



# HISTORIC TOWN OF EATONVILLE, FLORIDA

## REGULAR COUNCIL MEETING AGENDA

Tuesday, June 20, 2023 at 7:30 PM

Town Hall - 307 E Kennedy Blvd

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### I. CALL TO ORDER AND VERIFICATION OF QUORUM

### II. INVOCATION AND PLEDGE OF ALLEGIANCE

### III. APPROVAL OF THE AGENDA

### IV. CITIZEN PARTICIPATION (Three minutes strictly enforced)

### V. CONSENT AGENDA

1. Approval of Town Council Meeting Minutes – June 6, 2023 (Clerk Office)

2. Approval of Updated Policy and Procedures (Administration)

### VI. COUNCIL DECISIONS

3. Approval To Pursue The Registration Options For Use of the Town's Logo (Randolph)

### VII. REPORTS

INTERIM CHIEF ADMINISTRATIVE OFFICER'S REPORT

TOWN ATTORNEY'S REPORT

TOWN COUNCIL REPORT/DISCUSSION ITEMS

MAYOR'S REPORT

### VIII. ADJOURNMENT

*The Town of Eatonville is subject to the Public Records Law. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.*

### **\*\*PUBLIC NOTICE\*\***

*This is a Public Meeting, and the public is invited to attend. This Agenda is subject to change. Please be advised that one (1) or more Members of any of the Town's Advisory Boards/Committees may attend this Meeting and may participate in discussions. Any person who desires to appeal any decision made at this meeting will need a verbatim record of the proceedings and for this purpose may need to ensure that a verbatim record of the proceedings is made which includes the testimony and evidence upon which the appeal is to be based – per Section 286.0105 Florida Statutes. Persons with disabilities needing assistance to participate in any of these proceedings should contact the Town of Eatonville at (407) 623-8910 "at least 48 hours prior to the meeting, a written request by a physically handicapped person to attend the meeting, directed to the chairperson or director of such board, commission, agency, or authority" - per Section 286.26*



HISTORIC TOWN OF EATONVILLE, FLORIDA

TOWN COUNCIL MEETING

JUNE 20, 2023 AT 7:30 PM

Cover Sheet

**\*\*NOTE\*\*** Please do not change the formatting of this document (font style, size, paragraph spacing etc.)

**ITEM TITLE:** Approval of Town Council Meeting Minutes – June 6, 2023  
(Clerk Office)

**TOWN COUNCIL ACTION:**

PROCLAMATIONS, AWARDS, AND PRESENTATIONS		Department: LEGISLATIVE (CLERK OFFICE)
PUBLIC HEARING 1 <sup>ST</sup> / 2 <sup>ND</sup> READING		<b>Exhibits:</b> <ul style="list-style-type: none"><li>Meeting Minutes – June 6, 2023</li></ul>
CONSENT AGENDA	YES	
COUNCIL DECISION		
ADMINISTRATIVE		

**REQUEST:** Approval of meeting minutes for the Town Council Meeting held on June 6, 2023.

**SUMMARY:** The Town Council Meeting was held on the 1<sup>st</sup> Tuesday, June 6, 2023, 7:30 p.m. and minutes were transcribed from the audio archive for approval for the public records.

**RECOMMENDATION:** Approval of June 6, 2023 meeting minutes.

**FISCAL & EFFICIENCY DATA:** N/A



**HISTORIC TOWN OF EATONVILLE, FLORIDA**  
**REGULAR COUNCIL**  
**MEETING MINUTES**

**Tuesday, June 6, 2023 at 7:30 PM**

**Town Hall (Council Chamber) - 307 E Kennedy Blvd. 32751**

**SPECIAL NOTICE:** These meeting minutes are presented in an abbreviated format intended as a public record discussion of stated meeting according to the Florida’s Government-in-the-Sunshine law. Meetings are opened to the public, noticed within reasonable advance notice, and transcribed into minutes for public record. *\*\*Audio Recording are available through the Town’s website on the Council Agenda Page.*

**CALL TO ORDER AND VERIFICATION OF QUORUM:**

Mayor Gardner called the meeting to order at 7:30 p.m. and quorum was established through Mrs. Veronica King

**PRESENT:** (5) Councilwoman Wanda Randolph, Councilman Marlin Daniels, Councilman Theo Washington, , Mayor Vice Mayor Rodney Daniels, Angie Gardner.

**STAFF:** (5) Demetrius Pressley, **Interim Chief Administrator Officer**, Veronica King, **Town Clerk**, Clifford Shepard, **Attorney**, Joseph Jenkins, **Deputy Chief**, Katrina Gibson, **Finance Director**

**INVOCATION AND PLEDGE OF ALLEGIANCE:**

Bishop Charles Bargaineer led the Prayer of Invocation followed by the Pledge of Allegiance

**APPROVAL OF THE AGENDA:**

**Mayor Gardner Motions** to approve agenda adding a budget adjustment for Public Works Capital Improvement and moving items #2, Memorandum of Understanding for the Juneteenth Weekend Celebration and #3, Award of Bid for Eatonville Town Hall Roof & HVAC Replacement to 1st Class Roofing; Moved by Councilman M. Daniels; Second by Councilman Washington; **AYE: ALL, MOTION PASSES.**

**PRESENTATIONS AND RECOGNITION –**

**READING OF PROCLAMATION:** Proclamation for National League of Cities Small Cities Month June 2023 was read by Mayor Gardner.

**CITIZEN PARTICIPATION - (The Three-minute rule was strictly enforced)**

**Ryan Novak** – Inquired about the budget being available on the website and gave recommendation for Council Chambers to be upgraded to a digital setup with efficient technically; he is available to discuss further. Mr. George Williams withdrew his public participation.

**APPROVAL CONSENT AGENDA:** **Mayor Gardner Motions** to approve the consent agenda (Items #1 and #4) approving the Town Council Meeting Minutes for May 16, 2023 and the Duke Energy Easement (235 Park Pl); Moved by Councilman Washington; Second by Councilman M. Daniels; **AYE: ALL, MOTION PASSES.**

**COUNCIL DECISIONS:**

**Mayor Gardner motions for approval** Request Approval of Memorandum of Understanding for the Juneteenth Weekend Celebration, Between Esteamed Learning Inc / Eatonville Juneteenth Committee and the Town of Eatonville; Moved by Councilman Washington; Second by Councilman M. Daniels with discussion; **Discussion:** (Randolph) Highly support but have concerns about the planning and MOU asking the town to pay \$10,000 towards the event (\$10, 000 covers the cost for the MOT, Public Safety, and for General services).

Details were not presented ahead of time (MOU was received around May 18<sup>th</sup> and reviewed by legal) Staff met with the planning committee and determined that the town would cover the parade which covers the public services and public safety. (Legal: confirmed that this is a proper way to vet an event through a MOU and with a budget adjustment; however, it is not the only way.) **Breakdown/ Confirmations:** Insurance has been established, the cost estimate/formula used for public safety and public services for the MLK Parade was applied to the event, there is no conflict of interest in the vote for Councilwoman Randolph (as a partner) due to there being no personal financial benefit. Further Concern: Recall that there would be no financial cost to the town; the financial portion is not part of the MOU, the cost is an incurred cost resulting from the town handling the parade that requires the MOT, public safety, and public services (Council will have to vote their desires). There is a concern regarding the \$25,000 budget line item to be used for funding; do not recall this amount being presented in the budget hearing (Gibson stated the funds were part of the MLK and RWJF, located in the reserve). Tiffany Simmons (was invited to the podium to provide answers and clarity to matters surrounding the 2023 Juneteenth Celebration (\$200,000 budget was never stated; \$25-30,000 was a possibly budget stated. As part of the partnership, the town stated that it would cover the MOT, Public safety, and public services); June 16-19, 2023. Can possibly adjust the numbers to reduce the costs. Cost will cover thirteen officers with overtime pay and three public work workers. There will be no field activities; the field was not available through OCPS. Concerned with how taxpayers are being used when there are budget issues. This is not a town event; must not show favoritism. **AYE:** Mayor Gardner; Councilman Washington; Councilwoman Wanda Randolph; **NAYE:** Councilman M. Daniels; Vice Mayor Rodney Daniels; **MOTION PASS.**

**Mayor Gardner motions for approval** Award of Bid for Eatonville Town Hall Roof & HVAC Replacement to 1<sup>st</sup> Class Roofing, Inc.; This item went through the full procurement process; within 30 days, there were no other bids that met the criteria. Moved by Councilman Washington; Second by Councilman M. Daniels with discussion; **Discussion:** Previously bid separately; prices were not good. CPH Engineering produced specifications, because the current ACs, structures, stabilizations were down improperly, both the roof and HVAC need to be done simultaneously at a better cost. Bid prices before Council are within the market value. Recommend seeking bids for another 30 days, do a cost comparison, **AYE:** Mayor Gardner **NAYE:** Councilman Washington; Councilman M. Daniels; Councilwoman Wanda Randolph; Vice Mayor Rodney Daniels; **MOTION FAILS. Request:** The Council requests a rebid for 30 days.

**Mayor Gardner motions for approval** of Town of Eatonville Organizational Chart and New Proposed Personnel Changes for FY 2022-23 Budget; Previously discussed and brought back for Council decision. Is there any merit to the email received that spoke to having budgetary requirements in place first before securing the recommended positions; only two positions (Chief of Staff and Human Resource Coordinator) will be included in this budget cycle, the changes you see are the results of what Council requested during the previous workshop and consistent with the Charter. Chief of Staff salary will be covered at a 65% on the CRA side and 35% on the town side. (Moved by Councilman M. Daniels; Second by Councilwoman Randolph; **AYE:** Mayor Gardner; Councilman M. Daniels **NAYE:** Councilman Washington; Councilman M. Daniels; Councilwoman Wanda Randolph; Vice Mayor Rodney Daniels; **MOTION FAILS. Request:** Human Resources Job Description.

