

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

October 11, 2021, 10:30 am
Ocean Breeze Resort Clubhouse Pineapple Bay Room
700 NE Seabreeze Way, Ocean Breeze, FL

***PLEASE TURN OFF CELL PHONES –
SPEAK DIRECTLY INTO MICROPHONE***

1. Call to Order, President De Angeles

- Pledge of Allegiance
- Roll Call

2. Approval of Minutes – Regular Town Council Meeting, Monday, September 13, 2021
(Motion, second, all in favor)

3. RESOLUTION #319-2021 A RESOLUTION OF THE TOWN OF OCEAN BREEZE, FLORIDA, ADOPTING THE *TOWN OF OCEAN BREEZE CAPITAL ASSET POLICY*, PROVIDING FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

(Motion to accept, second, public comment, roll call)

4. RESOLUTION #320-2021 A RESOLUTION OF THE TOWN OF OCEAN BREEZE, FLORIDA, ADOPTING THE MOST RECENT VERSION OF THE *MARTIN COUNTY UNIFIED LOCAL MITIGATION STRATEGY PLAN* DATED OCTOBER 8, 2020 AS THE OFFICIAL DOCUMENT FOR THE TOWN'S INCLUSION IN THE STATE-WIDE HAZARD MITIGATION STRATEGY; PROVIDING FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

(Motion to accept, second, public comment, roll call)

5. Discussion of Changing the Time for the Town Council Meetings – Kevin Docherty

6. Comments from the public on topics not on the agenda

7. Comments from the Council on topics not on the agenda

8. Comments from Town Management Consultant Terry O'Neil – American Rescue Plan Act Update

9. Comments from Mayor Ostrand

10. Announcements – Regular Town Council Meeting Monday November 8, 2021 to be held at Ocean Breeze Resort Clubhouse, Pineapple Bay Room, 700 NE Seabreeze Way, Ocean Breeze, FL

11. Adjourn (Motion, second, all in favor)

TOWN OF OCEAN BREEZE
MINUTES REGULAR TOWN COUNCIL MEETING
Monday, September 13, 2021, 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
 - President De Angeles asked for a moment of silence in remembrance of 9/11
 - Roll Call – Present: Mayor Karen M. Ostrand, President Kenneth De Angeles, Vice-President Richard Gerold, Council Members, Bill Arnold, Kevin Docherty, Terry Locatis and David Wagner
 - Staff Present – Town Management Consultant, Terry O’Neil; Town Attorney, Rick Crary; Town Clerk, Pam Orr; and Bookkeeper/Clerical Assistant, Maria Pierce
2. **Approval of Minutes** – Vice-President Gerold, seconded by Council Member Arnold, made a motion to approve the Minutes of the August 9, 2021 regular Town Council meeting.

President De Angeles asked for public comments.

There were none.

All in Favor: Yes: De Angeles, Gerold, Arnold, Docherty, Locatis, and Wagner; No: None; Motion Passed - 6 - 0

3. **Proclamation Declaring “Hunger Action Month” in Ocean Breeze, Florida** – Mayor Ostrand read the proclamation into the record. President De Angeles introduced Ron Wise, Director of Program Services and Alexandra Lord, Community Outreach Coordinator from the Treasure Coast Food Bank. Mr. Wise gave a presentation regarding the food bank.

4. **Budget to Actual Report: Third Quarter of Fiscal Year 2021** – Town Clerk, Pam Orr, asked if Council had a chance to look at the report and if there were any questions.

Council Member Wagner asked if it was a true statement that all the single family home building permits for Seawalk had been issued.

Town Clerk, Pam Orr, confirmed this statement to be true.

Council Member Arnold, seconded by Council Member Docherty, made a motion to accept the budget to actual report.

All in Favor: Yes: De Angeles, Gerold, Arnold, Docherty, Locatis, and Wagner; No: None; Motion Passed - 6 - 0

5. **QUASI JUDICIAL HEARING: RESOLUTION NUMBER 314-2021 – A RESOLUTION OF THE TOWN OF OCEAN BREEZE, FLORIDA, AMENDING ORDINANCE NO. 170, ORDINANCE NO. 251-2017, ORDINANCE NO. 274-2017, RESOLUTION NO. 277-2018 AND RESOLUTION NO. 293-2019, TOGETHER COMPRISING THE OCEAN BREEZE WEST PLANNED UNIT DEVELOPMENT (PUD) AGREEMENT, HEREBY DELETING LANGUAGE IN DEVELOPMENT CONDITION K (5) REQUIRING THE VOLUNTARY DONATION OF PARCEL “A” TO THE TOWN; APPROVING MINOR CHANGES TO THE PROJECT’S MASTER SITE PLAN, PHASING PLAN AND LANDSCAPE PLAN, AS WELL AS NEW DEVELOPMENT CONDITIONS ALLOWING FOR THE CONSTRUCTION OF A**

SINGLE-FAMILY HOME ON PARCEL “A”; REQUIRING THAT DEVELOPMENT WITHIN THE OCEAN BREEZE WEST PUD ADHERE TO MARTIN COUNTY WATER USE STANDARDS; DECLARING SAID AMENDMENTS TO BE CONSISTENT WITH THE TOWN’S COMPREHENSIVE PLAN; PROVIDING FOR CONFLICT PROVISIONS AND A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES. – Town Clerk Orr read into the record the title of the resolution.

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

There were none.

President De Angeles asked that all those giving testimony please stand and raise their right hand. Town Attorney Crary swore in the individuals standing.

President De Angeles asked staff to present the testimony and any evidence supporting the Resolution.

Town Management Consultant, Terry O’Neil, stated that this was a minor amendment to the Ocean Breeze West PUD agreement which removed the donation requirement of Parcel A from the PUD, deleted the donation requirement from the master site plan, the phasing plan, and the landscaping plan, and established development standards for Parcel A. Mr. O’Neil stated that language was added to require the developer to comply with Martin County’s water use standards. He also commented on the requirement for Parcel A to be connected to the Martin County waste water system per the Town’s current Comprehensive Plan. After discussion ensued, Mr. O’Neil recommended that Resolution #314-2021 be adopted as presented.

President De Angles asked the petitioner to give testimony and call any witnesses.

Morris Crady, Planner for Lucido & Associates, provided a brief background of Parcel A. He stated that originally, Parcel A was intended to be an access road into the Seawalk development, however, the County did not approve of the use. He explained that if Martin County did not approve the connection to a waste water system, then a temporary septic tank allowance from the Town of Ocean Breeze would be needed, until such a time sewer was installed on South Street. He remarked that the Developer was in agreement with staff regarding the proposed developmental rights.

Mayor Ostrand stated she would be willing to attend meetings with Lucido & Associates and the County regarding a waste water connection for Parcel A within the County.

Vice-President Gerold asked who owned the 20 feet easement along the backside of Seawalk that adjoined the Publix side and what the easement was for, and could it be adjusted.

Mr. Crady stated that Martin County required the fence to be placed on the inside of the utility easement to allow Martin County Utilities access via the Publix parking lot versus having to access it through private property. Mr. Crady also stated that all the lots in Seawalk were the same depth of 120 feet and that the easement was not located on the usable portion of the lot. He commented that the fence line was located where it is shown on the landscape plans.

Mr. O'Neil clarified that all the lots were as platted and the fence in question was not on the owner's lots.

Council member Locatis asked if all adjacent homes on South Street were on septic and what would be the timetable for sewer.

Mr. O'Neil responded that all homes on South Street were on septic systems and that Martin County had indicated that it is not within their 5-year plan.

President De Angeles asked if the use of a septic tank would be a temporary solution to allow a single-family home to be built on Parcel A.

Mr. Crady stated the Developer would agree to an interim use of a septic tank until the County brought in sewer.

President De Angeles asked if any other Council Members had any questions.

There were none.

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

There were none.

President De Angeles asked for public comments.

Scott Stulb, resident of Seawalk, owner of lot 11, stated that he objected to the removal of Parcel A from the Ocean Breeze West PUD until the fence line behind the Publix shopping center matched the original Ocean Breeze West PUD. He provided a map for the record. Mr. Stulb shared his concern about the visibility behind Publix as well as his concern that other lots appear to be deeper. He asked that the fence line be moved back.

Mr. Crady replied that the other lots have a landscape buffer, which is a common area and is not part of the property. He explained that the County required the fence to be placed on the property line. He continued that the lots that adjoin South Street are similar.

Discussion ensued about the fence line.

Mr. Crady restated that the County would have to agree to the placement of the fence, and then either D. R. Horton or the Homeowner's Association would have to move it.

Council Member Arnold asked if the fence was installed when the property was purchased.

Mr. Stulb stated the fence was in place when he purchased the property.

Janet Galante, resident of Ocean Breeze Resort, asked why the Town did not accept Parcel A and what the Town received in return.

Mr. O'Neil explained the original agreement regarding the voluntary donation of Parcel A.

Council Member Arnold discussed the cost of \$50,000 to \$60,000 to prepare the property to build significantly outweighed the benefit of accepting the property.

