

## **OFFER TO SELL PINE BARRENS CREDITS**

NOTICE IS HEREBY GIVEN that the Central Pine Barrens Joint Planning and Policy Commission offers to sell up to 10.19 Pine Barrens Credits on the terms of this Offer. The minimum per Pine Barrens Credit price is \$92,000. Pine Barrens Credits will be sold in units of not less than One Hundredth (1/100th=0.01) of a Pine Barrens Credit. Bids may be submitted for all or a portion of the available Pine Barrens Credits.

### **WHY IS THE COMMISSION OFFERING TO SELL PINE BARRENS CREDITS**

The Town of Brookhaven has requested the Commission offer to sell Pine Barrens Credits to developers of residential projects with “shovel ready” projects that need them.

### **WHO MAY BID**

The Commission will only consider bids from bidders who have a fully approved “shovel ready” residential project in the Town of Brookhaven that is contingent on the redemption of Pine Barrens Credits with the Town to increase the number of residential units in the development.

Pine Barrens Credit Clearinghouse Members, Commission Members, Designated Representatives, Employees, Contractors and their immediate families or any combination of the same, whether or not residing with the Credit Clearinghouse Member, Commission Member, Designated Representative, Employee or Contractor, are barred from participating in this sale. Immediate family shall include spouse, issue, or parent. Issue shall include adopted children.

### **WHAT MUST A BID CONTAIN**

1. The Bidder's Information: Each bid must contain the bidder's name, address, and its principals, those owning or controlling a Five Percent (5%) interest or more.
2. A Bid Deposit: Each bid must be accompanied by a bid deposit in the form of a certified or bank check, subject to collection, made payable to the Central Pine Barrens Joint Planning and Policy Commission (the “Commission”) in the amount of One Percent (1%) of a bidder's bid amount which will be credited to the successful bidder. Bid deposits of the unsuccessful bidders will be returned to them. Successful bidders will be notified of their selection by mail.
3. A PBC Redemption Plan: The Plan must fully describe the bidder's plan to redeem the Pine Barrens Credits it seeks to purchase, including the name of the project on which the Pine Barrens Credits will be redeemed, and the dates and types of approvals granted to the project. The Plan must demonstrate that the bidder's project has received its required approvals and but for the redemption of Pine Barrens Credits with the Town of Brookhaven, the project could be commenced in Six (6) months of the Closing without any further discretionary act of any municipal or state agency. The PBC Redemption Plan must also include a bidder's certification that it does not possess Pine Barrens Credits in an amount sufficient to satisfy the quantity required by the Town under the project's approval. The Plan must demonstrate the successful bidder will redeem the Pine Barrens Credits within Six (6) months of the closing. “Redeem”

means the irrevocable transfer of the Pine Barrens Credit Certificate to the Town of Brookhaven in exchange for the increase in the residential density described in the PBC Redemption Plan.

### **WILL ALL BIDS BE CONSIDERED**

The Commission will only consider bids from Responsible Bidders with a shovel ready project as determined by the Town of Brookhaven. Brookhaven will review each PBC Redemption Plan to determine whether it is accurate. If the Town deems it accurate, the bidder shall be considered a Responsible Bidder and its bid will be considered by the Commission. Only bids from Responsible Bidder(s) will be considered by the Commission.

Bids from entities that are not Responsible Bidders will be rejected. Bids from entities proposing to redeem PBCs with an entity other than the Town of Brookhaven will be rejected. Bids from entities not proposing to redeem the PBCs sought to be purchased will be rejected. Brookhaven's determination that a bidder is a Responsible Bidder is final.

### **WHAT IF BIDS FOR MORE 10.19 PINE BARRENS CREDITS ARE SUBMITTED**

In the event of an over subscription, the Commission will sell the Pine Barrens Credits to the highest bidder(s). In the event of an over subscription, with two or more bids at the same offer, the Commission shall offer to sell to each entity at the common price on a pro-rata basis determined by the number of bidders submitting bids at the common price, but in no event in increments smaller than One-Tenth (0.10) Pine Barrens Credit.

### **WHAT HAPPENS IF A BID IS ACCEPTED**

Within Thirty (30) business days of being notified of having been selected, the successful bidder(s) must execute a contract of sale for the purchase of the Pine Barrens Credits. A successful bidder's failure to enter a contract may result in forfeiture of their bid deposit(s). The successful bidder(s) must provide a downpayment of Ten Percent (10%) of the award amount under the contract of sale. The bid deposit and the downpayment shall be deposited by the Commission and not held in trust or escrow by the Commission, its attorneys, or staff. Closing shall be held within Thirty (30) days of full execution of the contract. At closing, the remaining balance due shall be paid by the selected bidder by certified or bank check.

### **HOW LONG DOES A SUCCESSFUL BIDDER HAVE TO REDEEM THE PINE BARRENS CREDITS**

The successful bidder must redeem Pine Barrens Credits purchased under this offer with the Town of Brookhaven to increase the residential density of a development project within Six (6) months of the Closing.

The selected bidder shall have the right to adjourn the closing for Five (5) months for cause upon payment of a payment of Ten Percent (10%) of the total purchase price and upon the Commission's prior written approval. A request for an extension must explain why the extension is required and supporting documentation from the Town of Brookhaven. The

Commission may reject an extension for any reason.

### **CAN THE CONTRACT OR THE PINE BARRENS CREDITS BE CANCELLED**

The Commission may cancel the selected bidder's contract of sale if the contract is assigned. The Commission may cancel, after the closing, Pine Barrens Credits acquired under this offer that are not Redeemed within the applicable period, if the Pine Barrens Credits are not redeemed under the terms of the Redemption Plan or if the Pine Barrens Credits are transferred or assigned without the prior Commission's written approval. Any of these things may constitute a default. The Commission may, but shall not be obligated to, grant the purchaser an opportunity to be heard before determining whether to declare the purchaser in default. If the Purchaser defaults, its Bid Deposit and Downpayment will be retained by the Commission as its damages and any other money paid to the Commission by the purchaser under the contract returned to it.

### **WHAT DOCUMENT ESTABLISHES THE TERMS OF THE SALE OF PINE BARRENS CREDITS**

The fully executed Contract of Sale establishes the rights and obligations of the Commission and the selected bidder to each other. Modification to it will be considered by the Commission.

### **WHERE AND WHEN BIDS DUE**

Bids are due by 11:00 A.M., prevailing time on October 8, 2021. All bids and bid deposits must be placed in an opaque envelope marked Pine Barrens Credit Sale and delivered by regular mail, overnight delivery or by hand to the Commission addressed to the Commission, 624 Old Riverhead Road, Westhampton Beach, New York, 11978, but otherwise unmarked Facsimiles or emails of unsealed proposals will not be accepted under any circumstances. The Commission assumes no responsibility for bid proposals not received by 11:00 A. M., prevailing time, on October 8, 2021, at which time and place they will be publicly opened and read aloud.

### **WHAT ARE THE COMMISSION RIGHTS**

The Commission reserves the right to consider the bids for Forty-Five (45) days after bid opening, waive any informalities, negotiate with one or more bidders for the right to purchase the Pine Barrens Credits or a block thereof, or to reject any or all bids submitted. The Commission further reserves the right to cancel any contract executed under this Offer for any reason. If cancelled by the Commission for reasons other the selected bidder's action or inaction, the Commission shall return to the selected bidder all its funds paid under the program. Upon return of the funds, the parties shall have no further rights or obligations to the other.

Minority and Women Owned Businesses are encouraged to bid.

For further information go to [www.pb.state.ny.us](http://www.pb.state.ny.us).