**Mayor Gardner motions for approval** of Confirmation of the Hiring of Mr. Demetris Pressley as the Chief Administrative Officer (CAO) for the Town Of Eatonville; Moved by Councilwoman Wanda Randolph; Second by Councilman M. Daniels with discussion; **Discussion: (M. Daniels)** Do not have adequate information to move forward with the confirmation; requesting to table. **AYE:** Mayor Gardner **NAYE:** Councilman Washington; Councilman M. Daniels; Councilwoman Wanda Randolph; Vice Mayor Rodney Daniels; **MOTION FAILS.**

**2<sup>nd</sup> Motion: Councilman M. Daniels motions to TABLE** confirmation of the Hiring of Mr. Demetris Pressley as the Chief Administrative Officer (CAO) for the Town Of Eatonville to future date within 30 days; Moved by Councilman Washington; Second by Vice Mayor Rodney Daniels; **AYE:** Councilman Washington; Councilman M. Daniels; Councilwoman Wanda Randolph; Vice Mayor Rodney Daniels; **NAYE:** Mayor Gardner; **MOTION PASS.**

**Mayor Gardner motions for approval** of Confirmation of the Hiring of Valarie Mundy as the Director of Public Work & Utilities for The Town of Eatonville; Moved by Councilwoman Wanda Randolph; Second by Councilman M. Daniels with discussion; (M. Daniels) take the same position as stated with the previous confirmation; (Washington) Do not see any public works experience; candidate has experience in drainage and right-of-way. Salary range starting at \$82,000. (Randolph) Candidate has three current positions; concerned about level of commitment to the town. Valerie Mundy was asked to speak about her experience/credentials; experience in public works in the area of drainage engineering, land development review process, consultant for a number of land development companies doing drainage, sewage, and water. Projects/positions indicated on the resume are completed with the exception of New City Infrastructure as principal engineer. (Would be committed to the town if given the opportunity); **AYE:** Mayor Gardner **NAYE:** Councilman Washington; Councilman M. Daniels; Councilwoman Wanda Randolph; **MOTION FAILS.**

**2<sup>nd</sup> Motion:** Councilman M. Daniels motions to **TABLE** confirmation of the Hiring of Valarie Mundy as the Director of Public Work & Utilities for The Town of Eatonville for 30 days; Moved by Councilman Washington; Second by Councilman M. Daniels; **AYE: ALL, MOTION PASSES.**

There was **no action** taken on the budget adjustment for Public Works Capital Improvement that was added to the agenda due to the failed motion for Award of Bid for Eatonville Town Hall Roof & HVAC Replacement to 1st Class Roofing, Inc.

## REPORTS:

### **INTERIM CHIEF ADMINISTRATIVE OFFICER:** Demetrius Pressley

Updates were made on the West Kennedy water repair, mitigation of the I-4 project and funds that will affect the town, removed valve to isolate water for better control, clean out of the Park Place storm water pump, will look into reconvening the community stakeholders group to further discuss the resources presented by the IRC group, and the Crime Prevention Plan coordinated by the police department will take place on the June 15<sup>th</sup> (Flyer will go out). The town has two new hires; Public Works Service Worker and the Planner I. Reminder that the State of the County will take place this Friday.

**TOWN ATTORNEY'S REPORT:** Attorney Clifford Shepard – Ask by the Executive Director of the CRA to handle the eviction of the Dixon property (process started today); Charter Review will start next week (A memo has been provided with recommendations for sections 1 & 2 as guideline to consider; recommendations are not a limitation to what can be brought to the table for discussion.

### **TOWN COUNCIL REPORT/DISCUSSION ITEMS-**

**Councilman M. Daniels** – Notice in the budget \$5,000 for scholarships, where do we stand on giving out scholarships. Have been requesting documents that can't be found; requesting for CAO to search out three companies that offer services to recover documents and analysis emails/IT System (requesting three quotes within 30 days), Documents are missing on both the CRA and Town side; the IT company would be able to do the necessary research to retrieve documents. Need to consider having a backup process in place. Need to address matter with Mr. Julius Dix.

**Councilwoman W. Randolph** – No Report

**Councilman T. Washington** – Closure of West Kennedy: what happen that there was only a one-way traffic established; it was established under the MOT plan. Bear sighting: Lake Lovely has a bear.

**Vice Mayor R. Daniels** – Inquired about the water leak/drainage, floors in the lobby look nice, where are we with the water meter replacement (Money were allocated through the former administration), Money was also allocated for bands, requesting an update from Mayor or CAO. Hurricane Season: to prevent flooding, recommend removing some of the water from lake behind Catalina Park.

MAYOR’S REPORT

**Mayor Angie Gardner** – Congratulations on the opening up of the Thomas Academy, the Community 100 Super Organization has supported the law enforcement officers (had a nice luncheon), Concerning the \$5,000 scholarship money, will look into it. (Another resource: Travel & Leisure gives four-year scholarships). There is an egg smell coming down Kennedy Blvd (unsure of where it is coming from). Documents missing: Mrs. King spoke with Councilman M. Daniels concerning pending requests; Councilman M. Daniels will forward all previous requests to determine what requests have come to the Clerk’s office and directly to other departments, from there a comparison can be done to determine pending/open requests. (Requested information on CAO, CRA, Public Works, and Chief of Police to include Offer Letters, etc.).

**ADJOURNMENT** Mayor Gardner Motions for Adjournment of Meeting; Moved by Councilman Washington; Second by Councilman M. Daniels; **AYE: ALL, MOTION PASSES. Meeting Adjourned at 9:06 P.M.**

Respectfully Submitted by:

\_\_\_\_\_  
Veronica L King, Town Clerk

APPROVED

\_\_\_\_\_  
Angie Gardner, Mayor



**HISTORIC TOWN OF EATONVILLE, FLORIDA**  
**TOWN COUNCIL MEETING**  
**JUNE 20, 2023 AT 7:30 PM**  
**Cover Sheet**

**\*\*NOTE\*\*** Please do not change the formatting of this document (font style, size, paragraph spacing etc.)

**ITEM TITLE:** Approval of Updated Policy and Procedures

**TOWN COUNCIL ACTION:**

<b>PROCLAMATIONS, AWARDS, AND PRESENTATIONS</b>		<b>Department: ADMINISTRATION</b>  <b>Exhibits:</b> <ul style="list-style-type: none"><li>Financial Management Procedure</li><li>Procurement Policy</li><li>Administrative Policy &amp; Procedures</li><li>Quality Assurance/Quality Control Policy (QA/QC)</li></ul>
<b>PUBLIC HEARING 1<sup>ST</sup> / 2<sup>ND</sup> READING</b>		
<b>CONSENT AGENDA</b>	YES	
<b>COUNCIL DECISION</b>		
<b>ADMINISTRATIVE</b>		

**REQUEST:** Approval of updated Policy and Procedures

**SUMMARY:** The Financial/Administration Management Policy must satisfy all the unique requirements of HUD’s CDBG-MIT Grant Program. In particular, the standards governing the sub-recipient’s financial management system outlined in 2 CFR §§ 200.300-200.309, §§ 200.328-200.329, and 24 CFR Part 570. Financial management and control of CDBG-MIT funds is the responsibility of the sub-recipient that accepts the funds.

Chapter 73C-23.0051(1), Florida Administrative Code (FAC), requires the Town to have a written procurement policy that complies with 2 Code of Federal Regulations (CFR) 200.317-.326 (2 CFR 200.317 – 2 CFR 200.326) and sections 255.0525 (Advertising for Bids or Proposals) and 287.055, Florida Statutes (FS) (Consultants Competitive Negotiation Act).

Quality Assurance/Quality Control (QA/QC) Policy is an independent and objective policy intended to add value and improve the Town’s CDBG-MIT Grant Program operations while reducing risks of DEO, HUD, and program non-conformance. A QA/QC plan is developed to outline a formal process to identify potential compliance issues and implement best practices for CDBG-Mitigation Grant Program management.

**RECOMMENDATION:** Staff recommend that the Town Council approves updated Policies and Procedures.

**FISCAL & EFFICIENCY DATA:** N/A



**TOWN**

**OF**

***EATONVILLE, FLORIDA***

**COMMUNITY DEVELOPMENT BLOCK GRANT**

**CDBG-MITIGATION (MIT)**

**Policies and Procedures**

**For**

**2 C.F.R. 200**

**Uniform Administrative Requirements,  
Cost Principles, and Audit Requirements  
for Federal Awards**



**Introduction**

The Town of Eatonville (the Town) establishes these policies and procedures to ensure compliance with 2 C.F.R 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The purpose is to set standards for compliance with all applicable Federal requirements and adopt best practices as set forth in 2 C.F.R 200 for administering the Town's CDBG-MIT grant award and projects funded and implemented under this award. At a minimum, the Town will maintain and demonstrate a satisfactory record of executing programs or activities under CDBG grant programs and other Federal assistance and grant programs, procurement awards; and integrity and business ethics.

**Uniform Administrative Requirements**

**Risk Evaluation**

The Town understands that the Florida Department of Economic Opportunity (DEO) is required to evaluate risks associated with providing it CDBG-MIT funding. The Town understands that such evaluations will be based on the Town's:

- 1. Financial stability,
- 2. Quality of management systems and standards,
- 3. Historical performance record in managing Federal awards, including timeliness of compliance with applicable reporting requirements, and conformance to the terms and conditions of previous Federal awards,
- 4. Audit reports and findings,
- 5. Ability to effectively implement statutory, regulatory, or other grant related requirements, and
- 6. Compliance with guidelines on government-wide suspension and debarment.