Vice-President Gerold stated that the Town would have incurred the cost of insurance, landscaping, and other expenses if used for a park and that the size of the lot was not feasible for a Town office.

Mr. O'Neil stated the Town approached Martin County regarding utilizing the parcel for a neighborhood passive use park, however, Martin County did not have the ability to maintain it.

President De Angeles closed the hearing and asked the Council Members to deliberate in public, to state their position and to consider a motion.

Vice-President Gerold, seconded by Council Member Locatis made a motion to approve Resolution 314-2021.

All in Favor: Yes: De Angeles, Gerold, Arnold, Docherty, Locatis, and Wagner; No: None; Motion Passed - 6 – 0

6. SECOND READING: ORDINANCE NO 310-2021 – AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF OCEAN BREEZE, FLORIDA UPDATING THE TOWN'S COMPREHENSIVE PLAN IN ACCORDANCE WITH FLORIDA STATUTE SECTION 163.3191; ADOPTING NEW PROVISIONS DEEMED MANDATORY BY FLORIDA LAW SINCE THE TOWN PLAN'S LAST UPDATE IN 2014, INCLUDING "PERIL OF FLOOD" STANDARDS SET FORTH IN FLORIDA STATUTES CHAPTER 163.3178 (2) (F) 1-6, AS WELL AS OTHER MINOR AMENDMENTS REFLECTING CHANGES IN LOCAL CONDITIONS; PROVIDING FOR TRANSMITTAL OF PROPOSED AMENDMENTS TO THE STATE LAND PLANNING AGENCY, AKA THE DEPARTMENT OF ECONOMIC OPPORTUNITY BUREAU OF COMMUNITY PLANNING, AS WELL AS OTHER RELEVANT AGENCIES; PROVIDING FOR A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND FOR OTHER PURPOSES. – Town Clerk Orr read into the record the title of the resolution.

Town Management Consultant, Terry O'Neil, provided background information on the amendment and reviewed the mandatory changes that were required. He recommended Council approve the ordinance as presented.

President De Angeles asked for public comment. There was none.

President De Angeles asked for Council comment.

Council Member Locatis questioned if the coastal impact area and the coastal high hazard area would affect insurance ratings on personal properties. Mr. O'Neil explained that they did not have that information. He confirmed that the maps were in the format that is acceptable to the State and had little or no latitude in interpreting the data.

President De Angeles asked about the feasibility study. Mr. O'Neil explained the process and stated that the Town had two years to complete the feasibility study after the adoption of the ordinance. Discussion ensued.

Council Member Arnold, seconded by Council Member Docherty, made a motion to approve Ordinance No. 310-2021.

President De Angeles asked for public comments.

There were none.

All in Favor: Yes: De Angeles, Wagner, Locatis, Docherty, Arnold, Gerold; No: None; Motion Passed - 6 - 0

7. Comments from the public on topics not on the agenda – There were none.

8. Comments from the Council on topics not on the Agenda – Vice-President Gerold asked if Martin County could come and provide information on railroad safety, what they transport, as well as the County's emergency plan.

9. Comments from Town Management Consultant, Terry O'Neil – He had none.

Cathy Berry, resident of Ocean Breeze Resort stated there would be a meeting with the Sheriff's office and residents of Ocean Breeze Resort on Monday September 20, 2021 at 10 am in the Pineapple Bay Room to discuss the possibility of starting a neighborhood watch program.

10. Comments from Mayor Ostrand – Mayor Ostrand stated that she attended the Florida League of Cities conference and shared some highlights. She informed residents that on September 15, 2021 from 9 am – 12 pm there would be a Martin County Legislative Delegation meeting at the Chastain Center at Indian River State College. Mayor Ostrand informed the residents that there would be a workshop in October regarding the Town.

11. Announcements – President De Angeles announced the upcoming meetings to be held at Ocean Breeze Resort Clubhouse, Pineapple Bay Room, 700 NE Seabreeze Way, Ocean Breeze, Florida.

- Proposed Budget and Tentative Millage Hearing, Wednesday, September 15, 2021 at 5:01pm
- Final Budget and Millage Rate Hearing, Wednesday, September 22, 2021 at 5:01pm
- Regular Town Council Meeting October 11, 2021 at 10:30 am

12. Adjourn – Council Member Docherty, seconded by Council Member Locatis, made a motion to adjourn the meeting at 11:57.

Respectfully Submitted,

Pam Orr
Town Clerk

Minutes approved: _____



**BEFORE THE TOWN COUNCIL OF THE
TOWN OF OCEAN BREEZE, MARTIN COUNTY, FLORIDA**

RESOLUTION NUMBER 319-2021

**A RESOLUTION OF THE TOWN OF OCEAN BREEZE,
FLORIDA, ADOPTING THE *TOWN OF OCEAN BREEZE*
CAPITAL ASSET POLICY, PROVIDING FOR AN EFFECTIVE
DATE AND FOR OTHER PURPOSES.**

WHEREAS, it is in the Public's best interest that the Town of Ocean Breeze adopt and adhere to a Capital Asset Policy consistent with the financial reporting requirements established by the Governmental Accounting Standards Board (GASB).

**NOW, THEREFORE, THE OCEAN BREEZE TOWN COUNCIL HEREBY
RESOLVES THAT:**

SECTION 1. The *Town of Ocean Breeze Capital Asset Policy*, shown as Exhibit "A" attached, is hereby adopted.

APPROVED AND ADOPTED this 11th day of October, 2021.

KENNETH DE ANGELES, PRESIDENT
RICHARD GEROLD, VICE-PRESIDENT
WILLIAM ARNOLD, COUNCIL MEMBER
KEVIN DOCHERTY, COUNCIL MEMBER
TERRY LOCATIS, COUNCIL MEMBER
DAVID WAGNER, COUNCIL MEMBER

YES	NO	ABSENT

ATTEST:

PAM ORR
TOWN CLERK

KENNETH DE ANGELES
COUNCIL PRESIDENT

WILLIAM F. CRARY, II
TOWN ATTORNEY
APPROVED AS TO FORM

KAREN M. OSTRAND
MAYOR

Exhibit "A"

Town of Ocean Breeze Capital Asset Policy

PURPOSE

The purpose of this Policy is to establish reporting requirements for fixed assets and depreciation of assets in order to comply with financial reporting requirements established by the Governmental Accounting Standards Board (GASB).

POLICY

1. All items that have a useful life of more than one year, and a minimum value of \$5,000 will be capitalized and depreciated for financial reporting purposes.
2. Items of less than \$5,000 are not to be considered as fixed assets unless they form an integral and essential part of another piece of equipment or structure considered to be a fixed asset or part of a capital project.
3. Items purchased in groups, where the group purchase cost is over \$5,000 but the individual cost is less than \$5,000 shall not be capitalized.

ASSET VALUATION

Capital assets should be recorded at historical cost or, if the cost is not readily determined, at estimated historic cost. All costs shall be documented, including methods and sources used to establish any estimated costs.

Purchased assets - the recording of purchased assets should be made on the basis of actual costs, including any ancillary costs, based on vendor invoice or other supporting documentation. For buildings and improvements, ancillary costs include professional fees of architects, attorneys, etc., costs of fixtures permanently attached to a building or structure, and other expenditures necessary to place the building into its intended use. For equipment, ancillary costs include transportation charges, installation costs and other expenditures necessary to place the equipment into its intended use.

Land - all land with title owned by the Town, regardless of cost, will be capitalized.

ASSET CLASSIFICATIONS

Capital assets should be classified in one of the following categories and depreciated (except for land) according to the Useful Life Schedule.

LAND - Expenditures for the purchase of land with title owned by the Town; may include closing costs, appraisals, legal and title fees, purchase of rights of way, and site preparation.

LAND IMPROVEMENTS - Expenditures for acquiring improvements to land or property surrounding the buildings (not associated with the building structure itself).

BUILDINGS - Expenditures for contracted construction of new permanent structures, additions to or acquisitions of existing buildings, not including land.

BUILDING IMPROVEMENTS - Expenditures for improvements to existing buildings, including property permanently attached to, or an integral part of, the structure. This category includes major permanent structural alterations, roof replacements, interior or exterior renovations, fire protection systems installation or upgrade, electrical and plumbing upgrades, HVAC

Town of Ocean Breeze Capital Asset Policy

installation or upgrade, and installation of elevators. Each improvement will be capitalized and depreciated as a separate asset, apart from the original building asset.

MACHINERY AND EQUIPMENT - Expenditures related to the acquisition of equipment, furniture and fixtures, and computer and other electronic equipment.

DEPRECIATION

The straight-line method will be used when calculating depreciation, taking into consideration the salvage value at the end of the asset's useful life. The salvage value will be assumed to be zero for reporting purposes. Straight-line assumes that the asset will depreciate at the same rate each year of its useful life.

The policy for recording depreciation on capital assets is to take one full month's depreciation starting in the first full month in which the asset is placed in service and each full month thereafter. Once fully depreciated, capital assets will remain on the books (net of accumulated depreciation) as long as they remain in use.

