completed within nine (9) months of each fiscal year-end, an annual financial audit of its accounts and records. The audit shall be conducted for the purpose of forming an opinion on the basic financial statements taken as a whole and to determine whether operations were conducted in accordance with legal and regulatory requirements, and as described herein.

1.2 DEFINITIONS

"Proposer" shall mean Contractors, consultants, respondents, organizations, firms, or other persons submitting a response to this Request for Proposal.

1.3 ISSUING OFFICE AND LOCATION OF PROPOSAL OPENING

Town of Ocean Breeze
Town Clerk
1508 NE Jensen Beach Blvd.
Jensen Beach, FL 34957

1.4 CONTRACT AWARD

The Town of Ocean Breeze anticipates entering into a contract with the proposer who submits the proposal judged by the Town to be most advantageous. In the event the parties are unable to negotiate terms acceptable to the Town, the Town may determine to enter negotiations with the second, most responsive and responsible proposer determined by the selection committee, or it may re-solicit proposals.

The Town reserves the right to reject all proposals, to waive non-material, technical variances in the proposal, to abandon the project or to solicit and re-advertise for other proposals. The Town may in its discretion waive any informalities and irregularities contained in a proposal or in the manner of its submittal and award a contract thereafter.

1.5 DEVELOPMENT COSTS

Neither the Town, nor its' representatives shall be liable for any expenses incurred in connection with preparation of a response to this RFP. Proposers should prepare their proposals simply and economically, providing a straightforward and concise description of the proposer's ability to meet the requirements of the RFP.

1.6 INQUIRIES

The Town will not respond to oral inquiries. Interested proposers may contact the Town Clerk, regarding questions about the proposal at email: townclerk@townofoceanbreeze.org. The Town will receive written requests for clarification concerning the meaning or interpretation of this RFP, until (14) days prior to the submittal date. Questions shall be emailed with reference to the RFP number. All proposers are expected to carefully examine the proposal documents. Any ambiguities or inconsistencies should be brought to the attention of the Town through written communication with the Town prior to opening of the proposals.

Respondents may not contact any member of the selection committee. Town employee or Town elected official during this solicitation process. All questions or requests for clarification must be routed through the Town Clerk.

1.7 TIMETABLES

The Town and proposers shall adhere to the following schedule in all actions concerning this RFP:

- A. On Tuesday, December 1, 2020 the Town issues the RFP.
- B. From December 1, 2020 to January 6, 2021 the Town will receive and answer written inquiries received by email.
- C. The Town must receive the proposals by the closing time and date of 12:00 noon on Friday, January 15, 2021.
- D. The Town will review and evaluate the proposals in a timely manner.
- E. Short listed firms may be scheduled for presentations.
- F. The Town may enter into a contract after obtaining appropriate approvals and conducting negotiations. The Town will notify all unsuccessful proposers.
- G. The Town expects to award the contract in March 2021.

1.8 DELAYS

The Town may delay scheduled due dates, if it is to the advantage of the Town to do so. The Town will notify proposers of all changes in scheduled due dates by written addenda submitted to the Town.

1.9 PROPOSAL SUBMISSION AND WITHDRAWAL

The Town will receive all proposals at the following address:

**Town of Ocean Breeze
Town Clerk
1508 NE Jensen Beach Blvd.
Jensen Beach, FL 34957**

To facilitate processing, please mark the outside of the envelope as follows: **RFP #2020-001 "Independent Auditing Services"** The envelope shall also include the proposer's return address.

Respondents shall submit one (1) original and five (5) copies of the proposal submittal with each marked "COPY", and **one (1) electronic copy (PDF format preferred) on a CD or flash drive** in a sealed envelope marked as noted above. A proposer may submit the proposal by personal delivery, mail, or express shipping service.

***THE TOWN MUST RECEIVE ALL PROPOSALS BY
12.00 NOON, JANUARY 15, 2021***

Each proposal shall be prepared simply and economically, providing a straightforward, concise delineation of the firm's capabilities to satisfy the requirements of the Request for Proposal. The emphasis in each proposal must be on completeness and clarity of content. In order to expedite the evaluation of

proposals, it is essential that firms follow the format and instructions contained herein. If the firm so wishes, the proposal may be accompanied by brochures, promotional materials or displays properly identified.

Due to the irregularity of mail service, the Town cautions proposers to assure actual delivery of mailed or hand-delivered proposals directly to the Town's Office, as specified above, prior to the deadline set for receiving proposals. A proposal received after the established deadline will be retained unopened.

Proposers may withdraw their proposal submissions by notifying the Town in writing at any time prior to the deadline for proposal submittal. Proposers may withdraw their submissions in person or by an authorized representative. Proposers and authorized representatives must provide the letter of withdrawal, picture identification, proof of authorization (in the case of authorized representatives), and provide the Town with a signed receipt for the withdrawn proposal. After the deadline, proposals once opened, become a public record of the Town and are subject to the provisions of the Florida Public Records Law. As such they are subject to public disclosure in accordance with Chapter 119, Florida Statutes.

1.10 ADDENDA

If revisions become necessary, the Town will provide written addenda to all respondents who received the Request for Proposals. All addenda issued by the Town of Ocean Breeze in regard to this RFP shall be acknowledged. Failure to acknowledge all addenda may result in disqualification.

The Town will make every effort to notify registered Proposers by email that an addendum has been made to the RFP. The Town shall not be responsible for providing notice of addenda to potential proposers who receive a RFP package from sources other than the Town.

All addenda issued by the Town must be acknowledged within the proposal at the time it is submitted to the Town.

1.11 EQUAL OPPORTUNITY

The Town recognizes fair and open competition as a basic tenet of public procurement and encourages participation by minority and women owned business enterprises.

1.12 INSURANCE

The respondent, if awarded a contract, shall maintain insurance coverage reflecting the minimum amounts and coverages as required by the Town.

1.13 PUBLIC ENTITY CRIMES

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit proposals or contract with the Town; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided for in F.S. 287 for CATEGORY TWO for a period of 36 months from the date being placed on the convicted vendor list. Questions regarding this statement should be directed to the State of Florida, Bureau of State Procurement (850) 488-8440.

1.14 SUSPENDED VENDOR

An entity or affiliate who has been placed on the State of Florida Suspended Vendor List will not be considered for award. The Suspended Vendor List is available on the State's website at:

http://dms.myflorida.com/business_operations/state_purchasing/vendor_information

1.15 ASSIGNMENT & SUBCONTRACTING

The successful proposer will not be permitted to assign its contract with the Town without obtaining prior written approval of the Town of Ocean Breeze. If a vendor subcontracts or subleases employees for any portion of this contract **for any reason**, the proposer must include, in writing the **name and address of the Subcontractor or leased employee/firm, and must obtain all the same insurance requirements, licensing, and certification requirements with prior approval by the Town.** Name of the person to be contacted, include telephone number and extent of work to be performed. This information is to be submitted with RFP response (Tab 1). If vendor should need to change subcontractor information, changes are subject to the approval by the Town. The Town reserves the right to reject a proposal of any proposer if the proposal names a subcontractor or leased employee who has previously failed in the proper performance of an award or failed to deliver on time contract of a similar nature, or who is not in a position to perform properly under this award.

1.16 PROPOSAL AS PUBLIC DOMAIN

All documents and other materials made or received in conjunction with this project will be subject to public disclosure requirements of Chapter 119, Florida Statutes. The proposal will become part of the public domain upon opening. **Vendors shall not submit pages marked "proprietary" or otherwise "restricted".**

1.17 PUBLIC RECORDS

Public Records Relating to Compliance, Request for Records; Noncompliance, & Civil Action

Note: 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 office of the Town Clerk as the custodian of Public Records for the Town of Ocean Breeze, and all the respective departments at 772-344-6826 or townclerk@townofocceanbreeze.org, Town of Ocean Breeze, Town Clerk, PO Box 1025, Jensen Beach, FL 34958 per F.S. 119.12.

In compliance with F.S. 119.0701 the Contractor shall:

- A. Keep and maintain public records required by the public agency to perform the service.
- B. Upon request from the public agency's custodian of public records, provide the public agency 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 this chapter 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 the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.

- D. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency 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 public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.
- E. A request to inspect or copy public records relating to a public agency's contract for services must be made directly to the public agency. If the public agency does not possess the requested records, the public agency shall immediately notify the contractor of the request, and the contractor must provide the records to the public agency or allow the records to be inspected or copied within a reasonable time.
- F. If a contractor does not comply with the public agency's request for records, the public agency shall enforce the contract provisions in accordance with the contract.
- G. A contractor who fails to provide the public records to the public agency within a reasonable time may be subject to penalties under F.S. 119.10.
- H. If a civil action is filed against a contractor to compel production of public records relating to a public agency's contract for services, the court shall assess and award against the contractor the reasonable costs of enforcement, including reasonable attorney fees, if:
 - 1. The court determines that the contractor unlawfully refused to comply with the public records request within a reasonable time; and
 - 2. At least 8 business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that the contractor has not complied with the request, to the public agency and to the contractor.
- I. A notice complies with subparagraph 2 above, if it is sent to the public agency's custodian of public records and to the contractor at the contractor's address listed on its contract with the public agency or to the contractor's registered agent. Such notices must be sent by common carrier delivery service or by registered, Global Express Guaranteed, or certified mail, with postage or shipping paid by the sender and with evidence of delivery, which may be in an electronic format.
- J. A contractor who complies with a public records request within eight (8) business days after the notice is sent is not liable for the reasonable costs of enforcement.