The Town will provide DEO any documentation necessary to assist with these required risk evaluations. The Town understands that DEO may impose additional contract conditions based on this risk evaluation.

**Certifications and Compliance**

The Town will submit to DEO any required certifications and representations.

The Town will maintain an active status in the Federal System for Award Management (SAM.GOV) website and/or the Federal Awardee Performance and Integrity Information System (FAPIIS), as required by DEO, and will require the same of all its contractors and consultants hired for projects that are funded with CDBG-MIT funds, to ensure compliance with suspension and debarment requirements. The Town understands that it is subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, and 2 CFR part 180. The regulations in 2 CFR part 180 restrict awards, subawards, and contracts with certain parties

that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

The Town will operate and manage its CDBG-MIT program and activities in a manner that ensures that Federal funds are expended, and that the CDBG-MIT program is implemented in full accordance with the U.S. Constitution, Federal Law, and public policy requirements: Including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination. The Town understands that it is fully responsible for complying with all requirements of the CDBG-MIT award.

**Performance Measurement**

The Town will cooperate and work with DEO to develop CDBG-MIT performance goals. These program performance goals and objectives, derived from program planning and design, will include specific program goals, indicators, targets, baseline data, data collection, and expected outcomes (such as outputs, or services performance or public impacts of any of these) with an expected timeline for accomplishment. Performance progress must be both measured and reported. As required by the CDBG-MIT agreement, the Town will maintain the necessary documents and data and will provide the same to DEO to measure and report its CDBG-MIT program performance and achievement of program goals and objectives. Additionally, the Town will share lessons learned, improve program outcomes, and foster adoption of promising practices.

**Financial Management and Internal Controls**

The Town has adopted CDBG-MIT Financial Management Procedures that provide parameters for the Town's financial management systems and internal controls, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the CDBG-MIT award. These procedures provide a sufficient framework that permits the preparation of reports required by general and program-specific terms and conditions; and the tracing of CDBG-MIT receipts and expenditures to a level adequate to establish that CDBG-MIT funds have been used according to the Federal statutes, regulations, and the terms and conditions of the CDBG-MIT agreement. Additionally, the Town will ensure that its financial system adheres to 2 C.F.R 200.302 and provides:

1. Identification, in its accounts, of all Federal awards it receives and expends and the CDBG-MIT program under which they are received. Federal program and Federal award identification will be included, as applicable, as well as the Assistance Listings title and number, Federal award identification number and year, name of the Federal agency, and name of DEO,
2. Accurate, current, and complete disclosure of the financial results of each CDBG-MIT award or program in accordance with the reporting requirements set forth in 2 C.F.R 200.328 and 200.329,
3. Records that adequately identify the source and application of funds for Federally funded activities. These records will contain information pertaining to CDBG-MIT awards, authorizations, financial obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation,

4. Effective control over, and accountability for all funds, property, and other assets. The Town will adequately safeguard all assets and assure that they are used solely for authorized purposes,
5. Comparisons of expenditures with budget amounts for each CDBG-MIT award.
6. Written procedures to implement the requirements of 2 C.F.R 200.305 for CDBG-MIT payments, and
7. Written procedures for determining the allowability of costs in accordance with applicable citations of 2 C.F.R. 200.400-476 and the terms and conditions of the CDBG-MIT award.

The Town will establish and maintain effective internal controls over the CDBG-MIT award that:

1. Provide reasonable assurance that the Town is managing the CDBG-MIT award in compliance with Federal statutes, regulations, and the terms and conditions of the CDBG-MIT award,
2. Ensure compliance with the U.S. Constitution, Federal statutes, regulations, and the terms and conditions of the CDBG-MIT award,
3. Evaluate and monitor its contractors for compliance with statutes, regulations and the terms and conditions of the CDBG-MIT award,
4. Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings, and
5. Take reasonable measures to safeguard protected personally identifiable information and other information designated as sensitive by the Town or DEO, as long as the information considered sensitive, is consistent with applicable Federal, State, and local laws regarding privacy and responsibility over confidentiality.

**Bonds**

The Town shall require bonding for all construction contracts in accordance with 2 C.F.R. 200.326 and Chapters 255.05-051, Florida Statutes. A Bid bond for five percent (5%) and Performance and Payment Bonds for one hundred percent (100%) of the contracted amount shall be required for all construction contracts exceeding this amount.

**CDBG Payments**

The Town understands that typically DEO will make payments of CDBG-MIT funds as reimbursements. The Town understands that it may only receive CDBG-MIT draw downs in advance in instances where it can demonstrate to DEO that it does not have sufficient working capital to implement the CDBG-MIT project and can meet the criteria of 2 C.F.R. 200.305.

For projects drawing funds in advance, the Town will limit the time elapsing between the time it receives CDBG-MIT funds from DEO and the time it disburses payments to contractors and consultants, to three (3) business days following the deposit of CDBG-MIT funds. Such advanced payments will be deposited in a separate non-interest-bearing account (accounts likely not to produce interest in excess of \$500 per year) as advanced funds. Any interest earned must be reported and returned to DEO.

The Town will report and disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds after a DEO amended agreement and before requesting additional CDBG-MIT payments.

**Cost Sharing or Matching**

The Town will document and report to DEO any shared costs or matching funds and all contributions, including cash and third-party in-kind contributions. The Town will utilize 2 C.F.R. 200.306, State of Florida Statutes and Rules as well as all DEO CDBG-MIT program and agreement requirements for the parameters of what can be considered shared costs or matching dollars.

**Program Income**

The Town will address, utilize, expend and/or return program income to DEO in accordance with 2 C.F.R. 200.307, the Town's Financial Management Procedures, its Quality Assurance and Quality Control Procedures, and CDBG-MIT program rules and agreement requirements.

Program income received by a Town must be recorded in the Town's financial records system and must be recorded in the same activity line item as generated the program income. Program income must be spent first on subsequent expenditures.

The Town will report any program income generated from CDBG projects in the Monthly and/or Quarterly Status Reports. The Town will return any program income to DEO that is generated after the closeout of the DEO CDBG-MIT agreement. The Town understands that any program income generated prior to closeout must be returned to DEO, unless the program income can be used for additional units of CDBG-MIT activities that are specified in a modification to the agreement that has been executed prior to the agreement’s closeout. It also understands that program income included in the project by modification to the agreement must be used in accordance with 2 C.F.R. 200, 24 C.F.R. part 570.504 and the terms of the CDBG-MIT agreement.

**Revision of Program Budget, Periods and Plans**

The Town will discuss all proposed changes to the CDBG-MIT agreement’s budget(s), scope of work, deliverables, end dates and work plans with DEO and will initiate a request for a formal agreement modification, from DEO, in circumstances where a modification is required. The Town understands that agreement modifications, especially agreement extensions, are reviewed and approved by DEO on a case-by-case basis.

**Property Standards**

The Town will abide by the standards and requirements regarding property as outlined in 2 C.F.R. 200.310-316.

These standards include requirements that the Town will ensure:

- That all real property and allowable equipment acquired or improved with CDBG-MIT is adequately insured equal to the insurance held on the Town's properties not purchased or improved with CDBG-MIT funds.
- The title to the property will be in the Town's name.
- Real property, funded with CDBG-MIT, will be used for the originally authorized purpose as long as needed for that purpose, during which time the Town will not dispose of or encumber its title or other interests in the property.
- The Town may dispose of the real property when it is no longer needed for the original use following receipt from DEO that instructs the Town to proceed in one of the following manners:
  - The Town retains title after paying back DEO. The amount to be paid to DEO will be pro-rata percentage of CDBG participation in the cost of the original purchase (and costs of any improvements) to the fair market value of the property.
  - The Town sells the property and pays back DEO from the proceeds. The amount to be paid to DEO will be percentage of the net proceeds (after actual reasonable selling and fix up costs). The percentage will be determined by the pro-rate percentage CDBG participation in the cost of the original purchase (and costs of any improvements) to the fair market value of the property.
  - The Town transfers title to DEO and is compensated for a percentage amount equal to the percentage of non-CDBG participation.

**Equipment**

The Town typically does not use CDBG-MIT funding for the purchase of equipment. In instances where it does utilize CDBG-MIT funding to acquire equipment, it will follow 2 C.F.R. 200.313 and 2 C.F.R. 200.439 as to the title, use and disposition of the property acquired with the CDBG funding.

**Supplies**

The Town typically does not use CDBG-MIT funding for the purchase of supplies. In instances where it does utilize CDBG-MIT funding to acquire supplies, it will follow 2 C.F.R. 200.314 as to the title, use and disposition of the property acquired with the CDBG funding.

**Intangible Property**

The Town typically does not use CDBG-MIT funding for the purchase of intangible property. In instances where it does utilize CDBG-MIT funding to acquire intangible property, it will follow 2 C.F.R. 200.315 as to the title, use and disposition of the property acquired with the CDBG funding.

**Property Trust Relationship**

Any real property, equipment, and intangible property, that the Town acquires or improves with CDBG-MIT funding will be held in trust by the Town as trustee for the beneficiaries of the project or program under which the property was acquired or improved. The Town understands that DEO may require it to record liens or other appropriate notices of record

to indicate that personal or real property has been acquired or improved with CDBG-MIT assistance and that conditions for use and disposition apply to the property.