USEFUL LIFE SCHEDULE (Note: this table is not all-inclusive)

CATEGORY	EXAMPLES	USEFUL LIFE
Land	All Town-owned land, must include map, lot	Not Depreciated
LAND IMPROVEMENTS		
Buildings	Permanent structures, including additions	40 years
Building Improvements	HVAC, roofing, windows, overhead doors	20 years
COMPUTERS & ELECTRONICS		
Computers	Desktop computers	4 years
Computers	Printers	4 years
Office Equipment	Scanner	4 years

CAPITAL LEASES

Capital leases that meet the Town's capitalization threshold and are retained/owned by the Town will be capitalized and depreciated in accordance with this policy.

RECORDS RETENTION

For each capital asset recorded in the Town's fixed asset system, evidential information such as invoices, contracts, deeds, purchase orders, appraisals, and / or other methods used to estimate actual costs shall be obtained by Finance to support the value recorded on the Town's financial statements. This documentation should be kept for one full year after the asset is disposed of (once the annual audit has been completed for the year of disposal).



**BEFORE THE TOWN COUNCIL OF THE
TOWN OF OCEAN BREEZE, MARTIN COUNTY, FLORIDA**

RESOLUTION NUMBER 320-2021

A RESOLUTION OF THE TOWN OF OCEAN BREEZE, FLORIDA, ADOPTING THE MOST RECENT VERSION OF *THE MARTIN COUNTY UNIFIED LOCAL MITIGATION STRATEGY PLAN* DATED OCTOBER 8, 2020 AS THE OFFICIAL DOCUMENT FOR THE TOWN'S INCLUSION IN THE STATE-WIDE HAZARD MITIGATION STRATEGY; PROVIDING FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

WHEREAS, it is in the public's best interest that the Town of Ocean Breeze adopt and adhere to the most recent version of the *Martin County Unified Local Mitigation Strategy Plan* dated October 8, 2020.

NOW, THEREFORE, THE OCEAN BREEZE TOWN COUNCIL HEREBY RESOLVES THAT:

SECTION 1. The *Martin County Unified Local Mitigation Strategy Plan*, shown as Exhibit "A" attached, is hereby adopted.

SECTION 2. This resolution supercedes Resolution No. 232-2016 which adopted an earlier version of the *Martin County Unified Local Mitigation Strategy Plan*.

APPROVED AND ADOPTED this 11th day of October, 2021.

KENNETH DE ANGELES, PRESIDENT
RICHARD GEROLD, VICE-PRESIDENT
WILLIAM ARNOLD, COUNCIL MEMBER
KEVIN DOCHERTY, COUNCIL MEMBER
TERRY LOCATIS, COUNCIL MEMBER
DAVID WAGNER, COUNCIL MEMBER

YES	NO	ABSENT

ATTEST:

PAM ORR
TOWN CLERK

KENNETH DE ANGELES
COUNCIL PRESIDENT

WILLIAM F. CRARY, II
TOWN ATTORNEY
APPROVED AS TO FORM

KAREN M. OSTRAND
MAYOR

EXHIBIT "A"

<https://www.martin.fl.us/resources/local-mitigation-strategy>

or

<https://townofoceanbreeze.com/>

Memorandum

To: Town Council and Mayor

From: Terry O'Neil, Town Management Consultant

CC: Pam Orr, Town Clerk
Kim Stanton, Town Bookkeeper
Rick Crary, Town Attorney
Holly Vats, Town Financial Advisor

Date: April 6, 2021

Re: Town Council meetings

During last November's Council meeting, Member Docherty raised the issue of moving the Town's once-a-month Council meetings from 10:30 AM to 5 PM, or perhaps later. In prompting the discussion, Mr. Docherty pointed out that both the Resort and Seawalk communities are developing rapidly and that more and more of our new residents have jobs – thus making daytime meetings more difficult to attend (minutes attached). It was agreed that staff would look into the matter, particularly in terms of operations, and report back in April 2021. This memo has been drafted for that purpose.

At present, the Town Charter requires that the Council meet at least once a month at a date and time determined by ordinance. Ordinance No. 66, copy attached, requires that regular Council meetings be held on the second Monday of each month at 10:30 AM. Unlike Town Charter amendments, which require voter approval, ordinances may be changed by a simple majority vote of the Council upon two public hearings.

Staff/Operational Considerations

Both the Town Clerk and Bookkeeper were hired with the understanding that monthly meetings would take place during the day, which continues to be their preference, however, each is willing to adapt if need be. The Town Attorney prefers daytime meetings but is willing to attend evening meetings as circumstances permit. Mr. Crary cautions that his practice calls for him to appear before other local jurisdictions that hold night meetings and that scheduling conflicts may occasionally arise. Town Financial Consultant, Holly Vath, has no preference with regard to daytime or evening meetings. As the Town's Management Consultant, I prefer daytime meetings but can adjust if there's a change.

Under the Ocean Breeze East PUD agreement, Town meetings are held at the resort clubhouse. The owner, Sun Communities, offers no objection to evening meetings provided its options for holding other events, (i.e.: food and bar service, parties, group activities, etc.) are not curtailed. At present, Sun's restaurant/bar is not open on Mondays, but this is subject to change. In sum, if Council meetings are to be held in the evening, all parties should be aware that other events or activities elsewhere in the clubhouse may be occurring at the same time.

As for the meeting practices of neighboring jurisdictions, a list of other Treasure Coast local governments and their meeting schedules is attached.

Staff awaits any further direction on this matter.

Attorney Crary stated that the decision to accept the lot should be with the Mayor (conditionally authorized by the Council) and that he would certainly advise her of his opinions once the new title commitment arrives. He stated that the Council would authorize the Mayor, under these circumstances, to make the decision to accept and move forward.

Council Member Docherty asked Attorney Crary for an estimation of fees associated with accepting ownership of Parcel "A".

He commented that it was difficult to predict such a thing but that his costs are based on hours. He spoke about the strange complexity of this particular lot. He spoke about the poorly written de-annexation statute, possible obstacles regarding de-annexation and that he estimated a possible ten thousand dollar range outside of any litigation.

Discussion ensued regarding the background of the Seawalk exits, maintenance of the parcel, a possible de-annexation ordinance, possible uses for the parcel, history of the parcel and Ocean Breeze West, accepting the parcel with contingencies, possible closing issues, Forestar's unwillingness to extend the deadline to accept the parcel, easement with Martin County Utilities for the water main, procedures for accepting or not accepting the parcel, possible conditions for acceptance, maintenance of the parcel, septic conversion, PUD language, sewer connections to the site, size of the parcel not suitable for a Town office/meeting facility, possible long range plans for a Town office, possible future sewer assessments.

Mayor Ostrand stated that she believed the Council should not accept the property and stated her reasons.

Council Member Arnold, seconded by Council Member Wagner, made a motion to reject taking ownership of Parcel "A".

Roll Call Vote: Yes: Locatis, Wagner, De Angeles, Arnold, Gerold & Docherty; No: None; Motion Passed - 6 - 0

8. Discussion of Changing Time of Regular Town Council Meetings – Council Member Docherty spoke about the Town's growth, the Seawalk development and the possibility of moving the time of the regular town council meetings from 10:30 a.m. to an evening meeting. He added that he took a simply survey of forty residents over the past couple of weeks and asked them one simple question. He reported that 34 residents of those surveyed stated that they would be more inclined to attend an evening meeting versus 6 people who would leave the meeting time at 10:30 a.m. He also reported the meeting times of surrounding towns and cities were in the evening. He spoke about how he volunteered for Mayor Flynn and Mayor Menino of Boston and that city meetings were at 7:30 pm. He asked for a discussion to look into changing the meeting time to five, six or seven o'clock p.m. He spoke about the Seawalk community and the fact that it was not a 55 and older community. He spoke about full-time workers and how working during the day might interfere with attending town council meetings. He asked staff to look into the possibility of changing the meeting time sometime after April 1, 2021. He asked for comments from the Town Council in order to take the next step.

President De Angeles asked for comments from the Town Council.

Council Member Locatis stated that Seawalk would have a home owner's association and would be hiring a manager to enforce the rules, etc. and he did not believe those residents would be attending the Town meetings unless they wanted a PUD change. He added that he did not want to change the meeting time unless the residents of the resort wished to change the time.

Mayor Ostrand commented that the residents of Seawalk should be able to attend the meetings and that they would be more inclined if the meetings were in the evening.

Council Member Arnold stated that he believed the majority should rule, but that he was not for making that change.

Vice-President Gerold stated that he would like to think about the issue more and get more feedback from the residents before making a decision.

President De Angeles asked Pam Orr, Town Clerk, for her opinion on the matter.

Mrs. Orr stated that when she and Kim were hired it was with the understanding that the meetings were in the morning. She stated that would be something to think about.

President De Angeles asked Mr. O'Neil for his opinion.