1.18 LICENSES

Proposers, both corporate and individual, must be fully licensed and certified for the type of work to be performed in the State of Florida at the time of RFP receipt.

1.19 CONTRACT TERM

At all times during the term of the contract, the successful Contractor shall act as an independent Contractor and at no time shall be considered an agent or partner of the Town.

- A. **Contract Period:** A multiple year contract shall be awarded for an initial term of three (3) years subsequent to approval by the proper Town authorities. The contract may be renewed for four (4) additional one year periods provided both the successful proposer and the Town agree and all terms and conditions remain the same. Any contract or amendment resulting from this solicitation shall be subject to fund availability and mutual written agreement between the Town and the successful proposer. Extension of the contract for additional thirty (30) day periods for the convenience of either party shall be permissible at the mutual consent of both parties not to exceed six (6) months.
- B. **Option to Extend:** The performance period of any contract resulting from this solicitation may be extended upon mutual agreement between the contractor and the Town of Ocean Breeze with no change in terms or conditions. Any extension of performance period under this provision shall be in one-year increments. The contract may be renewed for four (4) additional one-year periods, provided both parties are in agreement. Total contract length, including individual one-year extensions, shall not exceed seven (7) years. Consideration of price increases at each renewal period will be given provided such escalations are justified, reasonable and acceptable to the Town. Any price increases must be documented and approved by the Town of Ocean Breeze. It is also expected that de-escalation of prices will be extended to the Town if the market so reflects.

1.20 CONTRACT AMENDMENT

This service extends only to those specifically described herein. If upon the request of the Town, the Contractor agrees to perform additional services such as assistance with special financial projects, tax services, grant assistance and management advisory services, the Town shall pay the Contractor for the performance of such additional services a schedule of compensation rates for these various types of additional work shall be included reflecting hourly rates applicable to projects which may be requested and negotiated with the Town.

The Town of Ocean Breeze reserves the right to order, in writing, changes in the work required by GASB or other regulatory/professional entities. The contractor has the right to request an equitable price adjustment in cases where modifications to the contract under the authority of this clause result in increased costs to the contractor. This agreement may be modified upon the written and mutual consent of both parties, and approval by appropriate legal bodies in the Town of Ocean Breeze.

1.21 TERMINATION CLAUSES

- A. **Termination for Convenience:** The Town upon a thirty (30) day written notice to the other party may terminate this Agreement with or without cause. In the event of any termination, the Contractor shall be paid for all services rendered to the date of termination.
- B. **Termination for Cause:** The obligation to provide further services under this Agreement may be terminated by the Town upon seven (7) days written notice in the event of failure by the Contractor to perform in accordance with the terms hereof through no fault of the Town.

1.22 BACKGROUND INFORMATION

As part of the evaluation process, the Town reserves the right, to require a Proposer to submit such evidence of his/her qualifications as it may deem necessary, and may consider any evidence available to it as to the qualifications and abilities of the Proposer, including past performance (experience) with the Town by the Proposer or any of their Owners.

1.23 REFERENCES/RECORD CHECK

As part of the evaluation process, the Town may conduct an investigation of references, including but not limited to, a record check of consumer affairs complaints. Proposer's submission of their RFP constitutes acknowledgment of the process and consent to investigate. Town is the sole judge in determining Proposer's qualifications.

1.24 PERFORMANCE EVALUATION

Throughout the contract period the vendor(s) performance will be monitored by Town staff. If vendor performance fails to meet the standards specified and receives an unacceptable rating, the Town may without cause and without prejudice to any other right or remedy, terminate the contract whenever the Town determines that such termination is in the best interest of the Town. Vendor's receiving an unacceptable rating will be notified by certified mail. Contract termination shall be served by written notice.

1.25 PRICING AND INVOICING

The Town requires a firm price for each contract period. Invoices will be checked to confirm compliance with quoted pricing. Failure to hold prices firm through each contract term may be grounds for contract termination. Payment will be paid upon completion and acceptance of the work, net 30 days.

PART II STATEMENT OF WORK

2.1 ELIGIBILITY AND MANDATORY REQUIREMENTS

The proposer should submit the minimum qualifications with their proposal response package to be considered responsive in order for the Town to fully evaluate the firm's qualifications. Failure to fully submit the requested information may result in the proposal response being considered non-responsive

- A. The principals of the firm(s) have performed continuous certified public accounting (CPA) services for a minimum of five (5) years.
- B. The Proposer must be a member of the American Institute of Certified Public Accountants and the Florida Institute of Certified Public Accountants.
- C. The assigned professional personnel of the Proposer must have received adequate continuing professional education as stipulated by Government Auditing Standards issued by the Comptroller General of the United States.
- D. The Proposer is independent of the Town of Ocean Breeze, as defined by generally accepted auditing standards and Government Auditing Standards.
- E. The Proposer must have experience performing a Single Audit in accordance with generally accepted auditing standards, Government Auditing Standards issued by the Comptroller General of the United States, the Single Audit Act Amendments of 1996, standards in accordance with 2 CFR Part 200 (formerly OMB Circular A-133), Audits of State and Local Governments; and the Rules of the Auditor General of the State of Florida.
- F. To meet the requirements of this RFP, the audit must be performed in accordance with the following standards:
 - 1. Generally Accepted Auditing Standards as issued by the American Institute of Certified Public Accountants (AICPA)
 - 2. Government Auditing Standards issued by the Comptroller General of the United States
 - 3. Office of Management Uniform Grant Guidance 2 CFR Part 200 (formerly OMB Circular A-133)
 - 4. Federal Single Audit Act, as amended
 - 5. Florida Single Audit Act
 - 6. Rules of the Auditor General, State of Florida
 - 7. Rules of the Florida Department of Financial Services
 - 8. Section 218.39, Florida Statutes and any other applicable Florida Statutes.

2.2 WORK OBJECTIVE

- A. The Town desires the auditor to express an opinion on the fair presentation of its financial statements in conformity with accounting principles generally accepted in the United States. This RFP describes Financial Audits as required under Florida Statutes Chapter 11.45, F.S. Chapter 218.39, F.S. Chapter 163.387 (8), and the Florida Single Audit Act.

- B. The auditor shall also prepare required management reports and any other reports as may be required. The auditor shall also perform certain limited procedures involving required supplementary information as may be required by Florida State Statutes, the Florida Auditor General, the Governmental Accounting Standards Board and/or the AICPA, as mandated by accounting principles generally accepted in the United States.
- C. **Auditing Standards**
1. To meet the requirements of this Request for Proposal and any resulting agreement, the audit shall be performed in accordance with auditing standards generally accepted as set forth by the American Institute of Certified Public Accountants and auditing standards generally accepted as promulgated by the General Accounting Office and the Rules of the Auditor General of the State of Florida, the standards for financial audits. The audit will be a financial audit.
 2. Note: The auditor will compile the financial statements and footnotes into one document. The auditor shall be responsible for delivering one electronic original.
 3. Irregularities and illegal acts: Auditors shall be required to make an immediate, written report of all irregularities and illegal acts of which they become aware to the Town Manager and the Town Council.
- D. **Working Papers Retention and Access to Working Papers:** All working papers and reports must be retained at the auditor's office and at the auditor's expense, for a minimum of five (5) years, unless the firm is notified in writing by the Town of the need to extend the retention period. The auditor will be required to make working papers available upon request by the Town.

2.3 BACKGROUND INFORMATION

- A. **Type of Government:** The Town of Ocean Breeze was incorporated in 1960 and has a current population of approximately 300 residents. The Town is located in Martin County on Florida's east coast between St. Lucie County to the North and Palm Beach County to the South. The Town has a mayor-council form of government and is governed by a six-member Council. The Town is a legal taxing district with the power to levy ad valorem tax within its boundaries.
- B. The Town's fiscal year is October 1 through September 30.
- C. There are 2 part-time employees and several outsourced professionals that perform duties in the areas of town management/planning, legal, accounting, building official services, and protective inspections among others.
- D. Budgets are adopted annually and expenditures are controlled in accordance with Florida Statutes.
- E. The Town's financial software is Quickbooks. Source documents are filed at the Town Office.
- F. The Town's accounting records for fiscal year ending September 30 will be closed by November 30 each year.