**Procurement**

The Town will ensure full, fair and open competition for all procurement transactions to be funded with CDBG-MIT funding. To this end, the Town has adopted a stand-alone CDBG-MIT Procurement Policy which meets the requirements of 2 C.F.R. 200.317-327, as well as those applicable in Chapters 120.57, 255.05, 255.0525, and 287.055, Florida Statutes. Additionally, the Town has adopted procurement guidance in its Quality Control and Quality Assurance procedures.

**Performance and Financial Monitoring and Reporting**

**Financial Monitoring**

To ensure effective monitoring of the CDBG-MIT award, the Town will provide DEO the required OMB-approved financial data as required by DEO and 2 C.F.R. 200.328. The Town will provide this financial information as required by the terms and conditions of the CDBG-MIT award and the CDBG-MIT agreement. Reporting will be included in the request for funds, the monthly and/or quarterly reporting, during DEO monitorings and in its annual audit. In certain circumstances, the Town understands that it may be required to provide financial reporting to DEO more frequently.

**Monitoring and Reporting Program Performance**

The Town understands that it is responsible for oversight of the operations of its CDBG-MIT award activities. The Town will fully cooperate with DEO in its monitoring of the CDBG-MIT funded programs and activities to assure compliance with Federal requirements and to ensure that performance expectations are being met.

Reporting will be included in the monthly and/or quarterly reporting, with DEO monitorings, and in the annual audit. The Town will provide prompt responses to any monitoring findings or concerns should DEO identify the same through its monitoring.

**Reporting on Real Property**

The Town will submit reports to DEO at least annually, as required, on the status of any real property purchased with CDBG-MIT, or other Federal funds.

**Retention of Records and Access to Records**

The Town will adhere to retention of records requirements outlined in 2 C.F.R. 200.334. The Town additionally will adhere to the DEO requirements for records retention periods, which are longer than those outlined in the Federal Regulation. The Town will provide required documents to DEO, the State Auditor General, Florida Chief Financial Officer, the U.S. Department of Housing and Urban Development (HUD), Inspectors General, and the Comptroller General of the United States, as requested during the retention periods. When practicable, the Town will store documentation in an electronic format.

**Remedies for Non-Compliance**

The Town will take every measure to administer its CDBG-MIT grant in compliance with the Constitution, all state and Federal statutes, regulations, rules and specific program requirements. In the event, the Town is found to be in non-compliance with administering the CDBG-MIT grant, it understands that DEO may impose additional conditions on the Town's grant. The Town further understands that if these conditions do not remedy the non-compliance, DEO may take one or more of the following actions:

1. Temporarily withhold cash payments pending correction of the deficiency by the Town or impose more severe enforcement action,
2. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance,
3. Wholly or partly suspend or terminate the CDBG-MIT grant agreement,
4. Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and HUD regulations or recommend such a proceeding be initiated by HUD,
5. Withhold further CDBG or other Federal assistance for the project or program, and
6. Take other legally available remedies.

**Termination**

The Town understands that it may terminate its CDBG-MIT grant with proper written notice to DEO. The Town additionally understands that its CDBG-MIT grant may be terminated, with written notice by the DEO or HUD. The Town is aware that it has a right to appeal a DEO or HUD decision to terminate its CDBG-MIT grant, within 30 days following receipt of the written notice to terminate.

**Closeouts**

The Town will, within 30 days following the expiration of the CDBG-MIT agreement, submit all required closeout documentation, required financial, beneficiary, completion, and other required reports, final requests for funds, certifications of completion, releases of liens, and return of any CDBG-MIT funds that are unused or found to be overpaid after adjustments by DEO or HUD. The Town understands that if it fails to submit all the necessary reports within one year of the period of performance end date, DEO and HUD must report the Town's failure to comply with the terms and conditions of the award with the OMB-designated integrity and performance system (currently FAPIIS. HUD and/or DEO may also pursue other enforcement actions. Furthermore, the Town understands that a closeout of the CDBG-MIT grant agreement does not affect the following:

1. DEO's and HUD's right to disallow and recover funds at any time including following the final audit,
2. The requirement for Town to return funds due as a result of late refunds, corrections, or other transactions including final indirect cost rate adjustments,
3. The ability of HUD or DEO to make financial adjustments to a previously closed award such as resolving indirect cost payments and making final payments.
4. Audit requirements,
5. Property management and disposition requirements, and

6. Records retention as required in 2 C.F.R 200.334 through 200.337.

**Collection of Amounts Due**

The Town understands that any funds it receives in excess of the amount to which the Town is finally determined to be entitled to under the terms of the CDBG-MIT award constitute a debt to the Federal Government. If not paid within 90 calendar days after demand, HUD and/or DEO may reduce the debt by making an administrative offset against other requests for funds; by withholding advance payments otherwise due to the Town; or may take other actions as permitted by Federal statute. The Town understands that they may be charged interest for funds not returned to DEO or HUD in a timely manner. Such interest may be charged by HUD on an overdue debt in accordance with the Federal Claims Collection Standards (31 CFR parts 900 through 999). The date from which interest is computed is not extended by litigation or the filing of any form of appeal.

**Cost Principles**

**General Provisions**

**Policy Guide**

The Town will utilize the applicable Cost Principles found in 2 C.F.R. 200.400-476 and appendices, along with sound management practices to efficiently and effectively administer its CDBG-MIT program. The Town acknowledges that it is responsible for the CDBG-MIT funding and utilizing its staff, facilities, and experience will employ sound organization and management techniques necessary to assure proper and efficient administration of the CDBG-MIT program.

The Town will ensure that these cost accounting principles are applied on a consistent basis. The Town will ensure that its accounting practices are consistent with these cost principles, that they support the accumulation of costs as required by the principles, and that they provide for adequate documentation to support costs charged to the CDBG-MIT award.

The Town understands that it may not earn or keep any profit resulting from the CDBG-MIT award.

**Application**

The Town will apply the Cost Principles in determining allowable costs to be paid for by its CDBG-MIT award; and as a guide for the pricing of fixed priced-contracts and subcontracts where costs are used to determine the appropriate price.

**Basic Considerations**

The Town understands that the total amount of CDBG-MIT funds it draws down must equal the sum of all allowable direct costs and all allocable indirect costs.

**Allowable Costs**

The Town understands that for costs paid for with CDBG-MIT to be allowable, they must:



1. Be necessary and reasonable for the performance of the CDBG-MIT award and be allocable thereto under the cost principles.
2. Conform to any limitations or exclusions set forth in the cost principles or in the CDBG-MIT award and agreement as to types or amount of cost items.
3. Be consistent with policies and procedures that apply uniformly to both Federally financed and other activities of the Town.
4. Be given consistent treatment. A cost may not be assigned to a CDBG-MIT award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the CDBG-MIT award as an indirect cost.
5. Be determined to be in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise outlined in the regulations.
6. Not be included as a cost or used to meet cost sharing or matching requirements of any other Federally financed program in either the current or a prior period.
7. Be adequately documented.
8. Be a cost incurred during the approved budget period.

### **Reasonable Costs**

The Town understands that for costs paid for with CDBG-MIT to be considered reasonable, they do not exceed amounts which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. In determining reasonableness of a given cost, consideration must be given to:

1. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the Town or the proper and efficient performance of the CDBG-MIT award.
2. The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; Federal, state, local, tribal, and other laws and regulations; and terms and conditions of the CDBG-MIT award and agreement.
3. Market prices for comparable goods or services for the geographic area.
4. Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the Town, its employees, the public at large, and the Federal Government.
5. Whether the Town significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the CDBG-MIT award's cost.

### **Allocable Costs**

The Town will follow the direction of 2 C.F.R. 200.404 in allocating costs for its CDBG-MIT. The Town acknowledges that for a cost to be allocable to its CDBG-MIT award or other cost objective, the goods or services involved must be chargeable or assignable to that CDBG-MIT award or cost objective in accordance with relative benefits received. This standard is met if the cost:

1. Is incurred specifically for the CDBG-MIT award,
2. Benefits both the CDBG-MIT award and other work of the Town and can be distributed in proportions that may be approximated using reasonable methods, and

3. Is necessary to the overall operation of the Town and is assignable in part to the CDBG-MIT award in accordance with the cost principles in 2 C.F.R. 200.

**Prior Written Approval**

To avoid subsequent disallowance or disputes based on unreasonableness or non-allocability, the Town will seek prior written approval from DEO or HUD regarding the reasonableness and allocability of indirect costs as well as advanced approval of special or unusual costs prior to the incurrence of such costs. The request for prior written approval will include the timeframe and the scope of the CDBG-MIT agreement.

**Collection of Unallowable Costs**

The Town will refund to DEO any payments it receives for costs determined by either DEO or HUD to be unallowable, either as direct or indirect costs. Such funds will be refunded (including interest) as instructed by DEO.

**DIRECT AND INDIRECT COSTS**

**Classification of Costs**

There are two classifications for costs: direct and indirect. Because there can be variances of how a cost can be classified, the Town will treat a cost consistently, in like circumstances, as either a direct or an indirect cost in order to avoid possible double charging of CDBG-MIT awards. Guidelines for determining direct and indirect facilities and administration (F&A) costs charged to Federal awards are as follows:

**Direct Costs**

Costs that are directly identified with the CDBG-MIT award are considered direct costs. Direct costs that are unallowable under the rules for the CDBG-MIT award, must also be included in order to calculate indirect cost rates.