Mr. O'Neil stated that if staff were to bring back a draft ordinance sometime in April, this would give the individual council members time to hear from residents. He added that the staff could do some research on the impacts of moving the meeting time to an evening time and bring forward a draft ordinance as a placeholder and that the Council could then deliberate to make a decision.

Council Member Arnold asked the audience to indicate if they would prefer evenings. He then asked the audience to indicate if they would prefer daytime.

President De Angeles asked the Town Clerk if everything (pertaining to the Town Council meetings) was on the Town website.

Pam Orr indicated "yes."

President De Angeles asked the Council if they would like to get a draft ordinance for a future meeting.

Council Member Docherty, seconded by Vice-President Gerold, who stated he did not agree but to get some research done and questions answered, made a Motion that the Town Manager and staff look into this and come back with a draft ordinance by April 1, 2021 and let the Council know the pros and cons of changing the regular town council meeting time from the morning to an evening time including any additional costs to the Town.

Attorney Crary stated that his rate would probably be the same even though it would be inconvenient for him to attend at night.

Pam Orr, Town Clerk asked if a draft ordinance was to be brought forth.

President De Angeles answered "no."

The Council Member concurred.

Mr. O'Neil stated that the motion mentioned by April 1, 2020 and asked if that meant for the first meeting in April, 2021.

Council Member Docherty answered "yes."

All in Favor: Yes: De Angeles, Gerold, Arnold, Docherty & Locatis; No: Wagner; Motion Passed - 5 - 1

AN EMERGENCY ORDINANCE OF THE TOWN
OF OCEAN BREEZE PARK, FLORIDA
SETTING AND CONFIRMING THE TIME
AND PLACE OF REGULAR MEETINGS OF
THE TOWN COUNCIL;

WHEREAS, the revised Town Charter requires that regularly scheduled meetings of the Town Council be set by ordinance;

BE IT ORDAINED AND ENACTED BY THE TOWN COUNCIL OF THE TOWN OF OCEAN BREEZE PARK, FLORIDA:

SECTION I: That an emergency exists within the Town of Ocean Breeze Park affecting the health, welfare and safety of the citizens of said town.

SECTION II: That regularly scheduled meetings of the Town Council shall be held at the Town Hall at 10:30 a.m. on the second Monday of each month, unless such day is a holiday, in which such event such meeting shall take place at the aforesaid time and place upon the next following Monday which is not a holiday.

SECTION III: Special meetings may be held as provided in the Charter.

SECTION IV: It is hereby acknowledged and confirmed that the foregoing schedule of regular meetings has been a longstanding procedure well known within the community.

SECTION V: This Ordinance shall become effective immediately upon its adoption.

PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE this 14th day of September, 1992.

TOWN COUNCIL
TOWN OF OCEAN BREEZE PARK

By: Kathleen Lee
Its President

ATTEST:

Sharon Chicky
Town Clerk

APPROVED:

Scott S. Hines
Mayor

APPROVED AS TO FORM:

[Signature]
TOWN ATTORNEY

Jurisdiction	Regular meeting(s) per month	Time
Martin County	2nd and 4th Tuesday	9:00 AM
City of Stuart	2nd and 4th Monday	5:00 PM
Village of Indian Town	2nd and 4th Thursday	6:30 PM
Town of Sewall's Point	2nd and 4th Tuesday	5:30 PM & 7:00 PM
Town of Jupiter Island	one (varies)	9:30 AM
Town of Ocean Breeze	2nd Monday	10:30 AM
St. Lucie County	1st and 3rd Tuesday	6:00 PM & 9:00 AM
City of Port Saint Lucie	2nd and 4th Monday	6:30 PM
City of Fort Pierce	1st and 3rd Monday	6:00 PM & 4:30 PM
St. Lucie Village	3rd Tuesday	6:30 PM
Indian River County	1st, 2nd and 3rd Tuesday	9:00 AM
City of Vero Beach	1st and 3rd Tuesday	8:30 AM
Indian River Shores	4th Thursday	9:00 AM
City of Sebastian	2nd and 4th Wednesday	6:00 PM
City of Fellsmere	1st and 3rd Thursday	7:00 PM
Town of Orchid	1st Wednesday	9:00 AM
Okeechobee County	2nd and 4th Thursday	9:00 AM
City of Okeechobee	1st and 3rd Tuesday	6:00 PM

Memorandum

TO: TOWN COUNCIL AND MAYOR

FROM: HOLLY VATH, FINANCIAL CONSULTANT

SUBJECT: CORONAVIRUS LOCAL FISCAL RECOVERY AGREEMENT (AMERICAN RESCUE)

DATE: OCTOBER 4, 2021

The Town of Ocean Breeze received the grant agreement for the Coronavirus Local Fiscal Recovery Funds (American Rescue). The Town is eligible to received \$190,825. There are specific requirements on the permissible uses of the funds.

Under the draft U.S. Treasury guidelines, the eligible use of the grant funds must fall under four categories.

1. Public Health and Economic Impacts
2. Premium Pay for Essential Workers
3. Revenue Loss
4. Investments in Infrastructure

The draft guidelines further explain these four categories as follows:

Public Health and Economic Impacts: Examples of eligible uses under this category include, but are not limited to:

1. COVID-19 Mitigation and Prevention expenses, such as vaccination programs, medical care, testing, personal protective equipment (PPE), and ventilation improvements;
2. Medical expenses, including both current expenses and future medical services for individuals experiencing prolonged symptoms and health complications from COVID-19;
3. Payroll expenses for public safety, public health, health care, human services, and other similar employees, to the extent that their services are devoted to mitigating or responding to COVID-19;
4. Efforts to remedy the economic impact of the COVID-19 public health emergency on households, individuals, businesses, and state, local, and tribal governments;
5. Efforts to remedy pre-existing economic disparities which were exacerbated by the COVID-19 public health emergency.

Premium Pay: Funds may be used to provide premium pay to essential workers, per Treasury Guidance's definition of "essential work." Examples of essential workers include, but are not limited to:

1. Staff at nursing homes, hospitals, and home care settings;

2. Workers at farms, food production facilities, grocery stores, and restaurants;
3. Janitors, truck drivers, transit staff, and warehouse workers
4. Public health and safety staff;
5. Childcare workers, educators, and other school staff; and
6. Social service and human services staff.

Revenue Loss: Funds for the provision of government services to the extent of the reduction in revenue experienced due to the COVID-19 Public Health Emergency.

Investments in Infrastructure: Funds may be used to improve access to clean drinking water, improve wastewater and stormwater infrastructure systems, and provide access to high-quality broadband services.

Based on the current draft guidelines, the only category of use applicable to the Town of Ocean Breeze would be the Revenue Loss. However, the Town saw slight reductions in State Revenue Sharing. The reduction in revenue was far below the proposed grant amount.

There are several small municipalities around the state with similar limitations on possible utilization of these grant funds. The U.S. Treasury Department has not yet finalized the utilization guidelines. The Town may consider delaying a decision on entering into the grant agreement until the final guidelines are released.

MEMO September 24, 2021

To: Terry O'Neil

From: Rick Crary

Date:

Re: American Rescue Plan Act Agreement

In this memo I wish to raise some issues of particular concern regarding the American Rescue Plan Act Coronavirus Local Fiscal Recovery Fund Agreement received from the Florida Division of Emergency Management (the "Division").

As you know, the U.S. Treasury Department ("Treasury") is providing funding to the State of Florida for distribution to Non-Entitlement Units of local government (populations under 50,000). Funding is subject to numerous Federal and State restrictions and regulations. As a condition of funding Non-Entitlement Units like the Town, the Division's proposed Agreement would make the Town responsible for compliance with all applicable Federal and State laws and regulations that might apply. This is only a preliminary memo, as it would take many more hours of study to fully digest the applicable laws and terms of the Agreement the Town is being asked to sign. My initial questions and comments are as follows:

1. Attachment A, page 13 includes a certification that the Town "...has incurred eligible expenses during the period that begins on March 3, 2021 and ends on December 31, 2024." I am concerned about the past tense "has." Shouldn't the language be more broadly stated to include possible future projects with eligible expenses? Must it state categorically that the Town has already qualified? The statement seems inconsistent with certification #8 on the same page. (Note: Recital H also makes the statement that Recipient is "fully qualified and eligible to receive this funding.")
2. Per Recital B. on page 1, Treasury's guidelines are currently available pursuant to its "Interim Final Rule." Apparently, the final rule, which the Town would be agreeing to follow, has not yet been adopted. Will it be more or less restrictive? In any event, per certification #9 on Attachment A, page 13, the Town could not to use the funds for any broader purpose than those specifically identified in the said certification #9.
3. On page 23, per Section 9.a. of the Award Terms and Conditions (Attachment D?) the Town would have to make sure that any third party agreements it enters into must provide for third-party compliance with all "applicable federal statutes, regulations, and executive orders." Would this make the Town responsible for contractual enforcement if the third party fails to comply with federal requirements? This could be an impediment to transferring funds to another governmental entity—for example Martin County or a nearby municipality.