2.4 TIME REQUIREMENTS

- A. **Commencement of Audit:** The Town will have all records ready for audit and all management personnel available to meet with the firm's personnel no later than January 1 each year.
- B. **Schedule for the Fiscal Year Audit:** Each of the following shall be completed by the auditor no later than the dates indicated.
1. **Fieldwork:** The auditor shall complete all fieldwork on site no later than April 30 each year. Fieldwork is defined as that audit work consisting of data collection, analysis and compilation of financial information to include examples of financial transactions and completing all associated inquiries required to meet audit objectives.
 2. **Issuance of Reports and Financial Statement Attestation:** The auditor shall have preliminary financial statements by May 15 each year, with final statements completed by June 15.
 3. **Final Audit:** The auditor will provide the Town Council with a presentation about audit findings by June 30 each year.

2.5 ASSISTANCE TO BE PROVIDED TO THE AUDITOR

- A. **Work Papers and Documents:** The staff will prepare the work papers for all funds. This will include trial balances and related supporting schedules. Staff will be available to answer questions as may be required.
- B. **Office Space and Machines:** Copy machines, office space, fax and telephones will be made available to the successful proposer at no charge.

2.6 SPECIAL CONDITIONS

- A. **Laws, Ordinances, Etc.:** The auditor shall observe and comply with all Federal, State and Local laws, ordinances, rules, regulations and professional standards that would apply to this contract.
- B. **Venue:** Any contractual arrangement between the Town of Ocean Breeze and the successful proposer shall be consistent with, and be governed by, the ordinances of Martin County, the Town of Ocean Breeze, the whole law of the State of Florida, both procedural and substantive, and applicable federal statutes, rules and regulations. Any and all litigation arising under any contractual arrangement shall be brought in the appropriate court in Martin County, Florida.

PART III INSTRUCTIONS FOR PREPARING SUBMISSIONS

3.1 RULES FOR SUBMISSIONS

The submission must name all persons or entities interested in the submission as principals. The proposal must declare that it is made without collusion with any other person or entity submitting a proposal pursuant to the RFP. The interested firm or individual must submit one (1) original and five (5) copies of their proposal with each marked "COPY", and **one (1) electronic copy (PDF format preferred) on a CD or flash drive** of the requested data for evaluation. Please tab all support documents or attachments according to the order established in the following paragraph.

3.2 PROPOSAL FORMAT

The Proposal will address all the points outlined in the request for proposals. The Proposal must be prepared simply and economically, providing a straightforward, concise description of the Proposers capabilities to satisfy the requirements of the request for proposals. In order to simplify and expedite the evaluation process, please construct the proposal in the format noted below. The response format shall have the required information indicated in each tab. All attachments as requested shall be inserted in the back of each corresponding section.

In preparing your proposal, proposer should assume that the Town has no previous knowledge of their product or capabilities. Proposals should clearly describe the services, specifying where it meets, exceeds or does not comply with the general specifications.

Letter of Transmittal: The response format shall contain a letter of transmittal. The Letter of Transmittal will summarize in a brief and concise manner the Contractor's understanding of the scope of work and make a positive commitment to timely perform the work within budgetary requirements. An agent authorized to contractually bind Contractor must sign the Letter of Transmittal indicating the agent's title or authority. The transmittal letter shall not exceed two pages in length.

Tab 1 ~ Independence

The firm shall provide an affirmative statement that it is independent of the Town of Ocean Breeze as defined by generally accepted auditing standards and the U.S. General Accounting Office's Government Auditing Standards.

The firm should also list and describe the firm's (or its proposed subcontractors') professional relationships involving the Town of Ocean Breeze or any of its agencies or component units or oversight unit for the past five (5) years. If applicable, a statement explaining why such relationships do not constitute a conflict of interest relative to performing the proposed audit will be included.

In addition, the firm shall commit to giving the Town of Ocean Breeze written notice of any potentially conflicting professional relationships entered into during the period of this agreement.

Tab 2 ~ Firm's Qualifications, Knowledge and Experience

The proposal shall state the size of the firm, the size of the firm's governmental audit staff, the location of the office from which the work on this engagement is to be performed and the number and nature of the professional staff to be employed in this engagement.

The firm shall provide information on the results of any federal or state desk reviews or field reviews of its audits during the past three (3) years. In addition, the firm shall provide information on the

circumstances and status of any disciplinary action taken or pending against the firm during the past three (3) years with state or federal regulatory bodies or professional organizations

The firm shall identify the principal staff, including engagement partners, managers, other supervisors, specialists and the assigned “in-charge” who will be assigned to the engagement and indicate whether each such person is (registered/licensed) to practice as a certified public accountant in Florida. The firm shall provide information in the form of resumes on the government auditing experience of each person, *including information on relevant continuing professional education for the past three (3) years* and membership in professional organizations relevant to the performance of this audit.

The firm shall provide as much information as possible regarding the number, qualifications, experience and training, including relevant continuing professional education of the specific staff to be assigned to this engagement. The firm also shall indicate how the quality of staff over the term of the agreement will be assured.

Tab 3 ~ Audit Approach

The proposal shall set forth a work plan, including an explanation of the audit methodology to be followed, to perform the services required in Section II of this request for proposals. In developing the work plan, reference shall be made to such sources of information as the Town of Ocean Breeze's budget and related materials, organizational charts, manuals and programs, and financial and other management information systems.

Proposers will be required to provide the following information on their audit approach:

- Show level of staff and number of hours to be assigned to the engagement. Commitment to continuity of the proposed audit team for following years of the agreement will be considered favorably.
- Describe sample size and the extent to which statistical sampling is to be used in the engagement. Define the specific audit procedures to be followed.
- Describe the extent of use of paperless technology in the engagement.
- Define type and extent of analytical procedures to be used in the engagement
- Demonstrate approach to be taken to gain and document an understanding of the Town of Ocean Breeze's internal control structure.
- Identify approach to be taken in determining laws and regulations that will be subject to audit test work.
- Describe approach to be taken in drawing audit samples for purposes of tests of compliance.

Tab 4 ~ Florida Engagements

For the firm's office that will be assigned responsibility for the audit, a separate list of all engagements of audit work in which the firm has participated for Florida governmental entities shall be submitted. Include the most significant engagements performed in the last five years that are similar to the engagement described in this request for proposals.

The firm shall list separately all engagements within the last five years for the Town of Ocean Breeze by type of engagement. For each engagement, the firm shall indicate the scope of work, date, engagement partners, total hours by staff type, the location of the firm's office from which the engagement was performed.

Tab 5 ~ Report Format

The proposal shall include sample required reports.

Tab 6 ~ Proposal Form

Insert all requested pricing in the attached Price Proposal Form. The proposed fees shall include all overhead and expenses. The cost proposal shall contain all pricing information relative to performing the audit engagement as described in this request for proposal. The total maximum price to provide the service must contain all direct and indirect costs including all out-of-pocket expenses.

Rates by partner, specialist, supervisory and staff level multiplied by hours anticipated for each. The cost proposal shall include a schedule of professional fees and expenses, presented in an easily understandable format that supports the Total All-inclusive Maximum Price.

Out-of-pocket expenses for firm personnel (e.g., travel, lodging and subsistence) will be included in the Total All-inclusive Maximum Price submitted by the firm. No separate payments will be made for Out-of-Pocket expenses.

If it becomes necessary for the Town of Ocean Breeze to request the Auditor to render any additional services to either supplement the services requested in this request for proposal or to perform additional work as a result of the specific recommendations included in any report issued on this engagement, then such additional work shall be performed only if set forth in an addendum to the contract between the Town of Ocean Breeze and the firm. Any such additional work agreed to between the Town of Ocean Breeze and the firm shall be performed at the same rates, set forth in the schedule of fees and expenses submitted.

Progress payments will be made based on hours of work completed during the course of the engagement and out-of-pocket expenses incurred in accordance with the firm's cost proposal. Interim billing shall cover a period of not less than a calendar month.

Tab 7 ~ Insurance:

Provide a statement agreeing to obtain (prior to award) insurance with coverages as detailed in Section 5.2. Provide proof of insurance indicating that the firm has coverage in accordance with the requirements herein set forth may be furnished by the firm to the Town along with their qualification data. A properly completed Accord Form is preferable. The Town of Ocean Breeze must be named as an additional insured for all General Liability **prior to entering into a contract.**

Tab 8 ~ References

In order to be eligible to respond to this Request for Proposal, the interested firm must have successfully completed financial audits of at least five (5) municipal governmental entities. This experience shall be reflected in the proposal along with contact names and telephone numbers for those municipalities. Each respondent shall meet all legal, technical and professional requirements for expressing an audit opinion on the annual financial statements of the Town of Ocean Breeze. Letters of references shall not be older than three (3) years.