**Indirect (F&A) costs.**

*Indirect Facilities and Administration Classification* (F&A) Costs are classified within two broad categories: “Facilities” and “Administration.” “Facilities” is defined as depreciation on buildings, equipment and capital improvement, interest on debt associated with certain buildings, equipment and capital improvements, and operations and maintenance expenses. “Administration” is defined as general administration and general expenses such as the director's office, accounting, personnel and all other types of expenditures not listed specifically under one of the subcategories of “Facilities” (including cross allocations from other pools, where applicable).

**Required Certifications**

The Town will provide the following certifications and any others required by DEO and/or HUD:

1. A certification, signed by the Town's Chief Elected Official/Chief Financial Officer, who is authorized to legally bind the Town, for project budgets, annual and final fiscal reports and audits and requests for funds invoices that reads: “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.

- 2. Cost allocation plans or indirect (F&A) cost rate proposals (if utilized by the Town) will be certified by the Town's Chief Elected Official and Chief Financial Officer using the Certificate of Cost Allocation Plan or Certificate of Indirect Costs language, found respectively in Appendix V and VII to 2 C.F.R 200.

**Cost Allocation Plans and Indirect Cost Proposals**

The Town will follow the requirements in appendices V, VI and VII to 2 C.F.R. 200 for development and submission of cost allocation plans (for central service costs and public assistance programs) and/or indirect cost rate proposals.

**Considerations for Selected Items of Cost**

The Town will follow the cost principles to be applied for establishing the allowability of certain items involved in determining cost, in addition to the requirements of Subtitle II of 2 C.F.R. 200. These principles apply whether or not a particular item of cost is properly treated as direct cost or indirect (F&A) cost. The Town will abstain from unallowable costs such as the costs for new housing, entertainment, political activities, equipment (in most instance), idle facilities, government operations, government buildings (except fire stations), goods or services for personal use of Town employees, contributions and donations, contingency funds, fund raising, fines, penalties and settlements, donated personal property and space, lobbying, and the purchase of alcoholic beverages. Both allowable and unallowable costs are addressed in 2 C.F.R. 200.421-476. The following sections address the allowability of costs that the Town likely will encounter in the implementation of its CDBG-MIT award and which it would seek reimbursement for from CDBG-MIT funding.

**Advertising**

The Town will follow the cost principles found in 2 C.F.R. 200.421 when expending CDBG-MIT funds for advertising. Such expenditures will be for advertising required citizens’ participation hearing(s), procurement of professional and construction services, and conducting CDBG-MIT required activities that include but are not limited to the promotion of Fair Housing and efforts toward obtaining participation of Minority and Women Business Enterprises and Section 3 businesses or persons.

**Audit Services**

The Town understands that a reasonably proportionate share of the costs of audits required by, and performed in accordance with, the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507), are allowable. When incurring cost for audits and requesting reimbursement from its CDBG-MIT funding for audits, the Town will follow the cost principles found in 2 C.F.R. 200.425.

**Bonding Costs**

In instances where the Town requires assurances against financial loss to itself or others by reason of the act or default, it may require bid, performance, and payment bonds. The Town understands that costs of such bonding, required pursuant to the terms and conditions of the CDBG-MIT award are allowable.

**Compensation for Personnel Costs**

The Town may elect, in some instances, to utilize its employees for implementing all or a portion of its CDBG-MIT program. The Town understands that costs for employees’ time that can be linked directly to the CDBG-MIT project are allowable as prescribed under 2 C.F.R. 200.430. The Town will review the requirements of its CDBG-MIT award and will consult with DEO on the allowability and required documentation for such costs.

**Compensation for Fringe Benefits**

In instances where the Town elects to utilize its employees for implementing all or a portion of its CDBG-MIT program, the Town understands that in addition to salaries, the costs of some fringe benefits for its employees are allowable. The Town will review the requirements of its CDBG-MIT award and agreement, will consult with DEO on the allowability and required documentation for such costs, and will follow the cost principles found under 2 C.F.R. 200.431 related to fringe benefits in incurring such costs.

**Conferences**

The Town may find a need to host meetings, or workshops that provide the public and Town partners technical information that is necessary and reasonable for successful performance of its CDBG-MIT award. The Town understands that allowable costs for such meetings or workshops may include rental of facilities, speakers' fees, local transportation, and other items incidental to such conferences, unless further restricted by the terms and conditions of the State Statutes and the CDBG-MIT award. The Town will consult with DEO prior to incurring such costs and will exercise discretion and judgment in ensuring that conference costs are appropriate, necessary and managed in a manner that minimizes costs to the CDBG-MIT award.

**Equipment and Other Capital Expenditures**

The Town understand that the purchase of equipment is typically an ineligible CDBG-MIT cost under 24 C.F.R. 570.207. The Town understands that some equipment costs that are necessary for its use to administer the CDBG-MIT program may be allowable. While such purchases are likely to be rare, in instances where they are necessary, the Town will submit requests in writing to DEO for approval to purchase such equipment prior to incurring costs for the equipment. When equipment costs are found to be necessary, allowable and are approved by DEO, the Town will follow the requirements set forth in 2 C.F.R. 200.439, 2 C.F.R. 200.453, the requirements found in the CDBG-MIT agreement, and the requirements of its procurement policy in incurring such costs.

**Pre-Award Costs**

The Town may, in some instances, request reimbursement for pre-award costs for its CDBG-MIT project. These costs, (typically administrative in nature) incurred prior to the effective date of the CDBG-MIT award, would be costs that are necessary for efficient and timely performance of the scope of work. Such costs would be sought after directly pursuant to the negotiation and in anticipation of the CDBG-MIT award. The Town understands that such pre-award costs may or may not be allowable. The Town will submit written requests to DEO for approval of such costs and will not incur these costs without prior written approval from DEO. If the pre-award costs are allowable, they will only be costs that would have been allowable if incurred after the date of the Town award.

**Professional Service Costs**

The Town understands that costs for contracting for professional and consultant services to conduct administrative and planning services for its CDBG-MIT program are allowable, so long as the services are rendered by persons who are members of a particular profession or possess a special skill, and who are not officers or employees of the Town. In evaluating its need for such professional services, the Town will assess its current required service needs, its in-house capabilities and capaTown, its history of similar costs, the overall impact of the CDBG-MIT award on the Town's business, whether the services provided from the consultant could be performed more economically in house, the qualifications of the consultant(s), the strength of the consultants proposed services to be delivered, the timeframes in which they will be delivered, the rate of compensation and the provisions for termination. The Town will procure all such professional services following the requirements of 2 C.F.R. 200.317-327, its procurement policy, and where applicable 287.055 Florida Statutes.

**Proposal Costs**

The Town understands that the costs of preparing bids, proposals, or applications, the costs of preparing bids, proposals, or applications are allowable under 2 C.F.R. 200.460.

**Taxes**

The Town understands that under 2 C.F.R. 200.470, CDBG-MIT related taxes that it is legally required to pay (e.g., such as Florida Sales Tax) are allowable, except for self-assessed taxes that disproportionately affect Federal programs or changes in tax policies that disproportionately affect Federal programs. This provision does not restrict the authority of DEO or HUD to identify taxes where CDBG-MIT participation is inappropriate.

**Telecommunication Costs**

The Town may, in some instances, find it necessary to incur telecommunications costs in its implementation of CDBG-MIT activities. While such instances are likely to be rare, the Town will follow the requirements of 2 C.F.R 200.471 when the incurrence of such costs is deemed necessary.

**Training and Education Costs**

The Town may, in some instances, find it necessary to incur allowable costs for training (attendance of workshops) its governing body and employees to better administer and implement the CDBG-MIT award activities. The Town understands that the allowability of such costs is subject to 2. C.F.R 200.473, the requirements in the CDBG-MIT agreement, and written approval from DEO.

**Transportation Costs (Freight and Postage).**

The Town understands that costs incurred for CDBG-MIT activities related freight, express, cartage, postage, and other transportation services relating either to goods purchased, in process, or delivered, are allowable. The Town will follow 2 C.F.R. 200.474 in incurring such costs.

**Travel**

The Town may, in some instances, find it necessary to incur travel costs in its implementation of CDBG-MIT activities. While such instances are likely to be rare, the Town will follow the requirements of 2 C.F.R 200.475 and Chapter 112, Section 061, Florida Statutes, in instances that do require the Town to incur program related travel costs. Additionally, the Town will provide a written request in writing to DEO for approval to incur such program related travel cost and will not incur such costs until it has received DEO approval.

**Summation on Costs**

While the above addressed cost areas do not encapsulate all of the cost principles included in 2 C.F.R. 200.421-476, the above costs are those that the Town has identified as costs likely to be encountered in its implementation of the CDBG-MIT program. In instances where the Town requires clarification on the allowability of the costs to be reimbursed by the CDBG-MIT award, it will seek such clarification from DEO.

**Audit Requirements**

The Town will adhere to and provide audits in accordance with the requirements set forth in 2 C.F.R 200.500-521, Chapter 215.97 Florida Statutes, and the CDBG-MIT agreement. The Town will submit a single-act or program-specific audit if it expends \$750,000 or more in total (not just CDBG) federal funds during its fiscal year.

**Determining Federal Awards Expended**

The determination of when a Federal award is expended will be based on when the activities related to the Federal award(s) occur(s). Generally, the activity pertains to events that require the Town to comply with Federal statutes, regulations, and the terms and conditions of Federal awards, such as: expenditure/expense transactions associated with awards including grants.