4. On page 22, Section 1 of the Award Terms and Conditions, the Town is required to have “the institutional, managerial, and financial capability to ensure proper planning, management, and completion” of any allowed project. (Per our discussions we both feel it would be very likely that the Town would need to hire a consultant and/or additional staff to fulfill its contractual obligations regarding funding and to make sure all strings attached are being complied with).
5. On page 3 Section 5 b. in addition to many State and Federal laws, rules and regulations specifically identified in the Agreement, a catch-all clause indicates there may be other statutes, rules, and regulations that apply. If the State of Florida can’t identify those potential other requirements, how can the Town be expected to know what it is agreeing to do?
6. The Assurances of Compliance With Civil Rights Requirements Section 10 (page 19) would make the Town responsible for ensuring a sub-recipient’s compliance with Title VI, and “under penalties of perjury” the official signing the assurance would have to certify he/she understands the obligations being undertaken. Would the Town need to hire a consultant or extra staff to assure Title VI compliance if it passes funds to a subrecipient? Does a sub-recipient include other government agencies in addition to third party entities, and any other potential recipients of funding? (It looks like it would).
7. Does the Agreement constitute a payment request per Section 7 on page 4. If so, (7)b. references potential criminal penalties if any statements are not “true, complete, or accurate” or if there has been an “omission of any material fact.” Under its many arcane rules and regulations, what would the Federal government consider to be an omission of a material fact under the present circumstances? Could the Town unknowingly step on a Federal land mine? The Town would need to be certain that statements regarding being “fully qualified” to enter the Agreement are “true, complete, and accurate.”
8. Note that per Section 13. B. on page 7 of the Agreement venue for enforcement of the Agreement would be in Leon County.

**AMERICAN RESCUE PLAN ACT
CORONAVIRUS LOCAL FISCAL RECOVERY FUND AGREEMENT**

This Agreement is entered into by and between the State of Florida, Division of Emergency Management (the "Division") and Ocean Breeze, Town of (the "Non-Entitlement Unit" or "Recipient").

RECITALS

- A. Section 9901 of the American Rescue Plan Act of 2021 (Pub. L. No. 117-2, §9901) added section 603(a) to the Social Security Act ("ARPA"), which created the Coronavirus Local Fiscal Recovery Fund for the purpose of providing funds to local governments in order to facilitate the ongoing recovery from the COVID-19 pandemic ("Fiscal Recovery Funds"); and
- B. Following the enactment of ARPA, the U.S. Department of the Treasury ("Treasury" or "Secretary") released formal and informal guidance regarding implementation of ARPA, including the disbursement and expenditure of Fiscal Recovery Funds, including Treasury Interim Final Rule, 31 CFR pt. 35, 2021, attending rule guidance published in the Federal Register, Volume 86, No 93,¹ and informal guidance made publicly available by Treasury, which may be amended, superseded, or replaced during the term of this Agreement ("Treasury Guidance"); and
- C. ARPA allocated **\$7,105,927,713.00** for making payments to metropolitan cities, non-entitlement units of local government, and counties in Florida, 21% of which is to be paid directly to metropolitan cities in Florida, 59% of which was paid directly to counties in Florida, and 20% of which is to be paid to the State of Florida for distribution to non-entitlement units of local government; and
- D. The Secretary disbursed **\$5,689,502,590.00** of these funds directly to metropolitan cities and counties; and
- E. A remaining balance of **\$1,416,425,123.00** was reserved for the State of Florida to disburse to non-entitlement units of local government; and
- F. The Division has received these funds from the Secretary through the State of Florida in accordance with the provisions of ARPA; and
- G. Pursuant to the provisions of ARPA, the Division is the state entity responsible for disbursing the funds to the Recipient under this Agreement; and
- H. The Recipient is fully qualified and eligible to receive this funding in accordance with ARPA for the purposes identified therein.

Therefore, in consideration of the mutual promises, terms and conditions contained herein, the Division and the Recipient agree as follows:

- (1) **RECITALS.** The foregoing recitals are true and correct and are incorporated herein by reference.
- (2) **TERM.** This Agreement shall be effective **upon execution** and shall end on **December 31, 2024**, unless terminated earlier in accordance with the provisions of this Agreement. Upon expiration or termination of this Agreement for any reason, the obligations which by their nature are intended to survive expiration or termination of this Agreement will survive.
- (3) **FUNDING.** The State of Florida, through the Division, will make a disbursement of each non-entitlement unit of local government's allocation based on the list of non-entitlement units published by Treasury and based upon the State's calculation of the Recipient's proportional share of the total population of all non-entitlement units in the State. The total Fiscal Recovery Funds allocation for Recipient under this Agreement is **\$190,825.00**.
- (4) **USE OF FISCAL RECOVERY FUNDS**
 - a. The State, through the Division, will—within 30 days of receiving payment from the Secretary, or within such other time period as may be permitted by the Secretary—make an initial disbursement to the non-entitlement

¹ <https://www.regulations.gov/document/TREAS-DO-2021-0008-0002> | Federal Register, Vol. 86, No. 93, Pg. 26786 ("Federal Register")

unit of local government of 50% of the total amount allocated to the non-entitlement unit.² Not earlier than 12 months from the date upon which the State makes the initial disbursement, the Secretary is expected to release the Second Tranche amount to the State. The State will—within 30 days of receiving payment from the Secretary, or within such other time period as may be permitted by the Secretary—make a second disbursement to the non-entitlement unit of local government.

- b. Recipients may use payments for any expenses eligible under ARPA Coronavirus State and Local Fiscal Recovery Funds. Payments are not required to be used as the source of funding of last resort.
- c. ARPA requires that Fiscal Recovery Funds may only be used to cover expenses incurred by the non-entitlement unit of local government by December 31, 2024³, such as:
 - i. to respond to the public health emergency with respect to COVID-19 or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
 - ii. to respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the non-entitlement unit of local government that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;
 - iii. for the provision of government services to the extent of the reduction in revenue of such non-entitlement unit of local government due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year of the non-entitlement unit of local government; or
 - iv. to make necessary investments in water, sewer, or broadband infrastructure.
- d. As specified in the Treasury Guidance, Eligible Use of Fiscal Recovery Funds falls under four categories, including (1) Public Health and Economic Impacts, (2) Premium Pay for Essential Workers, (3) Revenue Loss, and (4) Investments in Infrastructure.
 - i. Public Health and Economic Impacts: Examples of eligible uses of Fiscal Recovery Funds under this category include, but are not limited to:
 - 1. COVID-19 Mitigation and Prevention expenses, such as vaccination programs, medical care, testing, personal protective equipment (PPE), and ventilation improvements;⁴
 - 2. Medical expenses, including both current expenses and future medical services for individuals experiencing prolonged symptoms and health complications from COVID-19;⁵
 - 3. Payroll expenses for public safety, public health, health care, human services, and other similar employees, to the extent that their services are devoted to mitigating or responding to COVID-19;⁶
 - 4. Efforts to remedy the economic impact of the COVID-19 public health emergency on households, individuals, businesses, and state, local, and tribal governments;⁷ and
 - 5. Efforts to remedy pre-existing economic disparities which were exacerbated by the COVID-19 public health emergency.⁸
 - ii. Premium Pay: Fiscal Recovery Funds may also be used to provide premium pay to essential workers, per Treasury Guidance's definition of "essential work."⁹ Examples of essential workers include, but are not limited to:
 - 1. Staff at nursing homes, hospitals, and home care settings;
 - 2. Workers at farms, food production facilities, grocery stores, and restaurants;
 - 3. Janitors, truck drivers, transit staff, and warehouse workers
 - 4. Public health and safety staff;
 - 5. Childcare workers, educators, and other school staff; and

² "First Tranche Amount," American Rescue Plan Act of 2021, H.R. s. 601(b)(7) "Timing"

³ <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>

⁴ See Federal Register, pg. 26790.

⁵ *Id.*

⁶ *Id.* at 26791

⁷ *Id.* at 26791-26797

⁸ *Id.*

⁹ *Id.* at 26797

- 6. Social service and human services staff.¹⁰
- iii. Revenue Loss: Recipients may use Fiscal Recovery Funds for the provision of government services to the extent of the reduction in revenue experienced due to the COVID-19 Public Health Emergency.¹¹
- iv. Investments in Infrastructure: Treasury Guidance specifies that Fiscal Recovery Funds may be used to improve access to clean drinking water, improve wastewater and stormwater infrastructure systems, and provide access to high-quality broadband services.¹²
- e. Additional guidance regarding eligible uses of Fiscal Recovery Funds, as well as impermissible uses (including for pensions or to offset revenue losses from tax reductions) is set forth in Treasury Guidance.