Tab 9 ~ Submittal Forms & Requested Information:

Section 5.3 Request for Information to Submit With IRS W-9 Form

Section 5.6 Public entity Crimes

Tab 10 ~ Prohibition Non-Collusion/Conflict of Interest Disclosure Statements

Include the following Statement of Non-Collusion: "The respondent certifies, and in the case of a joint proposal, each party thereto certifies as to its own organization, that in connection with this solicitation the information provided has been arrived at independently, without consultation, communication, or agreement with any other respondent or with any competitor for the purpose of restricting competition, or in any other way influencing the competitive arena."

Include a disclosure statement advising the Town of any potential conflict of interest, real or apparent, that the Respondent, employee, officer, or agent of the firm may have due to ownership, other clients, contracts or interests associated with this project.

An affirmative statement must be included indicating that the firm and all assigned key professional staff are properly registered and licensed to practice in the State of Florida. Include copies of appropriate licenses.

Signature on the transmittal letter shall certify the veracity of these statements.

Tab 11 ~ Optional Information: Provide any information pertinent to this project that will provide insight to the evaluators about the qualifications, fitness and abilities of the Respondent (please limit this information to two pages).

Tab 12 ~ Addenda (if applicable): All addenda issued pursuant to this solicitation must be acknowledged and submitted as part of the proposal package.

PART IV EVALUATION OF SUBMISSIONS

4.1 EVALUATION METHOD AND CRITERIA

- A. **Purpose:** The purpose of the Proposal is to demonstrate compliance with the evaluative criteria established, specifically the qualifications, competence and capacity of the firms seeking to undertake an independent audit of the Town of Ocean Breeze in conformity with the requirements of this request for proposals. As such, the substance of proposals will carry more weight than their form or manner of presentation. The Proposal must demonstrate the qualifications of the firm and of the particular staff to be assigned to this engagement. It must also specify an audit approach that will meet the request for proposals requirements.
- B. **General:** The Town's selection committee will evaluate proposals and will select the proposer which meets the best interests of the Town. The Town shall be the sole judge of its own best interests, the proposals, and the resulting negotiated agreement. The Town's decisions will be final. This criterion shall be utilized in the evaluation of the proposals.

The Town's evaluation criteria will include, but not be limited to, consideration of the following:

<u>EVALUATION CATEGORIES</u>	<u>POINTS POSSIBLE</u>
Overall qualifications, knowledge, & experience	30 pts
Audit Approach	45 pts
Reference/Past Projects of similar nature in Florida	10 pts
Proposed price for work to be accomplished.	15 pts

- C. **Selection:** Proposals will be evaluated using the above criteria. The Town will assign this task to a Selection Committee. The Town of Ocean Breeze reserves the right to select the most qualified individuals/firms from review of the packages submitted and request authorization to negotiate an agreement with the highest ranked individual/firm; or to interview the most qualified Respondents prior to requesting authorization to negotiate an agreement with the highest ranked respondent. Individuals/firms will be notified in writing if they are selected for interview. Notices for interviews will contain explicit instructions concerning location, date, time and length of interviews.
- D. **Presentations:** The Town may require oral and visual presentations from those firms that are ranked or short-listed. This shall be done at the Town's sole discretion when it feels presentations are essential as part of the evaluation process and are in the best interests of the Town. The Town shall be the sole judge and final arbiter of its own best interests in this matter.
- E. **Negotiations:** After the Town ranks the respondents, Town staff will take the proposed ranking to the Town Commission for approval and authorization to start negotiations with the top ranked firm. After staff concludes negotiations with the respondent(s) selected by the Town Commission, staff will present the results of the negotiations to the Town Commission with its recommendation for award of a contract. If the Town Commission determines that staff is unable to negotiate a satisfactory contract with the respondent(s) considered to be the most qualified at a price the Town determines to be fair, competitive, and reasonable, negotiations with that respondent(s) shall be formally terminated. Should the Town be unable to negotiate a satisfactory contract with the selected respondent(s), the Town may select additional respondent(s) in order of their original ranking, competence and qualification; and will continue negotiations until an agreement is

reached. However, the Town reserves the right to reject all proposals, to waive any irregularities, and to re-advertise and solicit for other proposals.

F. Terms and Conditions

All prospective Contractors are hereby cautioned not to contact any member of the Town Council, the Mayor, the Town Manager, the Town Attorney or any member of the selection committee. All questions and contacts must be made through the Town Clerk. Attempts to lobby or persuade through other channels will result in disqualification.

Any actual or prospective Contractor who disputes the reasonableness, necessity or competitiveness of the terms and conditions of this request for proposals; selection or award recommendation shall file such dispute in writing with the Mayor, not later than close of business on the proposal opening date, as to the terms and conditions, and within ten (10) days of Council action as to the selection or award recommendation.

The Town reserves the right to reject any or all proposals without recourse, to waive technicalities and informalities or to accept the proposal which in its sole judgment best serves the interest of the Town.

G. Contact Person: Questions or requests for additional information shall be directed to the Town Clerk at email: townclerk@townofoceanbreeze.org.

PART V RFP SUBMITTALS

5.1 PRICE PROPOSAL FORM

Respondents are to make no changes to the table below and are to fill the table out completely. Values must be provided for all categories below and must represent the total cost for each service in Group A. The Total Fee for each audit period includes all out-of-pocket expenses for firm personnel (e.g. travel, lodging, copies, etc.). As specified in Section 1.21 additional work shall be included reflecting hourly rates in Group B. The estimated (projected) hours by type of staff member for the first year (2020) of the audit must be included in Group C.

GROUP A			
ITEM #	AUDIT PERIOD ENDING	TOTAL PROJECTED HOURS	TOTAL FEE
Initial 3 Year Term			
1	September 30, 2020		\$
2	September 30, 2021		\$
3	September 30, 2022		\$
Four Additional One-Year Contract Extensions			
4	September 30, 2023		\$
5	September 30, 2024		\$
6	September 30, 2025		\$
7	September 30, 2026		\$
OVERALL TOTAL (Items 1-7)			\$

Company Name _____

GROUP B		
ITEM	DESCRIPTION	HOURLY RATE
8	Partner	\$
9	Manager	\$
10	Supervisory Staff	\$
11	Staff	\$

GROUP C		
ITEM	PROJECTED 2020 AUDIT	ESTIMATED HOURS
12	Partner	
13	Manager	
14	Supervisory Staff	
15	Staff	
TOTAL		

The Respondent certifies that as a condition of bidding he will hold good his proposal prices for a minimum period of **ninety** (90) calendar days from the date proposals are opened.

Company Name _____

The undersigned Respondent hereby certifies that the terms and conditions, including but not limited to, the scope of work have not been altered or modified in any manner. Any modification to this solicitation by the proposer will result in Proposer's response being found non-responsive and thereby disqualified.

The undersigned Respondent hereby certifies that he has received all the Addenda listed below and has incorporated them into his proposal listed herein. Failure to acknowledge any and all addenda may render the proposal non-responsive and no further evaluation of the proposal will occur.

Addendum(s) # _____ through # _____ Respondent's Initials _____

(Signature)

(Printed Name)

Name of Company, Firm

(Printed Title)

Telephone Number

Facsimile Number

Email Address

5.2 INSURANCE REQUIREMENTS

- A. The successful professional shall not commence any work in connection with this agreement until it has obtained all of the following types of insurance and the Town has approved such insurance. Nor shall the successful professional allow any subcontractor to commence work on its subcontract until all similar insurance required of the subcontractor has been so obtained and approved. All insurance policies shall be with insurers licensed and authorized to do business in the State of Florida. The successful professional shall maintain required insurance coverage for the full term of this agreement or for such longer periods as may be specifically required herein. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida and rated no less than "B" as to management and no less than Class "VIII" as to strength in accordance with the A.M. Best Company Insurance Guide, or its equivalent as determined by the Town in its sole discretion.
- B. Loss Deductible Clause: The Town shall be exempt from, and in no way liable for, any sums of money which may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the professional and/or subcontractor providing such insurance.
- C. Worker's Compensation Insurance: The professional/service provider shall maintain during the life of this Agreement, Worker's Compensation Insurance for all of its employees connected with the work of this project that complies fully with the State of Florida Worker's Compensation Law, SS 440.
- D. General Liability: The Professional shall, during the life of this agreement take out and maintain broad form Commercial General Liability [including premises/operations; products/completed operations with the XCU hazards; personal /advertising injury; and fire damage (minimum \$100,000)] for limits of not less than \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate relative to any agreement resulting from a solicitation with the Town of Ocean Breeze.
- E. Professional Liability: The professional shall during the life of this agreement take out and maintain Professional Liability coverage with limits of not less than \$1,000,000.00 per claim /\$2,000,000.00 per job, per year aggregate relative to any agreement resulting from this solicitation for the Town of Ocean Breeze. The professional further agrees to maintain like coverage for a minimum of five (5) years following the completion of the agreement.
- F. Certificates of Insurance: the Contractor, upon notice of award, will furnish Certificate of Insurance Forms. These shall be completed by the authorized Resident Agent and returned to the Town Clerk. This certificate shall be dated and show:
- (1) The name of the insured contractor, the specified job by name and job number, the name of insurer, the number of the policy, its effective date, and its termination date.
 - (2) Statement that the Insurer will mail notice to the Town at least thirty (30) days prior to any material changes in provisions or cancellation of the policy.
 - (3) Town shall be named or additional named insured on General Liability Insurance and Business Automobile Liability Insurance.