The Town will at a minimum meet audit requirements by:

- Maintaining detailed and organized financial records that accurately document the expenditures of all Federal funds in its accounting system,

- Providing its auditor with accurate financial records and reporting of all Federal expenditures,
- Submitting a Single Act or Program Specific Audit for the years that it expends \$750,000 or more in federal funds, no later than June 30, to:
  - Federal Audit Clearinghouse (FAC) via the FAC's website portal (<https://facides.census.gov/Account/Login.aspx>),
  - DEO electronically at [audit@deo.myflorida.com](mailto:audit@deo.myflorida.com) or by hard copy to Department of Economic Opportunity, MSC #130, 107 East Madison Street, Tallahassee, Florida 32399-4126, and
  - the Florida Auditor General electronically at <https://flauditor.gov> or by hard copy to Local Government Audits/342 Claude Pepper Building, Room 401, 111 West Madison Street, Tallahassee, Florida 32399-1450,
- Submitting a DEO Audit Certification Memo to the DEO grant manager and to [audit@deo.myflorida.com](mailto:audit@deo.myflorida.com), certifying that no audit is due, no later than June 30, for years that it does not expend \$750,000 or more in Federal funds,
- Submitting an Audit Compliance Certification (an attachment to the CDBG-MIT agreement) to the DEO grant manager and to [audit@deo.myflorida.com](mailto:audit@deo.myflorida.com), no later than sixty calendar days following the end of its fiscal year, certifying whether or not the Town expended \$750,000 or more in Federal funds or State funds, and whether or not it will owe a single-act audit,
- Responding in a timely manner to any potential audit findings or issues and to any potential DEO Audit Management Letters, and
- Taking necessary proactive steps to avoid future audit findings or issues.

### **Common Deficiencies**

The Town is aware that the issues listed below are the most common record-keeping deficiencies encountered during program monitoring and audits.

- Inadequate financial records.
- Inadequate source documentation.
- Inadequate procedures for verification of cost allowability.
- Inadequate procedures for certifying operating agencies' financial systems.
- Delays between drawdown and expenditure of funds.
- Inadequate process to prevent overpayment of an activity budget line item.
- Inadequate accounting of program income.
- Inadequate or untimely financial reports.

The Town will take necessary measures to be prepared for and to avoid these inadequacies.

### **Retention of Audits**

The Town will retain sufficient records demonstrating its compliance with the terms of the CDBG-MIT agreement for a period of five (5) years from the date the final audit report is issued, or six (6) state fiscal years after all reporting requirements are satisfied and final payments have been received, whichever period is longer, and will allow DEO, or its designee, the Florida Chief Financial Officer (CFO), or State Auditor General access to

such records upon request. The Town will ensure that audit working papers are made available to DEO, or its designee, the CFO, or the State Auditor General upon request for a period of six (6) years from the date the final audit report is issued, unless extended in writing by DEO. In addition, if any litigation, claim, negotiation, audit, or other action involving the records has been started prior to the expiration of the controlling period as identified above, the Town will retain audit and audit related records until completion of the action and resolution of all issues which arise from it, or until the end of the controlling period as identified above, whichever is longer.

**Conclusion**

The Town will utilize these policies and procedures to ensure compliance with 2 C.F.R 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The Town will make every effort to implement and administer its CDBG-MIT award in compliance with all applicable Federal requirements utilizing best practices as set forth in 2 C.F.R 200 and these policies and procedures. The Town will strive to maintain and demonstrate an exemplary record of executing the activities under its CDBG-MIT grant program, other Federal assistance and grant programs, and in maintaining practices that are administered with integrity and strong business ethics.



# Procurement Policies & Procedures



*May 2023*

Contents

Introduction ..... 3

Scope..... 3

Commitment to Confidentiality and Anonymity ..... 3

Whistle-Blower Protection ..... 3

Definitions of Fraud, Waste and Abuse ..... 4

Responsibilities ..... 5

How to File a Report ..... 6

Anti-Fraud, Waste and Abuse (AFWA) Prevention Measures ..... 6

Section 1                      PURPOSE

This policy is adopted to assure that commodities and services for the Community Development Block Grant Programs are obtained efficiently and effectively in free and open competition and through the use of sound procurement practices. All Town staff and other persons (subgrantees or contractors) with designated responsibility for the administration of CDBG award contracts are responsible for ensuring compliance with all applicable federal and state laws and regulations. These include but are not limited to: OMB Circular A-102, attachment O; 2 CFR Part 200; s. 255.0525 and 287.055 Florida Statutes, Chapter 73C-23 Florida Administrative Code.

Section 2                      APPLICATION OF POLICY

This policy shall apply to contracts or agreements for the procurement of all materials, supplies, services, construction and equipment for any Community Development Block Grant Program solicited or entered into after the effective date of this policy. The Purchasing Officer shall be the single point of contact for the Town for procurements to prevent conflicts of interest between the Town’s Council and staff and potential bidders and proposers.

Section 3                      PURCHASING DIRECTOR

The Town Clerk shall serve as the central purchasing officer (the “Purchasing Officer”) of the Town of Eatonville for all contracts or agreements described in Section 2.

Section 4                      PURCHASING AND CONTRACT AWARD PROCEDURES

Section 4.01                      PURCHASING CATEGORIES; THRESHOLD AMOUNTS

Except as to Sole Source Purchases (Section 4.06) and Cooperative Purchasing (Section 4.07), all purchases and contract awards are to be made subject to the provisions of the appropriate Section according to the following threshold amounts:

- A. Small Purchases (Section 4.02) ..... \$1.00 to \$750.00
- B. Purchasing Quotes (Section 4.03) .....\$750.01 to \$5,000.00
- C. Competitive Sealed Bids/Proposals  
    (Section 4.04 & 4.05) .....\$5,000.01 and above

Section 4.02                      SMALL PURCHASES

The purchase of commodities, equipment and services which cost less than the threshold authorized in Section 4 does not require solicitation of quotes or bids. Small purchases shall be authorized by the Purchasing Officer or his/her designees.

Section 4.03                      PURCHASING QUOTES

The purchase of goods and services which cost within the range authorized for purchasing quotes in Section 4 shall require competitive quotations from three or more vendors. The quotations shall be obtained by the Purchasing Division and shall be reviewed and awarded by the Purchasing Officer.

Section 4.04                      COMPETITIVE SEALED BIDDING

1.     Conditions for Use. All contracts for purchases of a single item, services or aggregate in excess of the established base amount for Competitive Sealed Bids/Proposals in Section 4, where price, not qualifications, is the basis for contract award, shall be awarded by competitive sealed bidding. Time and Materials contracts, as outlined in 2 CFR 200.318(j), shall not be utilized.
  
2.     Invitation to Bid. Under Section 255.0525(2), F.S. and Rule 73-23.00521(2)(a), F.A.C., an invitation to bid for construction projects that are projected to cost more than \$200,000.00 shall be published in at least one daily newspaper of general circulation in Jackson County as well as a nearby federal Office of Management and Budget (OMB) designated metropolitan statistical area (MSA) at least 21 days prior to the established bid opening and at least 5 days prior to any scheduled pre-bid conference. An invitation to bid for construction projects that are projected to cost more than \$500,000.00 shall be publicly advertised at least once in a newspaper of general circulation in Jackson County at least 30 days prior to the established bid opening and at least 5 days prior to any scheduled pre-bid conference. Additionally, Notice shall be sent to those vendors and contractors on the Town’s MBE/WBE solicitation list. Alternatively, the Town may substitute the above notice with any solicitation procedure which generates at least three responsible and responsive bids or proposals which can be considered. However, if three responsible and responsive bids or proposals are not received, the procurement will be invalid.

An Invitation to Bid shall be issued and shall include specifications, all contractual terms and conditions, and the place, date, and time for opening or submittal. No later than five working days prior to the date for receipts of bids, a vendor shall make a written request to the Town for interpretations or corrections of any ambiguity, inconsistency or error which the vendor may discover. All interpretations or corrections will be issued as addenda. The Town will not be responsible for oral clarifications. No negotiations, decisions or actions shall be initiated or executed by the proposer as a result of any discussions with any Town employee prior to the opening of proposals. Only those communications which are in writing from the Town may be considered as a duly authorized expression on the behalf of the Council. Also, only communications from firms or individuals which are in writing and signed will be recognized by the Council as duly authorized expressions on behalf of proposers.

- (1)     Alternate(s). Alternate bids will not be considered unless authorized by and defined in the Special Conditions of the bid specifications.
  
- (2)     Approved Equivalents. The Town reserves the right to determine acceptance of item(s) as an approved equivalent. Bids which do not comply with stated requirements for equivalents in the bid conditions are subject to rejection. The procedure for acceptance of equivalents shall be included in the general conditions of the bid.

3. Public Notice. Public Notice shall be by publication in a newspaper of general circulation at least twelve (12) working days prior to bid opening or in accordance with Section 4.04-2 above as appropriate. Notice of the Invitation to Bid shall give date, time, and place set forth for the submittal of proposals and opening bids.

Bid Opening. Bids shall be opened publicly. The Purchasing Officer or his/her designee shall open bids in the presence of one or more witnesses at the time and place designated in the Invitation to Bid. The amount of each bid, and other such relevant information as may be deemed appropriate by the Purchasing Officer together with the name of each bidder, and all witnesses shall be recorded. The record (Bid Report) and each bid shall be open to public inspection.