(5) LAWS, RULES, REGULATIONS, AND POLICIES

- a. Performance under this Agreement is subject to the applicable provisions of 2 CFR Part 200, entitled "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" including the cost principles and restrictions on general provisions for selected items of cost.
 - i. The following 2 CFR policy requirements apply to this assistance listing¹³:
 - Subpart B, General provisions;
 - Subpart C, Pre-Federal Award Requirements and Contents of Federal Awards;
 - Subpart D, Post Federal; Award Requirements;
 - Subpart E, Cost Principles; and
 - Subpart F, Audit Requirements.
 - ii. The following 2 CFR policy requirements also apply to this assistance listing: 2 C.F.R. Part 25, Universal Identifier and System for Award Management; 2 C.F.R. Part 170, Reporting Subaward and Executive Compensation Information; and 2 C.F.R. Part 180, OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement). The following 2 CFR Policy requirements are excluded from coverage under this assistance listing: For 2 C.F.R. Part 200, Subpart C; 2 C.F.R. § 200.204 (Notices of Funding Opportunities); 2 C.F.R. § 200.205 (Federal awarding agency review of merit of proposal); 2 C.F.R. § 200.210 (Pre-award costs); and 2 C.F.R. § 200.213 (Reporting a determination that a non-Federal entity is not qualified for a Federal award). For 2 C.F.R. Part 200, Subpart D, the following provisions do not apply to the SLFRF program: 2 C.F.R. § 200.308 (revision of budget or program plan); 2 C.F.R. § 200.309 (modifications to period of performance); C.F.R. § 200.305 (b)(8) and (9) (Federal Payment).
- b. In addition to the foregoing, the Recipient and the Division will be governed by all applicable State and Federal laws, rules and regulations, including those identified in Attachment C. Any express reference in this Agreement to a particular statute, rule, or regulation in no way implies that no other statute, rule, or regulation applies.

(6) NOTICES

- a. All notices under this Agreement shall be made in writing to the individuals designated in this paragraph. In the event that different representatives or addresses are designated by either party after execution of this Agreement, notice of the new name, title and contact information of the new representative will be promptly provided to the other party, and no modification to this Agreement is required.
- b. In accordance with section 215.971(2), Florida Statutes, the Division's Program Manager will be responsible for enforcing performance of this Agreement's terms and conditions and will serve as the Division's liaison

¹⁰ *Id.*

¹¹ *Id.* at 26799

¹² *Id.* at 26802

¹³ As defined in 2 C.F.R. § 200.1

with the Recipient. As part of his/her duties, the Program Manager for the Division will monitor and document Recipient performance.

- c. The Division's Program Manager for this Agreement is:

Erin White
Division of Emergency Management
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100
Telephone: 850-815-4458
Email: Erin.White@em.myflorida.com

- d. The name and address of the representative responsible for the administration of this Agreement is:

Melissa Shirah
Division of Emergency Management
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100
Telephone: 850-815-4455
Email: Melissa.Shirah@em.myflorida.com

- e. The contact information of the representative of the Recipient is:

Authorized Representative:

Title:

Address:

Telephone:

Email:

(7) PAYMENT

- a. In order to obtain funding under this Agreement, the Recipient must file with the Division Program Manager information and documentation, including but not limited to the following:
- Local government name, Entity's Taxpayer Identification Number, DUNS number, and address;
 - Authorized representative name, title, and email;
 - Contact person name, title, phone, and email;
 - Financial institution information (e.g., routing and account number, financial institution name and contact information);
 - Total NEU budget (defined as the annual total operating budget, including general fund and other funds, in effect as of January 27, 2020) or top-line expenditure total (in exceptional cases in which the NEU does not adopt a formal budget);
 - Signed Assurances of Compliance with Title VI of the Civil Rights Act of 1964. (Attachment D); and
 - Signed Award Terms and Conditions Agreement (Attachment E).
- b. Payment requests must include a certification, signed by an official who is authorized to legally bind the Recipient, which reads as follows:

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729–3730 and 3801–3812).

(8) RECORDS

- a. As a condition of receiving state or federal financial assistance, and as required by sections 20.055(6)(c) and 215.97(5)(b), Florida Statutes, the Division, the Chief Inspector General of the State of Florida, the Florida Auditor General, or any of their authorized representatives, shall enjoy the right of access to any documents, financial statements, papers, or other records of the Recipient which are pertinent to this Agreement, in order to make audits, examinations, excerpts, and transcripts. The right of access also includes timely and reasonable access to the Recipient's personnel for the purpose of interview and discussion related to such documents. For the purposes of this section, the term "Recipient" includes employees or agents, including all subcontractors or consultants to be paid from funds provided under this Agreement.
- b. The Recipient shall maintain all records related to this Agreement for the period of time specified in the appropriate retention schedule published by the Florida Department of State. Information regarding retention schedules can be obtained at: <http://dos.myflorida.com/library-archives/records-management/general-records-schedules/>.
- c. Florida's Government in the Sunshine Law (section 286.011, Florida Statutes) provides the citizens of Florida with a right of access to governmental proceedings and mandates three, basic requirements: (1) all meetings of public boards or commissions must be open to the public; (2) reasonable notice of such meetings must be given; and (3) minutes of the meetings must be taken and promptly recorded.
- d. Florida's Public Records Law provides a right of access to the records of the state and local governments as well as to private entities acting on their behalf. Unless specifically exempted from disclosure by Florida Statute, all materials made or received by a governmental agency (or a private entity acting on behalf of such an agency) in conjunction with official business which are used to perpetuate, communicate, or formalize knowledge qualify as public records subject to public inspection.

IF THE RECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE RECIPIENT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: (850) 815-4156, Records@em.myflorida.com, or 2555 Shumard Oak Boulevard, Tallahassee, FL 32399.

(9) AUDITS

- a. In accounting for the receipt and expenditure of funds under this Agreement, the Recipient must follow Generally Accepted Accounting Principles ("GAAP"). As defined by 2 CFR §200.49, "GAAP has the meaning specified in accounting standards issued by the Government Accounting Standards Board (GASB) and the Financial Accounting Standards Board (FASB).
- b. When conducting an audit of the Recipient's performance under this Agreement, the Division must use Generally Accepted Government Auditing Standards ("GAGAS"). As defined by 2 CFR §200.50, "GAGAS, also known as the Yellow Book, means generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits.
- c. If an audit shows that all or any portion of the funds disbursed were not spent in accordance with the conditions of and strict compliance with this Agreement and with Section 603(c) of the Social Security Act, the Recipient will be held liable for reimbursement to the Secretary of all funds used in violation of these applicable regulations and Agreement provisions within thirty (30) days after the Division has notified the Recipient of such non-compliance.
- d. The Recipient must have all audits completed by an independent auditor, which is defined in section 215.97(2)(i), Florida Statutes, as "an independent certified public accountant licensed under chapter 473." The independent auditor must state that the audit complied with the applicable provisions noted above. The audits must be received by the Division no later than nine months from the end of the Recipient's fiscal year.
- e. The Recipient must send copies of reporting packages required under this paragraph directly to each of the following:
 - i.

The Division of Emergency Management
DEMSingle_Audit@em.myflorida.com

OR

Office of the Inspector General
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

ii.

The Auditor General
Room 401, Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

- f. Fund payments are considered to be federal financial assistance subject to the Single Audit Act and the related provisions of the Uniform Guidance.

(10) REPORTS

- a. The Recipient must provide the Secretary with periodic reports providing a detailed accounting of the uses of such funds by such non-entitlement unit of local government including such other information as the Secretary may require for administration of the Coronavirus Local Fiscal Recovery Fund. Concurrently, Recipients must provide to the Division a copy of the report given to the Secretary.
- b. Failure by Recipient to submit all required reports and copies may result in the Division's withholding of further payments until all such documents are submitted to the Division and deemed to be satisfactory.
- c. The Recipient must provide additional program updates or information if requested by the Division.

(11) LIABILITY

Any Recipient which is a state agency or subdivision, as defined in section 768.28, Florida Statutes, agrees to be fully responsible for its negligent or tortious acts or omissions which result in claims or suits against the Division, and agrees to be liable for any damages proximately caused by the acts or omissions to the extent set forth in section 768.28, Florida Statutes. Nothing herein is intended to serve as a waiver of sovereign immunity by any party to which sovereign immunity applies. Nothing herein will be construed as consent by a state agency or subdivision of the State of Florida to be sued by third parties in any matter arising out of this Agreement.

(12) TERMINATION

- a. The Division may terminate this Agreement immediately for cause upon written notice to Recipient. Cause includes, but is not limited to, misuse of funds, fraud, non-compliance with ARPA, Treasury Guidance, or other applicable rules, laws and regulations, or failure by the Recipient to afford timely public access to any document, paper, letter, or other material subject to disclosure under Chapter 119, Florida Statutes.
- b. The Division may terminate this Agreement for convenience upon thirty (30) days' prior written notice to Recipient.
- c. In the event this Agreement is terminated, the Recipient must not incur new obligations for the terminated portion of this Agreement after it has received the notification of termination. The Recipient must cancel as many outstanding obligations as possible. Obligations incurred after receipt of the termination notice will be disallowed. The Recipient will not be relieved of liability to the Division because of any breach of this Agreement by the Recipient. The Division may, if and to the extent permitted by ARPA and Treasury Guidance, withhold payments to the Recipient for the purpose of set-off until the exact amount due the Division from the Recipient is determined and resolved.