NOTE: The Town can decrease or increase these limits, depending on the project, at its sole discretion.

5.3 REQUEST FOR INFORMATION TO SUBMIT WITH IRS W-9 FORM

Federal Income Tax Law requires a Form 1099 with a valid taxpayer identification number to be filed for payments made in the course of conducting a trade or business. Further, these payments may be subject to Backup Federal Income Tax Withholding for all payees who have not submitted a correct Federal Tax Identification Number at the time of payment.

Please read this form and complete the information thereon before signing and **returning with a copy of your IRS W9 Form**. If you are a corporation, we will not issue you a Form 1099 (Reference: 1.6401-3(c)). However, kindly return this form to document your corporate status.

VENDOR NAME _____

DBA: _____

CORPORATE ADDRESS: _____

TOWN: _____ **STATE:** _____ **ZIP:** _____

TELEPHONE: (____) _____ **FAX:** (____) _____ **ALTERNATE PHONE:** (____) _____

REMIT TO ADDRESS: _____

CITY: _____ **STATE:** _____ **ZIP:** _____

TELEPHONE: (____) _____

COMPANY CONTACT NAME: _____

COMPANY/CONTACT EMAIL ADDRESS: _____

TYPE OF ORGANIZATION

- | | | |
|---|---|---|
| 1. ☐ Corporation | 3. ☐ Sole Proprietor | 5. ☐ Government Agency |
| 2. ☐ Partnership | 4. ☐ Individual | 6. ☐ Other: _____ |

1099 REPORTING STATUS (Check One): ☐ Yes ☐ No

TAXPAYER IDENTIFICATION NUMBER:

Employer Identification Number: _____ - _____ (Or) Social Security Number: _____ - _____ - _____

Print name of Taxpayer if using SS#: _____

Under penalties of perjury, I certify that this statement is accurate and complete.

Signature: _____ **Title:** _____

Date: _____ **Phone:** (____) _____

5.4 SWORN STATEMENT PURSUANT TO SECTION 287.133 (3) (a), FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted to TOWN OF OCEAN BREEZE, MARTIN COUNTY, FLORIDA

by: _____
(print individual's name and title)

for: _____
(print name of entity submitting sworn statement)

whose business address is: _____

and (if applicable) its Federal Employer Identification Number (FEIN) is: _____

(If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement: _____ - _____.)

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, 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 of the United States, including but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentations.
3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.
4. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:
- A predecessor or successor of a person convicted of a public entity crime; or
 - An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.
5. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, Shareholders, employees, members, and agents who are active in management of an entity.
6. Based on information and belief, the statement which I have marked below is true in relations to the entity submitting this sworn statement. (Indicate which statement applies).

- ☐ Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.
- ☐ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.
- ☐ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list (attach a copy of the final order).

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

Signature

Sworn to and subscribed before me this _____ day of _____, 20_____.

Personally known _____ OR Produced Identification _____

Notary Public – State of Florida

Type of Identification _____ My Commission Expires: _____

SEAL OR STAMP

TOWN OF OCEAN BREEZE

EVALUATION COMMITTEE SCORING SHEET

RFP # 2020-001, INDEPENDENT AUDITING SERVICES

FIRM: _____

MANDATORY ELEMENTS:

	YES	NO
The firm is independent and licensed to practice in the State of Florida	_____	_____
Personnel have adequate continuing education in the past two years in accordance with the Florida State Board of Accountancy and <i>Government Auditing Standards</i>	_____	_____
No conflicts of interest exist	_____	_____
History of quality audit work based upon latest peer review report submitted	_____	_____
Adhered to the instructions in the RFP	_____	_____

TECHNICAL QUALIFICATIONS

EXPERTISE AND EXPERIENCE:	POINTS ASSIGNED	POINTS AWARDED
Past experience and performance of government engagements by office assigned	15	_____
Expertise and experience in local government auditing	10	_____
Quality and experience of professional personnel (resumes should be attached)	10	_____
Firm professional standing	5	_____
Subtotal	40	_____

AUDIT APPROACH:	POINTS ASSIGNED	POINTS AWARDED
Adequacy of proposed engagement plan	15	_____
Target dates will meet deadlines	15	_____
Commitment to continuity of proposed audit team	15	_____
Subtotal	45	_____

PROPOSED PRICE:	ASSIGNED	AWARDED
Commitment to continuity of proposed audit team	15	_____
GRAND TOTAL	100	_____

FYI, Town Council and Mayor –

This material, including a follow-up report from the Town's Engineer,
was provided to the complainant by return receipt mail and email on
September 10, 2020 and to D. R. Horton and Forestar by email on the same date.

From: bookkeeper@townofoceanbreeze.org
Sent: Thursday, August 27, 2020 1:56 PM
To: townclerk@townofoceanbreeze.org
Cc: Terry O'Neil
Subject: Telephone Message from Tony Richmond

This is to document a telephone call received from Mr. Tony Richmond, 1592 NE South Street, Jensen Beach, Florida on Tuesday, August 25, 2020 in which he and his Attorney, Roy Milner, were requesting a meeting with Mr. O'Neil and the Town Council. I explained to him that any such meeting would have to be at a public hearing because of the Sunshine Law. I informed him of the next regular Town Council meeting to be held on Monday, September 14 at 10:30 am at the Ocean Breeze Resort Clubhouse. I offered to set up a meeting for him to meet with Mr. O'Neil and the Town Council President, Ken De Angeles. He stated that he would let me know either way; but, I did not hear back from him.

His concerns were:

- A year had passed and he has had no satisfaction in regards to the erosion problem.
- The silt fence behind his home had been removed.
- No grass had been planted, where promised.

Kim Stanton
Assistant to Pam Orr, Town Clerk



Town of Ocean Breeze
Post Office Box 1025
Jensen Beach, FL 34958
Telephone: (772) 334-6826
Fax: (772) 334-6823
www.townofoceanbreeze.org

townclerk@townofoceanbreeze.org

From: townclerk@townofoceanbreeze.org
Sent: Thursday, September 10, 2020 11:29 AM
To: 'Kristen L Northup'; 'Karl K Albertson'
Cc: 'Shaun G. MacKenzie, P.E.'
Subject: FW: Ocean Breeze Park West - Observation - 09-10-20.pdf
Attachments: Ocean Breeze Park West - Observation - 09-10-20.pdf

Good Morning Kristen and Karl:

Please see the attached letter from MacKenzie Engineering and address the sod issues as outlined in his report.

Thank you!

Pam Orr
Town Clerk



Town of Ocean Breeze
P. O. Box 1025
Jensen Beach, FL 34957
772-334-6826 office
772-334-6823 fax
townofoceanbreeze.org

Please make note of our new email address.

From: Shaun G. MacKenzie, P.E. <Shaun@mackenzieengineeringinc.com>
Sent: Thursday, September 10, 2020 11:23 AM
To: twoneil@aol.com; townclerk@townofoceanbreeze.org
Subject: Ocean Breeze Park West - Observation - 09-10-20.pdf

Final letter based on sept 9, 2020 site visit.

Best Regards,

Shaun G. MacKenzie, PE
MacKenzie Engineering & Planning, Inc.
1172 SW 30TH Street, Suite 500
Palm City, FL 34990
OFFICE: 772-286-8030
Cel – 772-834-8909
shaun@mackenzieengineeringinc.com

Expertise - Relationships - Superior Client Service

townclerk@townofoceanbreeze.org

From: Shaun G. MacKenzie, P.E. <Shaun@mackenzieengineeringinc.com>
Sent: Thursday, September 10, 2020 11:23 AM
To: twoneil@aol.com; townclerk@townofoceanbreeze.org
Subject: Ocean Breeze Park West - Observation - 09-10-20.pdf
Attachments: Ocean Breeze Park West - Observation - 09-10-20.pdf

Final letter based on sept 9, 2020 site visit.

Best Regards,

Shaun G. MacKenzie, PE
MacKenzie Engineering & Planning, Inc.
1172 SW 30TH Street, Suite 500
Palm City, FL 34990
OFFICE: 772-286-8030
Cel – 772-834-8909
shaun@mackenzieengineeringinc.com

Expertise - Relationships - Superior Client Service



Engineering & Planning, Inc.

1172 SW 30th Street • Suite 500 • Palm City • Florida • 34990

(772) 286-8030 • www.mackenzieengineeringinc.com

September 10, 2020

Mr. Terry O'Neil
Town of Ocean Breeze
1508 NE Jensen Beach Boulevard
Jensen Beach, FL 34957

Re: Sea Walk (Ocean Breeze Park West)
Land Clearing and Grading

Observations

On August 31 and September 4, 2020, MacKenzie Engineering and Planning, Inc. (MEP) observed the general conditions on the Lots 1-3.