4. Bid Acceptance and Evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this policy. Bids shall be evaluated based on the requirements set forth in the Invitation to Bid, which may include, but not be limited to criteria to determine acceptability such as; inspection, testing, quality, recycled or degradable material content, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measured, such as discounts, transportation costs, and total or life cycle costs. No criteria may be used in bid evaluation that are not set forth in the Invitation to Bid, in regulations, or in this policy.
5. Bid Agenda Item. After evaluation, the Purchasing Officer will prepare a recommendation and shall place the item on the agenda of the Town Council.
6. Correction or Withdrawal of Bids; Cancellation of Awards. Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bids mistakes, shall be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written or telegraphic notice received in the office designated in the Invitation to Bid prior to the time set for bid opening. After bid opening, corrections in bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence that a mistake, of non-judgmental character was made, the nature of the mistake, and the bid price actually intended. After bid opening, no changes in the bid price or other provisions of bids prejudicial to the interest of the Town or fair competition shall be permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw his bid if:
- (1) the mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
  - (2) the bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or withdrawal of bids or to

cancel awards or contracts based on bid mistakes shall be supported by a written determination made by the Purchasing Officer.

7.     Multi-Step Sealed Bidding. When it is considered impractical to initially prepare a purchase description to support an award based on price, an Invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation.
8.     Award. The contract shall be awarded with reasonable promptness to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation to Bid.

(1)     Notice of Intended Award. The contract shall be awarded by written notice. Every procurement of contractual services shall be evidenced by a written agreement. Notice of intended award, including rejection of some or all of bids received, may be given by posting the bid tabulations where the bids were opened, by telephone, by first class mail, or by certified United States mail, return receipt requested, whichever is specified in bid solicitation. A vendor may request, in their bid submittal, a copy of the tabulation sheet to be mailed in a vendor provided, self-addressed envelope for their records.

(2)     Notice of Right to Protest. All notices of decision or intended decisions shall contain the statement: “Failure to file a protest within the time prescribed in Section 4.08 of the CDBG Purchasing Policy of the Town of Eatonville shall constitute a waiver of Proceedings under that section of this policy”.
9.     Cancellation of Invitations for Bids. An Invitation for bids or other solicitation may be canceled, or any or all bids may be rejected in whole or in part when it is in the best interests of the Town, as determined by the Council provided such action does not violate CDBG program requirements. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any re-solicitation or any future procurement of similar items.
10.    Disqualification of Vendors. For any specific bid, vendors may be disqualified by the Finance Director or Town Clerk for the following reasons:

(1)     Failure to perform according to bidding provisions.

(2)     Conviction in a court of law of any criminal offense in connection with the conduct of business.

(3)     Clear and convincing evidence of a violation of any federal or state anti-trust law based on the submission of bids or proposals, or the awarding of contracts.

- (4) Clear and convincing evidence that the vendor has attempted to give a Town employee a gratuity of any kind for the purpose of influencing a recommendation or decision in connection with any part of the Town’s purchasing activity.
- (5) Failure to execute a Public Entity Crimes Statement as required by Florida Statutes Chapter 287.133 (3) (a).
- (6) Failure to be a responsive bidder according to the bidding procedures and provisions will result in disqualification of a bid.

Section 4.05                    COMPETITIVE SEALED PROPOSALS

All contracts for purchases of a single item or services or aggregate in excess of the established base amount for Competitive Sealed Bids/Proposals in Section 4, where qualifications, not price, is the basis for contract award, shall be awarded by competitive sealed proposals. All contracts for the procurement of professional architectural, engineering, landscape architectural, and land surveying services will be awarded according to the provisions of Section 4.051. All other contracts required to be awarded by competitive sealed proposals will be awarded according to the provisions of Section 4.052.

Section 4.051                    PROFESSIONAL                    ARCHITECTURAL,                    ENGINEERING,                    LANDSCAPE  
ARCHITECTURAL, AND LAND SURVEYING SERVICES

- 1.     Public Announcement. It is the policy of the Town to publicly announce all requirements for professional architectural, engineering, landscape architectural, and land surveying services and to negotiate such contracts on the basis of demonstrated competence and qualifications at fair and reasonable prices. In the procurement of such services, the Town may require firms to submit a statement of qualifications, performance data and other related information for the performance of professional services.
  
- (1)     Scope of Project Requirements. Prior to submission of the request for proposals for professional services as an agenda item for approval by the Council, the Purchasing Officer shall submit to the Town written project requirements indicating the nature and scope of the professional services needed, including but not limited to the following:
  - (a)     the general purpose of the services or study;
  - (b)     the objectives of the study or services;
  - (c)     estimated period of time needed for the services or the study;
  - (d)     the estimated cost of the service or study;
  - (e)     whether the proposed study or service would or would not duplicate any prior or existing study or services;
  - (f)     list of current contracts or prior services or studies which are related to the proposed study or service;
  - (g)     the described qualifications, listed in order of importance, of the person or firm applicable to the scope and nature of the services requested.

- (2) Distribution of Project Requirements. The Purchasing Officer shall distribute the written project requirements as approved by the Town Council to all persons on the mailing list who have indicated an interest in being considered for the performance of such professional services and to any additional persons as the Purchasing Officer or using agency deems desirable. The written project requirements shall include a statement of the relative importance of each of the requirements. The project requirements shall be accompanied by an Invitation to such persons to submit an indication of interest in performing the required services, and by notification of the date and time when such indications of interest are due. This date shall not be less than twelve calendar days from the date of public notice when the Purchasing Officer shall publish in at least one daily newspaper of general circulation in the County where the project is located and in a nearby federal Office of Management and Budget (OMB) designated metropolitan statistical area (MSA). Alternatively, the Town may substitute the above notice with any solicitation procedure which generates at least three responsible and responsive bids or proposals which can be considered. However, if three responsible and responsive bids or proposals are not received, the procurement will be invalid.
  - (3) Modification Prohibition. After the publicized submission time and date, indications of interest shall not be modified or allowed to be modified in any manner except for correction of clerical errors or other similar minor irregularities as may be allowed by the Selection Committee (defined in Section 4.051B) prior to making its selection of those best qualified to be formally interviewed.
  - (4) Reuse of Existing Plans. There shall be no public notice requirements or utilization of the selection process as provided in this section for projects in which the Town is able to reuse existing plans from a prior project. However, public notice of any plans which are intended to be reused at some future time shall contain a statement which provides that the plans are subject to reuse.
- 2. Selection Committee Membership and Evaluation. Depending on the expected complexity and expense of the professional services to be contracted, the Town may determine whether a three-member or five-member selection committee will best serve the needs of the Council.
  - (1) Three Member Committee Composition. Membership of a three-member selection committee shall be appointed by the Town Council.
  - (2) Five Member Committee Composition. Membership of a five-member selection committee shall be appointed by the Town Council.
  - (3) Selection Committee Evaluation. Only written responses of statements of qualifications, performance data, and other data received in the purchasing office by



the publicized submission time and date shall be evaluated. Only those respondents who are determined to be best qualified based upon the evaluation of written responses and selected for Formal interview may submit additional data. From among those persons evidencing, by timely submission of written responses, an interest in performing the services the Selection Committee shall:

- (a) prepare an alphabetical list of those persons determined by the Selection Committee to be qualified, interested and available; and
  - (b) designate no less than three persons on the alphabetical list considered by the Selection Committee to be best qualified to perform the work required.
- (4) Shortlisting. The best qualified respondents shall be based upon the Selection Committee's ability to differentiate qualifications applicable to the scope and nature of the services to be performed.

The Selection Committee shall determine qualifications, interest and availability by reviewing the written responses that express an interest in performing the services, and by conducting formal interviews of no less than three selected respondents that are determined to be best qualified based upon the evaluation of written responses. The determination may be based upon, but not limited to, the following considerations:

- (a) competence, including technical educational and training, experience in the kind of project to be undertaken, availability of adequate personnel, equipment and facilities, the extent of repeat business of the persons, and where applicable, the relationship of construction costs estimates by the person to actual cost on previous projects;
  - (b) current work load;
  - (c) financial responsibilities;
  - (d) ability to observe and advise whether plans and specifications are being compiled with, where applicable;
  - (e) record of professional accomplishments;
  - (f) proximity to the project involved, if applicable;
  - (g) record of performance; and
  - (h) ability to design an approach and work plan to meet the project requirements, where applicable.
- (5) Interview and Council Approval. After conducting the formal interviews, the Selection Committee shall list those respondents interviewed in order of preference based upon the considerations listed in subsection (4) above. The respondents so listed shall be considered to be the most qualified and shall be listed in order of preference starting at the top of the list. The list of best qualified persons shall be forwarded to

the Council for approval prior to beginning contract negotiations. Negotiation sequence shall be based on the order of preference.

- 3. Negotiation Staff. Contract negotiations shall be conducted by the Purchasing Officer unless the Council President directs that negotiations be conducted by a Negotiation Committee.

Negotiation. The Purchasing Officer or the Negotiation Committee shall negotiate a contract with the firm considered to be the most qualified to provide the services at compensation and upon terms which the Purchasing Officer or the Negotiation Committee determines to be fair and reasonable to the Town. In making this decision, the Purchasing Officer or the Negotiation Committee shall take into account the estimated value, the scope, the complexity, and the professional nature of the services to be rendered. As a part of the negotiation, the Purchasing Officer or the Negotiation Committee shall conduct a cost analysis, including evaluation of profit, based on a cost breakout by the firm of its proposed price. Should the Purchasing Officer or the Negotiations Committee be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, negotiations with that firm will be formally terminated. The Purchasing Officer or the Negotiation Committee shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the Purchasing Officer or the Negotiation Committee shall formally terminate negotiations, and then shall undertake negotiations with the third most qualified firm. Should the Purchasing Officer or the Negotiation Committee be unable to negotiate a satisfactory contract with any of the selected firms, the Selection Committee shall select additional firms in order of their competence and qualifications, and the Purchasing Officer or Negotiation Committee shall continue negotiations in accordance with this section until an agreement is reached or until a determination has been made not to contract for services.