(13) MISCELLANEOUS

- a. The validity of this Agreement is subject to the truth and accuracy of all the information, representations, and materials submitted or provided by the Recipient in this Agreement, in any later submission or response to a Division request, or in any submission or response to fulfill the requirements of this Agreement. All of said information, representations, and materials is incorporated by reference. The inaccuracy of the submissions

or any material changes will, at the option of the Division and with thirty (30) days written notice to the Recipient, cause the termination of this Agreement and the release of the Division from all its obligations to the Recipient.

- b. This Agreement must be construed under the laws of the State of Florida, and venue for any actions arising out of this Agreement will be in the Circuit Court of Leon County. If any provision of this Agreement is in conflict with any applicable statute or rule, or is unenforceable, then the provision is null and void to the extent of the conflict, and is severable, but does not invalidate any other provision of this Agreement.
- c. Any power of approval or disapproval granted to the Division under the terms of this Agreement will survive the term of this Agreement.
- d. This Agreement may be executed in any number of counterparts, any one of which may be taken as an original.
- e. The Recipient agrees to comply with the Americans With Disabilities Act (Public Law 101-336, 42 U.S.C. Section 12101 et seq.), which prohibits discrimination by public and private entities on the basis of disability in employment, public accommodations, transportation, State and local government services, and telecommunications.
- f. The Recipient must comply with any Statement of Assurances incorporated as Attachment D.
- g. Those who have been placed on the convicted vendor list following a conviction for a public entity crime or on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of \$25,000.00 for a period of thirty-six (36) months from the date of being placed on the convicted vendor list or on the discriminatory vendor list.
- h. The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature, and subject to any modification in accordance with Chapter 216, Florida Statutes, or the Florida Constitution.
- i. All bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.
- j. Any bills for travel expenses must be submitted in accordance with section 112.061, Florida Statutes.
- k. This Agreement, upon execution, contains the entire agreement of the parties and no prior written or oral agreement, express or implied, shall be admissible to contradict the provisions of this Agreement.
- l. This Agreement may not be modified except by formal written amendment executed by both of the parties.
- m. If the Recipient is allowed to temporarily invest any advances of funds under this Agreement, they must use the interest earned or other proceeds of these investments only to cover expenditures incurred in accordance with section 603 of the Social Security Act and the Guidance on eligible expenses. If a government deposits Fiscal Recovery Fund payments in a government's general account, it may use those funds to meet immediate cash management needs provided that the full amount of the payment is used to cover necessary expenditures. Fund payments are not subject to the Cash Management Improvement Act of 1990, as amended. The State of Florida will not intentionally award publicly-funded contracts to any contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e) [Section 274A(e) of the Immigration and Nationality Act ("INA")]. The Division shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the INA. Such violation by the Recipient of the employment provisions contained in Section 274A(e) of the INA will be grounds for unilateral cancellation of this Agreement by the Division.
- n. The Recipient is subject to Florida's Government in the Sunshine Law (section 286.011, Florida Statutes) with respect to the meetings of the Recipient's governing board or the meetings of any subcommittee making recommendations to the governing board. All of these meetings must be publicly noticed, open to the public, and the minutes of all the meetings will be public records, available to the public in accordance with Chapter 119, Florida Statutes.
- o. All expenditures of state or federal financial assistance must be in compliance with the laws, rules and regulations applicable to expenditures of State funds, including but not limited to, the Reference Guide for State Expenditures.
- p. In accordance with section 215.971(1)(d), Florida Statutes, the Recipient may expend funds authorized by this Agreement only for allowable costs resulting from obligations incurred during the specific agreement period.

- q. Any balances of unobligated cash that have been advanced or paid that are not authorized to be retained for direct program costs in a subsequent period must be refunded to the Secretary.
- r. If the purchase of the asset was consistent with the limitations on the eligible use of Fiscal Recovery Funds provided by ARPA and Treasury Guidance, the Recipient may retain the asset. If such assets are disposed of prior to December 31, 2024, the proceeds would be subject to the restrictions on the eligible use of Fiscal Recovery Funds provided by ARPA.

(14) LOBBYING PROHIBITION

- a. 2 CFR §200.450 prohibits reimbursement for costs associated with certain lobbying activities.
- b. Section 216.347, Florida Statutes, prohibits "any disbursement of grants and aids appropriations pursuant to a contract or grant to any person or organization unless the terms of the grant or contract prohibit the expenditure of funds for the purpose of lobbying the Legislature, the judicial branch, or a state agency."
- c. No funds or other resources received from the Division under this Agreement may be used directly or indirectly to influence legislation or any other official action by the Florida Legislature or any state agency.
- d. The Recipient certifies the following:
 - i. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.
 - ii. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the Recipient must complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities."
 - iii. The Recipient must require that this certification be included in the award documents for all subawards (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Recipients shall certify and disclose.
 - iv. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(15) REQUIRED CONTRACTUAL PROVISIONS

a. EQUAL OPPORTUNITY EMPLOYMENT

- i. In accordance with 41 CFR §60-1.4(b), the Recipient hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

- 1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

- a. Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
3. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
4. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
6. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
7. In the event of the contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
8. The contractor will include the portion of the sentence immediately preceding paragraph 1(a)(ii) of this section and the provisions of subparagraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

b. COPELAND ANTI-KICKBACK ACT

- i. The Recipient hereby agrees that, unless exempt under Federal law, it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, the following clause:

"Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 CFR pt. 3 as may be applicable, which are incorporated by reference into this contract."

- ii. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause in subsection b(i) above and such other clauses as the Secretary may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- iii. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 CFR § 5.12.

c. **CONTRACT WORK HOURS AND SAFETY STANDARDS**

If the Recipient, with the funds authorized by this Agreement, enters into a contract that exceeds \$100,000 and involves the employment of mechanics or laborers, then any such contract must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation.

d. **CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT**

If the Recipient, with the funds authorized by this Agreement, enters into a contract that exceeds \$150,000, then any such contract must include the following provision:

"Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387), and will report violations to FEMA and the Regional Office of the Environmental Protection Agency (EPA)."

e. **SUSPENSION AND DEBARMENT**

If the Recipient, with the funds authorized by this Agreement, enters into a contract, then any such contract must include the following provisions:

- i. This contract is a covered transaction for purposes of 2 CFR pt. 180 and 2 CFR pt. 3000. As such the contractor is required to verify that neither the contractor, its principals (defined at 2 CFR § 180.995), nor its affiliates (defined at 2 CFR § 180.905) are excluded (defined at 2 CFR § 180.940) or disqualified (defined at 2 CFR § 180.935).
- ii. The contractor must comply with 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction into which it enters.
- iii. This certification is a material representation of fact relied upon by the Division. If it is later determined that the contractor did not comply with 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C, in addition to remedies available to the Division, the Federal Government may pursue available remedies, including, but not limited to, suspension and/or debarment.
- iv. The bidder or proposer agrees to comply with the requirements of 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

f. **BYRD ANTI-LOBBYING AMENDMENT**

If the Recipient enters into a contract using funds authorized by this Agreement, then any such contract must include the following clause:

"Byrd Anti-Lobbying Amendment, 31 USC § 1352 (as amended). Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Recipient."

(16) **ATTACHMENTS**. The parties agree to, and incorporate as though set forth fully herein, the following exhibits and attachments:

Exhibit 1	Funding Sources
Attachment A	ARPA Coronavirus Local Fiscal Recovery Fund Eligibility Certification
Attachment B	Certification Regarding Lobbying
Attachment C	Program Statutes and Regulations
Attachment D	Statement of Assurances
Attachment E	Award Terms and Conditions

(17) **LEGAL AUTHORIZATION**. The Recipient certifies that its governing body has authorized the Recipient's execution of this Agreement and that the undersigned person has the authority to legally execute and bind the Recipient to the terms of this Agreement.