- As of September 4, the 6' opaque fence has been installed on the property lines.
- There are no observed adverse impacts to 1592 NE South Street as a result of the construction activities.

Recommendations

- If not already done, the sod adjacent to the fence should be replaced or the silt fence should be re-installed until stabilized.

Martin County Recommendations

Martin County's Inspector, Philip Cass, visited the site recommended the following:

1. Replace the sod adjacent to the fence and install silt fence until stabilized.
2. Sod lots 1-10 (This is a general comment for erosion control and does not affect or relate to 1592 NE South Street).

If you have any questions, please do not hesitate to contact Shaun Mackenzie at (772) 834-8909 or shaun@mackenzieengineeringinc.com.

Sincerely,

A handwritten signature in cursive script that reads 'Shaun Mackenzie'.

Shaun G. Mackenzie, P.E.
Florida License No. 61751
CA 29013

Seawalk Facing East: Pre Fence Installation



Seawalk Facing West: Pre Fence Installation



Seawalk Facing East: Sand Observed, possibly from digging fence posts



Seawalk on Dune Facing East: Sand Observed, possibly from digging fence posts



North of Seawalk Facing East: Existing Dune



Seawalk Facing West: Observed Sand, possibly from digging fence posts



GENERAL INFORMATION ITEMS

The attached items (i.e.: correspondence, e-mails, reports, etc.) are provided as general information and are not necessarily subject to discussion during this meeting unless Council Members or the Mayor wish to do so.

FYI: Posted on Town's website. Copies available to Public at today's Council Meeting

MARTIN COUNTY SUPERVISOR OF ELECTIONS



Important Dates to Remember for the November 3rd General Election

- Vote-by-Mail ballots will be mailed between September 24th and October 1 (FS 101.62(4)(b))
- Friday, September 25th through Tuesday, November 3rd at 7 p.m. Vote-by-Mail ballots can be dropped off at the Martin County Elections Office located at 135 SE Martin Luther King Jr., Blvd. in Stuart
- Monday, October 5th is the last day to register as a newly registered voter in the state of Florida or to make a party change (FS 97.055(1)(a))
- Monday, October 19th through Saturday, October 31st, Early Voting is at the following locations from 8 a.m. to 5 p.m. daily:
 - Martin County Elections Office, 135 SE Martin Luther King, Jr. Blvd, Stuart
 - Hoke Library, 1150 NW Jack Williams Way, Jensen Beach
 - Peter & Julie Cummings Library, 2551 SW Matheson Ave, Palm City
 - Robert Morgade Library, 5851 SE Community Dr, Stuart
 - Elisabeth Lahti Library, 15200 SW Adams Ave, Indiantown
 - Hobe Sound Library, 10595 SE Federal Hwy, Hobe Sound
- Monday, October 19th through Saturday, October 31st Drop Boxes will be available from 8 a.m. to 5 p.m. daily at the Early Voting sites listed above to drop off voted ballots
- Saturday, October 24th until 5 p.m., last day Vote-by-Mail requests can be received (FS 101.62(2))
- Tuesday, November 3rd Election Day
- Thursday, November 5th at 5 p.m. deadline to 'cure' a missing signature or mismatched signature on a Vote-by Mail ballot (FS 101.68(4)(b))

Martin County Elections Center
135 SE Martin Luther King, Jr. Blvd.
Stuart, FL 34994
772-288-5637 ext. 8063
772-485-1930 cell
772-221-7402 fax
www.MartinVotes.com

Thank you Note
to Sun as per
Council Direction

(2)

It is a pleasure working with Sun management
at Ocean Breeze Resort!

Best wishes,

The Town of Ocean Breeze

Mayor, Town Council & Staff



Town of Ocean Breeze
P. O. Box 1025
Jensen Beach, FL 34958

Mr & Mrs. Chris Walters
Ms. Gena May
Ocean Breeze Resort
3000 NE Indian River Dr.
Ocean Breeze, FL 34957

Dear Chris, Cindy & Gena:

We would like to commend Sun and Ocean Breeze Resort management on their responsiveness to address issues as they arise. Most recently, reported hurricane preparation - especially with the RV sites. Also, the situation with the lawn maintenance - investing in new landscapers with better equipment has made a reported, notable difference as it pertains to the debris being blown around.

The Mayor, Town Council and residents would like to express their gratitude for extending the lot rent increase until September and deciding to keep the increase at a minimum, especially during these difficult times.

FYI

COVID

townclerk@townofoceanbreeze.org

From: Gena May <GMay@suncommunities.com>
Sent: Sunday, August 16, 2020 12:25 PM
To: townclerk@townofoceanbreeze.org
Cc: Chris Walters; Gena May; Marcela Cambor
Subject: Notice of Emergency - Ocean Breeze Resort August 10 2020
Attachments: Certified Tracking Information for Emergency Letter.pdf; PUD Tolling Extension Notice Aug 10 2020.pdf

Please find copy of a recent mailing sent to the Town on behalf of Ocean Breeze Resort.

Respectfully,

Gena May
Regional Vice President, Operations & Sales
Sun Communities

27777 Franklin Rd. Suite 200 | Southfield, MI 48034
Email: gmay@suncommunities.com

COMMITMENT – INTENSITY –EMPOWERMENT – ACCOUNTABILITY – CUSTOMER SERVICE

FYI

COVID



AtlasLaw

Brian C. Chase
Managing Attorney
brian@atlaslaw.com

P 813.241.8269
F 813.340.3773

August 10, 2020

**Via U.S. Certified Mail, R.R.R.,
and First-Class Mail**

Mr. Terry O'Neil
Town Manager, Town of Ocean Breeze

Re: PUD Tolling/Extension

Dear Mr. O'Neil,

As representative for NHC-FL143, LLC (the "Applicant") hereby provides notice to the Town of Ocean Breeze that Applicant intends to exercise the tolling and extension of all obligations pertaining to deadline submissions pursuant to the Planned Unit Development associated with Applicant's property. Applicant is providing this notification pursuant to §252.363 Fla. Stat. and Governor DeSantis' State of Emergency declaration, as issued by Executive Order 20-152, dated March 9, 2020, further extended by Executive Order 20-114 dated May 8, 2020, and further extended by Executive Order 20-166 dated July 7, 2020. The impact of COVID-19 continues to pose threat to the health, safety and welfare of the residents of Ocean Breeze and to the state of Florida, and limits the Applicant's ability to execute as intended the commitments outlined in the OBE PUD. This tolling and extension applies to all dates, schedules and deadlines outlined in Resolution 219-2019 including but not limited to Item 25 – Development Timetable, and all subsequent schedule amendments as outlined in amended Resolutions number 223-2015, 234-2016 and 238-2016, and Ordinances No. 241-2016 and 291-2019.

The above-mentioned emergency declaration effectively extends the period to excise the rights under a permit, authorization or other regulatory obligation for 6 months in addition to the tolled period outlined in each of the outlined Resolutions.

I want to take this opportunity to inform the Town that the applicant is working diligently towards satisfying all commitments as expeditiously as possible.

Please do not hesitate to contact me if you have any questions.

Very truly yours,
ATLAS LAW

Brian C. Chase

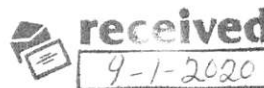
BCC/hm
cc: Community Manager

FYI



AtlasLaw

Hurricane Isaias



Brian C. Chase
Managing Attorney
brian@atlaslaw.com

P 813.241.8269
F 813.840.3773

August 24, 2020

**Via U.S. Certified Mail, R.R.R.,
and First-Class Mail**

Mr. Terry O'Neil
Town Manager, Town of Ocean Breeze
P. O. Box 1025
Jensen Beach, FL 34957

Re: PUD Tolling/Extension-Second Notice

Dear Mr. O'Neil,

As representative for NHC-FL143, LLC (the "Applicant") hereby provides notice to the Town of Ocean Breeze that Applicant intends to exercise the tolling and extension of all obligations pertaining to deadline submissions pursuant to the Planned Unit Development associated with Applicant's property. On August 14, 2020, our office mailed correspondence to your office detailing the impact that COVID-19 continues to pose threat to the health, safety and welfare of the residents of Ocean Breeze and to the state of Florida, and which limits the Applicant's ability to execute as intended the commitments outlined in the OBE PUD. Further, applicant is providing a copy of Governor DeSantis' State of Emergency declaration, as issued by Executive Order 20-152, dated July 31, 2020 which also limits the Applicant's ability to execute as intended the commitments outlined in the OBE PUD.

The above-mentioned emergency declaration effectively extends the period to excise the rights under a permit, authorization or other regulatory obligation for 6 months in addition to the tolled period outlined in each of the outlined Resolutions.