RECIPIENT

Ocean Breeze, Town of

By:

Name and title:

Date:

FEIN : 591560003

DUNS : 017001243

STATE OF FLORIDA

DIVISION OF EMERGENCY MANAGEMENT

By: _____

Name and Title: **Kevin Guthrie, Director**

Date: _____

Exhibit 1

Funding Sources

STATE RESOURCES AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT, SUBJECT TO SECTION 215.97, FLORIDA STATUTES, CONSIST OF THE FOLLOWING:

State Project -

State awarding agency: Florida Division of Emergency Management

Catalog of State Financial Assistance title: Coronavirus State and Local Fiscal Recovery Funds (CSFRF)

Catalog of Federal Domestic Assistance number: 21.027

Amount of State Funding: **\$190,825.00**

Attachment A

ARPA Coronavirus Local Fiscal Recovery Fund Eligibility Certification

I, _____, am the Authorized Agent of Ocean Breeze, Town of ("Recipient") and I certify that:

1. I have the authority on behalf of the Recipient to request fund payments from the State of Florida ("State") for federal funds appropriated pursuant to section 603 of the Social Security Act, as added by section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2, Title VI (March 11, 2021).
2. I have submitted to the State the Recipient's Total Budget in effect as of January 27, 2020, as defined by the United States Department of the Treasury, the annual operating budget including general fund and other funds.
3. I understand that the State will rely on this certification as a material representation in making grant payments to the Recipient.
4. I acknowledge that the Recipient should keep records sufficient to demonstrate that the expenditure of funds it has received is in accordance with section 603(a) of the Social Security Act.
5. I acknowledge that all records and expenditures are subject to audit by the United States Department of Treasury's Inspector General, the Florida Division of Emergency Management, and the Florida State Auditor General, or designee.
6. I acknowledge that the Recipient has an affirmative obligation to identify and report any duplication of benefits. I understand that the State has an obligation and the authority to de-obligate or offset any duplicated benefits.
7. I acknowledge and agree that the Recipient shall be liable for any costs disallowed pursuant to financial or compliance audits of funds received.
8. I acknowledge that if the Recipient has not obligated the funds it has received to cover costs that were incurred by December 31, 2024, as required by the statute, those funds must be returned to the United States Department of the Treasury.
9. I acknowledge that the Recipient's proposed uses of the funds provided as grant payments from the State by federal appropriation under section 603 of the Social Security Act will be used only to cover those costs that:
 - a. to respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
 - b. to respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the metropolitan city, non-entitlement unit of local government, or county that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;
 - c. for the provision of government services to the extent of the reduction in revenue of such metropolitan city, non-entitlement unit of local government, or county due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year of the metropolitan city, non-entitlement unit of local government, or county prior to the emergency; or
 - d. to make necessary investments in water, sewer, or broadband infrastructure.

In addition to each of the statements above, I acknowledge on submission of this certification that my jurisdiction has incurred eligible expenses during the period that begins on March 3, 2021 and ends on December 31, 2024.

By:

Signature:

Title:

Date:

Attachment B
Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned Recipient, _____, certifies, to the best of his or her knowledge that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence any officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form – LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. Sec. 1352 (as amended by the Lobbying Disclosure Act of 119). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Recipient, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, Recipient understands and agrees that the provisions of 31 U.S.C. Sec. 3801 *et seq.* apply to his certification and disclosure, if any.

By:

Signature:

Title: _

Date: _

Attachment C

Program Statutes and Regulations

42 U.S.C. 801 Social Security Act	Coronavirus State and Local Fiscal Recovery Funds
Title 31, Part 35, Code of Federal Regulations	Treasury Interim Final Rule
Section 215.422, Florida Statutes	Payments, warrants, and invoices; processing time limits; dispute limitation; agency or judicial branch compliance
Section 215.971, Florida Statutes	Agreements funded with federal and state assistance
Section 216.347, Florida Statutes	Disbursement of grant and aids appropriations for lobbying prohibited
CFO MEMORANDUM NO. 04 (2005-06)	Compliance Requirements for Agreements

ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS

ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

As a condition of receipt of federal financial assistance from the Department of the Treasury, the recipient named below (hereinafter referred to as the “Recipient”) provides the assurances stated herein. The federal financial assistance may include federal grants, loans and contracts to provide assistance to the Recipient’s beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass contracts of guarantee or insurance, regulated programs, licenses, procurement contracts by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Recipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Recipient’s program(s) and activity(ies), so long as any portion of the Recipient’s program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Recipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Recipient acknowledges that Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency,” seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Recipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury’s implementing regulations. Accordingly, Recipient shall initiate reasonable steps, or comply with the Department of the Treasury’s directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Recipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Recipient’s programs, services, and activities.
3. Recipient agrees to consider the need for language services for LEP persons when Recipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.

4. Recipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Recipient and Recipient's successors, transferees, and assignees for the period in which such assistance is provided.
5. Recipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Recipient and the Recipient's sub-grantees, contractors, subcontractors, successors, transferees, and assignees:

The sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.

6. Recipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Recipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Recipient for the period during which it retains ownership or possession of the property.
7. Recipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Recipient shall comply with information requests, on-site compliance reviews and reporting requirements.
8. Recipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Recipient also must inform the Department of the Treasury if Recipient has received no complaints under Title VI.
9. Recipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other

agreements between the Recipient and the administrative agency that made the finding. If the Recipient settles a case or matter alleging such discrimination, the Recipient must provide documentation of the settlement. If Recipient has not been the subject of any court or administrative agency finding of discrimination, please so state.

10. If the Recipient makes sub-awards to other agencies or other entities, the Recipient is responsible for ensuring that sub-recipients also comply with Title VI and other applicable authorities covered in this document. State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that they are effectively monitoring the civil rights compliance of sub-recipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

Under penalty of perjury, the undersigned official(s) certifies that official(s) has read and understood the Recipient's obligations as herein described, that any information submitted in conjunction with this assurances document is accurate and complete, and that the Recipient is in compliance with the aforementioned nondiscrimination requirements.

Ocean Breeze, Town of

Date

Signature of Authorized Official

PAPERWORK REDUCTION ACT NOTICE

The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 30 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

OMB Approved No. 1505-0271
Expiration Date: November 30, 2021

U.S. DEPARTMENT OF THE TREASURY
CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS

Recipient name and address:

Ocean Breeze, Town of

Address:

DUNS Number: 017001243

Taxpayer Identification Number: 591560003

Assistance Listing Number: 21.027

Sections 602(b) and 603(b) of the Social Security Act (the Act) as added by section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021) authorize the Department of the Treasury (Treasury) to make payments to certain recipients from the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund.

Recipient hereby agrees, as a condition to receiving such payment from Treasury, to the terms attached hereto.

Recipient: Ocean Breeze, Town of

Authorized Representative:

Title:

Date signed:

U.S. Department of the Treasury:

Authorized Representative:

Title:

Date:

PAPERWORK REDUCTION ACT NOTICE

The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 15 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

U.S. DEPARTMENT OF THE TREASURY
CORONAVIRUS LOCAL FISCAL RECOVERY FUND
AWARD TERMS AND CONDITIONS

1. Use of Funds.
 - a. Recipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 603(c) of the Social Security Act (the Act), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. Recipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.
2. Period of Performance. The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Recipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.
3. Reporting. Recipient agrees to comply with any reporting obligations established by Treasury as they relate to this award.
4. Maintenance of and Access to Records
 - a. Recipient shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Recipient in order to conduct audits or other investigations.
 - c. Records shall be maintained by Recipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.
5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.
6. Administrative Costs. Recipient may use funds provided under this award to cover both direct and indirect costs.
7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Recipient.
8. Conflicts of Interest. Recipient understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Recipient and subrecipients must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

9. Compliance with Applicable Law and Regulations.

a. Recipient agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Recipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.

b. Federal regulations applicable to this award include, without limitation, the following:

- i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
- ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
- iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
- iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
- v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
- vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
- vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
- viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C.

§§ 4601-4655) and implementing regulations.

ix. Generally applicable federal environmental laws and regulations.

c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and

- Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
- ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
10. Remedial Actions. In the event of Recipient's noncompliance with section 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 603(e) of the Act.
11. Hatch Act. Recipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
12. False Statements. Recipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.
13. Publications. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury."
14. Debts Owed the Federal Government.
- a. Any funds paid to Recipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of this award; (2) that are

determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act and have not been repaid by Recipient shall constitute a debt to the federal government.

- b. Any debts determined to be owed the federal government must be paid promptly by Recipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made or if the Recipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.

15. Disclaimer.

- a. The United States expressly disclaims any and all responsibility or liability to Recipient or third persons for the actions of Recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.
- b. The acceptance of this award by Recipient does not in any way establish an agency relationship between the United States and Recipient.

16. Protections for Whistleblowers.

- a. In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
- b. The list of persons and entities referenced in the paragraph above includes the following:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Treasury employee responsible for contract or grant oversight or management;
 - v. An authorized official of the Department of Justice or other law enforcement agency;
 - vi. A court or grand jury; or
 - vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
- c. Recipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

17. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR

19217 (Apr. 18, 1997), Recipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

18. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

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.

From: Terry O'Neil
Sent: Tuesday, October 5, 2021 1:11 PM
To: Lisa Wichser
Cc: townclerk@townofoceanbreeze.org; Scott Montgomery
Subject: Ocean Breeze Plaza entrance/exit at Skyline Drive

To: Lisa Wichser: County Engineer

Dear Lisa,

Some residents of the new Sea Walk subdivision have approached the Town regarding the Ocean Breeze (Publix) Plaza entrance/exit at Skyline Drive. Specifically, they've asked whether the right-turn-only exit might be altered to allow for a left turn. Below is a Google earth view of the intersection. We've discussed the issue briefly with our new Town Engineer, Scott Montgomery. We've not yet spoken to the plaza owners. Before we delve much further into the issue, we recognize that any change to the intersection's curb cut permit requires County approval. Do you think a reconfiguration application might fly with your department?

Thanks, Terry



Sent from [Mail](#) for Windows