I want to take this opportunity to inform the Town that the applicant is working diligently towards satisfying all commitments as expeditiously as possible.

Please do not hesitate to contact me if you have any questions.

Very truly yours,
ATLAS LAW

Brian C. Chase

BCC/hm

cc: Community Manager

STATE OF FLORIDA

OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NUMBER 20-181

(Emergency Management – Hurricane Isaias)

WHEREAS, as of 12:00 AM on July 31, 2020, the National Hurricane Center reported that Tropical Storm Isaias has strengthened into a Category 1 Hurricane as it approached the Bahamas; and

WHEREAS, as of 5:00 AM on July 31, 2020, the National Hurricane Center reported Hurricane Isaias has maximum sustained winds of 80 miles per hour; and

WHEREAS, the National Hurricane Center predicts Hurricane Isaias will intensify into a Category 2 Hurricane as it approaches the Florida Peninsula and the Atlantic Coast; and

WHEREAS, there are currently Tropical Storm watches in effect from the Sebastian Inlet to Ocean Reef, including Lake Okeechobee; and

WHEREAS, there is a risk of dangerous storm surge, heavy rainfall, flooding, strong winds, hazardous seas, and the potential for isolated tornadic activity for portions of Florida's Peninsula; and

WHEREAS, a Public Health Emergency currently exists in the State of Florida as a result of Novel Coronavirus Disease 2019 (COVID-19); and

WHEREAS, the threat posed by Hurricane Isaias requires that timely precautions are taken to protect the communities, critical infrastructure, and general welfare of Florida; and

WHEREAS, as Governor, I am responsible to meet the dangers presented to Florida and its people by this emergency; and,

NOW, THEREFORE, I, RON DESANTIS, as Governor of Florida, by virtue of the authority vested in me by Article IV, Section 1(a) of the Florida Constitution and by the Florida Emergency Management Act, as amended, and all other applicable laws, promulgate the following Executive Order, to take immediate effect:

Section 1. Because of the foregoing conditions, I declare that a state of emergency exists in the following counties: Brevard, Broward, Clay, Duval, Flagler, Indian River, Martin, Miami-Dade, Monroe, Nassau, Okeechobee, Orange, Osceola, Palm Beach, Putnam, Seminole, St. Johns, St. Lucie, and Volusia.

Section 2. I designate the Director of the Division of Emergency Management ("Director") as the State Coordinating Officer for the duration of this emergency and direct him to execute the State's Comprehensive Emergency Management Plan and other response, recovery, and mitigation plans necessary to cope with the emergency. Pursuant to section 252.36(1)(a), Florida Statutes, I delegate to the State Coordinating Officer the authority to exercise those powers delineated in sections 252.36(5)-(10), Florida Statutes, which he shall exercise as needed to meet this emergency, subject to the limitations of section 252.33, Florida Statutes. In exercising the powers delegated by this Order, the State Coordinating Officer shall confer with the Governor to the fullest extent practicable. The State Coordinating Officer shall also have the authority to:

A. Invoke and administer the Emergency Management Assistance Compact ("EMAC") (sections 252.921-252.9335, Florida Statutes) and other compacts and agreements existing between the State of Florida and other states, and the further authority to coordinate the allocation of resources from such other states that are made available to Florida under such compacts and agreements so as best to meet this emergency.

B. Seek direct assistance and enter into agreements with any and all agencies of the United States Government as may be needed to meet the emergency.

C. Direct all state, regional and local governmental agencies, including law enforcement agencies, to identify personnel needed from those agencies to assist in meeting the response, recovery, and mitigation needs created by this emergency, and to place all such personnel under the direct command and coordination of the State Coordinating Officer to meet this emergency.

D. Direct the State Coordinating Officer to direct the actions of any state agency as necessary to implement the Federal Emergency Management Agency's National Disaster Recovery Framework.

E. Designate additional Deputy State Coordinating Officers and Deputy State Disaster Recovery Coordinators, as necessary.

F. Suspend the effect of any statute, rule, or order that would in any way prevent, hinder, or delay any mitigation, response, or recovery action necessary to cope with this emergency.

G. Enter orders as may be needed to implement any of the foregoing powers; however, the requirements of sections 252.46 and 120.54(4), Florida Statutes, do not apply to any such orders issued by the State Coordinating Officer; however, no such order shall remain in effect beyond the expiration of this Executive Order, to include any extension.

H. The State of Florida is currently responding to the Novel Coronavirus Disease 2019 (COVID-19) and the entire state is under a state of emergency. As required by CDC guidelines, Florida has adopted safe social distancing measures through the use of non-congregate shelters for evacuations and sheltering during hurricane season to limit general population

sheltering. I authorize the State Coordinating Officer to activate agreements with hotels for non-congregate sheltering to the extent necessary to protect evacuees from exposure to, and transmission of, COVID-19. All Counties are encouraged to accept evacuees from other jurisdictions into their non-congregate shelters to allow for the State of Florida to practice safe social distancing measures.

Section 3. I order the Adjutant General to activate the Florida National Guard, as needed, to deal with this emergency.

Section 4. I find that the special duties and responsibilities resting upon some State, regional, and local agencies and other governmental bodies in responding to the emergency may require them to suspend the application of the statutes, rules, ordinances, and orders they administer. Therefore, I issue the following authorizations:

A. Pursuant to section 252.36(5)(a), Florida Statutes, the Executive Office of the Governor may suspend all statutes and rules affecting budgeting to the extent necessary to provide budget authority for state agencies to cope with this emergency. The requirements of sections 252.46 and 120.54(4), Florida Statutes, do not apply to any such suspension issued by the Executive Office of the Governor; however, no such suspension shall remain in effect beyond the expiration of this Executive Order, to include any extension.

B. Each State agency may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of that agency, if strict compliance with the provisions of any such statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the emergency. This includes, but is not limited to, the authority to suspend any and all statutes, rules, ordinances, or orders which affect leasing, printing, purchasing, travel, and the condition of employment and the compensation of employees.

For the purposes of this Executive Order, "necessary action in coping with the emergency" means any emergency mitigation, response, or recovery action: (1) prescribed in the State Comprehensive Emergency Management Plan ("CEMP"); or, (2) ordered by the State Coordinating Officer or designee. The requirements of sections 252.46 and 120.54(4), Florida Statutes, shall not apply to any such suspension issued by a State agency; however, no such suspension shall remain in effect beyond the expiration of this Executive Order, to include any extensions of this Order.

C. In accordance with section 252.38, Florida Statutes, each political subdivision within the State of Florida may waive the procedures and formalities otherwise required of the political subdivision by law pertaining to:

- 1) Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
- 2) Following local procurement and contracting policies;
- 3) Entering into contracts; however, political subdivision are cautioned against entering into time and materials contracts without a ceiling as defined by 2 CFR 200.318(j) or cost plus percentage contracts as defined by 2 CFR 200.323(d);
- 4) Incurring obligations;
- 5) Employment of permanent and temporary workers;
- 6) Utilization of volunteer workers;
- 7) Rental of equipment;
- 8) Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and,
- 9) Appropriation and expenditure of public funds.

D. All agencies whose employees are certified by the American Red Cross as disaster service volunteers within the meaning of section 110.120(3), Florida Statutes, may release any such employees for such service as requested by the Red Cross to meet this emergency.

E. The Secretary of the Florida Department of Transportation (DOT) may:

1) Waive the collection of tolls and other fees and charges for the use of the Turnpike and other public highways, to the extent such waiver may be needed to provide emergency assistance or facilitate the evacuation of the affected counties;

2) Reverse the flow of traffic or close any and all roads, highways, and portions of highways as may be needed for the safe and efficient transportation of evacuees to those counties that the State Coordinating Officer may designate as destination counties for evacuees in this emergency;

3) Suspend enforcement of the registration requirements pursuant to sections 316.545(4) and 320.0715, Florida Statutes, for commercial motor vehicles that enter Florida to provide emergency services or supplies, to transport emergency equipment, supplies or personnel, or to transport FEMA mobile homes or office style mobile homes into or from Florida;

4) Waive the hours of service requirements for such vehicles;

5) Waive by special permit the warning signal requirements in the Utility Accommodations Manual to accommodate public utility companies from other jurisdictions which render assistance in restoring vital services; and,

6) Waive the size and weight restrictions for divisible loads on any vehicles transporting emergency equipment, services, supplies, and agricultural commodities and citrus as recommended by the Commissioner of Agriculture, allowing the establishment of alternate size and weight restrictions for all such vehicles for the duration of the emergency. The DOT shall

issue permits and such vehicles shall be subject to such special conditions as the DOT may endorse on any such permits.

Nothing in this Executive Order shall be construed to allow any vehicle to exceed weight limits posted for bridges and like structures, or relieve any vehicle or the carrier, owner, or driver of any vehicle from compliance with any restrictions other than those specified in this Executive Order, or from any statute, rule, order, or other legal requirement not specifically waived or suspended herein or by supplemental order by the State Coordinating Officer;

F. The Executive Director of the Department of Highway Safety and Motor Vehicles (DHSMV) may:

- 1) Suspend enforcement of the registration requirements pursuant to sections 316.545(4) and 320.0715, Florida Statutes, for commercial motor vehicles that enter Florida to provide emergency services or supplies, to transport emergency equipment, supplies or personnel, or to transport FEMA mobile homes or office style mobile homes into or from Florida;

- 2) Waive the hours of service requirements for such vehicles;

- 3) Suspend the enforcement of the licensing and registration requirements under the International Fuel Tax Agreement (IFTA) pursuant to chapter 207, Florida Statutes, and the International Registration Plan (IRP) pursuant to section 320.0715, Florida Statutes, for motor carriers or drivers operating commercial motor vehicles that are properly registered in other jurisdictions and that are participating in emergency relief efforts through the transportation of equipment and supplies or providing other assistance in the form of emergency services;

- 4) Waive fees for duplicate or replacement vessel registration certificates, vessel title certificates, vehicle license plates, vehicle registration certificates, vehicle tag certificates, vehicle title certificates, handicapped parking permits, replacement drivers' licenses,

and replacement identification cards and to waive the additional fees for the late renewal of or application for such licenses, certificates, and documents due to the effects of adverse weather conditions; and,

5) Defer administrative actions and waive fees imposed by law for the late renewal or application for the above licenses, certificates, and documents, which were delayed due to the effects of adverse weather conditions, including in counties wherein the DHSMV has closed offices, or any office of the County Tax Collector that acts on behalf of the DHSMV to process renewals has closed offices due to adverse weather conditions.

Recordkeeping and other applicable requirements for existing IFTA and IRP licensees and registrants are not affected by this order. The DHSMV shall promptly notify the State Coordinating Officer when the waiver is no longer necessary.

G. In accordance with section 465.0275, Florida Statutes, pharmacists may dispense up to a 30-day emergency prescription refill of maintenance medication to persons who reside in an area or county covered under this Executive Order and to emergency personnel who have been activated by their state and local agency but who do not reside in an area or county covered by this Executive Order.

H. All State agencies responsible for the use of State buildings and facilities may close such buildings and facilities in those portions of the State affected by this emergency, to the extent to meet this emergency. I direct each State agency to report the closure of any State building or facility to the Secretary of the Department of Management Services. Under the authority contained in section 252.36, Florida Statutes, I direct each County to report the closure of any building or facility operated or maintained by the County or any political subdivision therein to

the Secretary of the Department of Management Services. Furthermore, I direct the Secretary of the Department of Management Services to:

1) Maintain an accurate and up-to-date list of all such closures; and,

2) Provide that list daily to the State Coordinating Officer.

I. All State agencies may abrogate the time requirements, notice requirements, and deadlines for final action on applications for permits, licenses, rates, and other approvals under any statutes or rules under which such application are deemed to be approved unless disapproved in writing by specified deadlines, and all such time requirements that have not yet expired as of the date of this Executive Order are suspended and tolled to the extent needed to meet this emergency.

J. All agencies shall implement its Select Exempt Services (SES) Extraordinary Payment Plans and Career Service Regular Compensatory Leave Payment Plans for:

1) All essential agency personnel who are required work extraordinary hours when state-owned or state-operated facility are closed in response to an emergency condition;

2) All agency personnel who are assigned to the State Emergency Operations Center and are required to work extraordinary hours;

3) All agency personnel who are deployed throughout the state in response to an emergency condition and are required to work extraordinary hours.

K. All State agencies may waive the forty-day time limit to issue a warrant pursuant to section 215.422 (3)(b), Florida Statutes. This waiver applies invoices and reimbursement requests that were received, inspected, and approved by the agency within forty days of the issuance of this Executive Order. This waiver applies to all invoices and

reimbursements arising from the state of emergency. This waiver of section 215.422(3)(b), Florida Statutes, and all waivers based upon this waiver shall expire sixty days following the issuance of this Executive Order.

L. Section 934.50, Florida Statutes, is waived for state and local agencies conducting emergency operations arising from the state of emergency for the limited purpose of capturing aerial evidence concerning the amount of damage sustained to private and public property; assist in search, rescue, and recovery activities; and prevent imminent danger to life or serious damage to property. This waiver of section 215.422 (3)(b), Florida Statutes, and all waivers based upon this waiver shall expire thirty days following the issuance of this Executive Order with no extension.

Section 5. All public facilities, including elementary and secondary schools, community colleges, state universities, and other facilities owned or leased by the state, regional or local governments that are suitable for use as public shelters shall be made available at the request of the local emergency management agencies to ensure the proper reception and care of all evacuees. Under the authority contained in section 252.36, Florida Statutes, I direct the Superintendent of each public school district in the State of Florida to report the closure of any school within its district to the Commissioner of the Florida Department of Education. Furthermore, I direct the Commissioner of the Department of Education to:

- A. Maintain an accurate and up-to-date list of all such closures; and,
- B. Provide that list daily to the State Coordinating Officer.

Section 6. I find that the demands placed upon the funds appropriated to the agencies of the State of Florida and to local agencies are unreasonably great and may be inadequate to pay the costs of coping with this disaster. In accordance with section 252.37(2), Florida Statutes, I direct

that sufficient funds be made available, as needed, by transferring and expending moneys appropriated for other purposes, moneys from unappropriated surplus funds, or from the Budget Stabilization Fund.

Section 7. All State agencies entering emergency final orders or other final actions in response to this emergency shall advise the State Coordinating Officer contemporaneously or as soon as practicable.

Section 8. Medical professionals and workers, social workers, and counselors with good and valid professional licenses issued by states other than the State of Florida may render such services in Florida during this emergency for persons affected by this emergency with the condition that such services be rendered to such persons free of charge, and with the further condition that such services be rendered under the auspices of the American Red Cross or the Florida Department of Health.

Section 9. Pursuant to section 501.160, Florida Statutes, it is unlawful and a violation of section 501.204, Florida Statutes, for a person to rent or sell or offer to rent or sell at an unconscionable price within the area for which the state of emergency is declared, any essential commodity including, but not limited to, supplies, services, provisions, or equipment that is necessary for consumption or use as a direct result of the emergency.

Section 10. Under the authority contained in sections 252.36(5)(a), (g), and (m), Florida Statutes, I direct that, for the purposes of this emergency, the term "essentials", as defined by section 252.359(2), Florida Statutes, shall be the same as and no more expansive than the term "commodity", as defined by section 501.160(1)(a), Florida Statutes (hereinafter referred to collectively or alternatively as "essential commodities"). Accordingly, any person who delivers essential commodities to a location in the area(s) declared to be under a state of emergency by this

Executive Order, and when necessary to ensure that those commodities are made available to the public, may travel within evacuated areas and exceed curfews, provided the State Coordinating Officer determines, after consultation with the appropriate Emergency Support Function(s), that:

A. Law enforcement officials in the declared area(s) can provide adequate security to protect the essential commodities from theft;

B. The weight of a delivery vehicle will not jeopardize the structural integrity of any roadway or bridge located within the declared area;

C. Delivery vehicles will not negatively impact evacuation activities in the declared area(s); and,

D. Delivery vehicles will not negatively impact any response or recovery activities occurring within the declared area(s).

After consulting with the appropriate Emergency Support Function(s), and after consulting with local officials, the State Coordinating Officer may dictate the routes of ingress, egress, and movement within the declared area(s) that drivers must follow when delivering essential commodities.

Provided he or she is actually delivering medications, any person authorized to deliver medications under chapter 893, Florida Statutes, qualifies as a person delivering essential commodities.

In order to qualify as a person delivering essential commodities under this section, a person must be in the process of delivering essential commodities only. If an individual is transporting both essential and non-essential commodities, then this section shall not provide any authorization for that individual to enter into or move within the declared area(s).

Section 11. Consistent with Executive Order 80-29, nothing in this Order shall prevent local jurisdictions in any area not declared to be under a state of emergency by this Executive Order from taking prompt and necessary action to save lives and protect the property of their citizens, including the authority to compel and direct timely evacuation when necessary.

Section 12. I authorize the Florida Housing Finance Corporation to distribute funds pursuant to section 420.9073, Florida Statutes, to any county, municipality, or other political subdivision located within the area(s) declared to be under a state of emergency by this executive order. The authority of the Florida Housing Finance Corporation to distribute funds under this state of emergency shall expire six months from the expiration of this Order, to include any extensions of this Order.

Section 13. All actions taken by the Director of the Division of Emergency Management with respect to this emergency before the issuance of this Executive Order are ratified. This Executive Order shall expire sixty days from this date unless extended.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed, at Tallahassee, this 31st day of July, 2020.

GOVERNOR

ATTEST:


SECRETARY OF STATE

FILED
2020 JUL 31 PM 12:35
TALLAHASSEE, FLORIDA