Section 4.052                    OTHER COMPETITIVE SEALED PROPOSALS (non-287.055 services)

- 1. Conditions for Use. All contracts required by Section 4.05 to be awarded by competitive sealed proposals that are not for the procurement of professional architectural, engineering, landscape architectural, and land surveying services, will be awarded according to the provisions of this section.
- 2. Consultant’s Competitive Negotiation Act. Professional services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered land surveying, as defined under the Consultant’s Competitive Negotiation Act (Section 287.055, Florida Statutes), shall be secured under the provisions of Section 4.051.
- 3. Council Approval. Proposals anticipated to exceed the threshold established in Section 4 for Competitive Sealed Proposals shall be approved by the Town of Eatonville prior to solicitation.
- 4. Public Notice. Adequate public notice of the Request for Proposal shall be given in the same manner as provided in subsection 4.04-3 of this policy for competitive sealed bidding. Notice

shall also be sent to those vendors and contractors on the Town’s MBE/WBE solicitation list.

- 5. Evaluation Factors. The Request for Proposals shall state the relative importance of criteria outlined in the scope of services, fee proposal, and other evaluation.
- 6. Proposal Cancellation or Postponement. The Purchasing Officer may, prior to a proposal opening, elect to cancel or postpone the date and/or time for proposal opening or submission.
- 7. Revisions and Discussions with Responsible Offerors. As provided in the Request for Proposals, and under regulations promulgated by the Town Council of the Town of Eatonville, discussions may be conducted with responsible offerors who submit proposals determined to be qualified of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submission and prior to award for the purpose of obtaining the best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors. The Purchasing Officer shall prepare a written summary of the proposals and make written recommendation of award to the Town Council. As a part of the recommendation, the Purchasing Officer shall conduct a cost analysis, including evaluation of profit, based on a cost breakout by the firm of its proposed price.

Award. Award shall be made by the Town Council to the lowest responsive and responsible offer or whose proposal is determined in writing to be the most advantageous to the Town of Eatonville, taking into consideration the evaluation factors set forth in the Request for Proposals. No other factors or criteria shall be used in the evaluation criteria that is not included in the Request for Proposal.

Section 4.06                      SOLE SOURCE PURCHASES

- 1. Sole Source Certification (non-competitive procurements). The procurement for all professional services and any contract resulting from a non-competitive procurement process must meet the requirements of 2 CFR Part 200.320 and Section 287.055 of the Florida Statutes. The Town’s Purchasing Officer must conduct a cost or price analysis of all proposed prices on sole source purchases, analysis shall include a review of profit as a separate element. Sole source non-competitive purchases over \$25,000 must be approved by DEO in writing.

Section 4.07                      COOPERATIVE PURCHASING

- 1. State Contracts. The Purchasing Officer is authorized to purchase goods or services for any dollar amount from authorized vendors listed on the respective state contracts of the Department of General Services, subject otherwise to the requirements of this policy.

- 2. Other Governmental Units. The Purchasing Officer shall have the authority to join other units of government in cooperative purchasing ventures when the best interest of the Town would be served thereby, and the same is in accordance with this policy and with the Town and State Law.

Section 4.08                      SOLICITATION DOCUMENTS

- 1. Contractors and/or vendors that develop or draft solicitation documents, specifications, requirements, statements of work, or invitations for bids or requests for proposals are prohibited from competing for such procurements?

Section 4.09                      BID PROTEST

- 1. Right to Protest. Any actual prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of contract may protest to the Town Council. Protestors shall seek resolution of their complaints initially with the Purchasing Officer and secondly with the Town Clerk prior to protesting to the Town Council.

- 2. Filing a Protest. Any persons who is affected adversely by the decision or intended decision of the Town shall file with the Purchasing Officer a notice of protest in writing within 72 hours after the posting of bid tabulation or after receipt of the notice of intended decision; and file a formal written protest within 10 calendar days after he/she filed the notice of protest. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under this Section. A written protest is filed with the Town when it is delivered to and received in the office of the Purchasing Officer.

(1) The notice of protest shall contain at a minimum: the name of the bidder; the bidders address and phone number; the name of the bidder’s representative to whom notices may be sent; the name and bid number of the solicitation; and a brief factual summary of the basis of the protest.

(2) The formal written protest shall; identify the protestant and the solicitation involved; include a plain, clear, statement of the grounds on which the protest is based; refer to the statutes, laws, ordinances, or other legal authorities which the protestant deems applicable to such grounds; and specifically request the relief to which the protestant deems himself entitled by application of such authorities to such grounds.

(3) The protestant shall mail a copy of the notice of protest and the formal written protest to any person with whom he/she is in dispute.

- 3. Settlement and Resolution. The Purchasing Officer shall; within 14 days of the formal written protest, attempt to resolve the protest prior to any proceedings arising from the position. Provided, however, if such settlement will have the effect of determining a substantial interest of another party or business, such settlement must be reached in the course of the proceedings provided herein.

4. Protest Proceedings. If the protest cannot be resolved by mutual agreement, the Purchasing Officer shall conduct or designate another to conduct a protest proceeding pursuant to the following procedures:
  - (1) Protest Proceeding Procedures.
    - (a) The presiding officer shall give reasonable notice to all substantially affected persons or businesses. Otherwise petitions to intervene will be considered on their merits as received.
    - (b) At or prior to the protest proceeding, the protestant may submit any written physical materials, objects, statements, or affidavits, and arguments which he/she deems relevant to the issues raised.
    - (c) In the proceeding, the protestant, or his/her representative or counsel, may also make an oral presentation of his evidence and arguments. However, neither direct nor cross examination of witnesses shall be permitted, although the presiding officer may make whatever inquiries he/she deems pertinent to a determination of the protest.
    - (d) The judicial rules of evidence shall not apply and the presiding officer shall base his/her decision on such information given in the course of the proceeding upon which reasonable prudent persons rely in the conduct of their affairs.
    - (e) Within seven (7) working days of the conclusion of the proceeding, the presiding officer shall render a decision which sets forth the terms and conditions of any settlement reached. Such decision of the presiding officer shall be conclusive as to the recommendation to the Town Council.
    - (f) Any party may arrange for the proceedings to be stenographically recorded and shall bear the expense of such recording.
  - (2) Intervenor. The participation of intervenors shall be governed by the terms of the order issued in response to a petition to intervene.
  - (3) Time Limits. The time limits in which protests must be filed as provided herein may be altered by specific provisions in invitation for bids or request for proposal.
  - (4) Entitlement to Costs. In no case will the protesting bidder or offeror be entitled to any costs incurred with the solicitation, including bid preparation costs and attorney's fees.
5. Stay of Procurement During Protests. In the event of a timely protest under Subsection A of this Section, the Purchasing Officer shall not proceed further with the solicitation or award of the contract until all administrative remedies have been exhausted or unless the Town Council makes a determination that the award of a contract without delay is necessary to protect the substantial interest of the Town.

Section 4.10                    CONTRACT CLAIMS

1.     Authority of the Purchasing Officer to Settle Bid Protests and Contract Claims. The Purchasing Officer is authorized to settle any protest regarding the solicitation or award of a Town contract, or any claim arising out of the performance of a Town contract, prior to an appeal to the Town Council or the commencement of an action in a court of competent jurisdiction, but may not settle any such protest or claim for consideration of \$1,000.00 or greater in value without prior approval of the Town Council.
2.     Decision of the Purchasing Officer. All claims by a contractor against the Town relating to a contract, except bid protests, shall be submitted in writing to the Purchasing Officer for a decision. The contractor may request a conference with the Purchasing Officer on the claim. Claims include, without limitation, disputes arising under a contract, and those based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission.
3.     Notice to the Contractor of the Purchasing Officer’s Decision. The decision of the Purchasing Officer shall be promptly issued in writing, and shall be immediately mailed or otherwise furnished to the contractor. The decision shall state the reasons for the decision reached, and shall inform the contractor of his appeal rights.
4.     Finality of the Purchasing Officer Decision; Contractor’s Right to Appeal. The Purchasing Officer’s decision shall be final and conclusive unless, within 10 calendar days from the date of receipt of the decision, the contractor files a notice of appeal with the Town Council.
5.     Failure to Render Timely Decision. If the Purchasing Officer does not issue a written decision regarding any contract controversy within fourteen calendar days after receipt of a written request for a final decision, or within such longer period as may be agreed upon between the parties, then the aggrieved party may proceed as if an adverse decision had been issued.

Section 4.11     REMEDIES FOR SOLICITATION OR AWARDS IN VIOLATION OF LAW

1.     Prior to Bid Opening or Closing Date for Receipt of Proposals. If prior to the bid opening or the closing date for receipt of proposals, the Purchasing Officer after consultation with the Town Attorney, determines that solicitation is in violation of federal, state, or local law or ordinance, then the solicitation shall be canceled or revised to comply with applicable law.
2.     Prior to Award. If after bid opening or the closing date for receipt of proposals, but prior to the award contract, the Purchasing Officer after consultation with the Town Attorney, determines that a solicitation or a proposed award of a contract is in violation of federal, state, or municipal law or ordinance, then the solicitation or proposed award shall be canceled.
3.     After Award. If, after award, the Purchasing Officer after consultation with the Town Attorney, determine that a solicitation or award of a contract was in violation of applicable

law or ordinance, then;

- (1) if the person awarded the contract has not acted fraudulently or in bad faith:
  - (a) the contract may be terminated and the person awarded the contract shall be compensated for actual costs reasonably incurred under the contract plus a reasonable profit, but excluding attorney’s fees, prior to termination; or
- (2) if the person awarded the contract has acted fraudulently or in bad faith the contract may be declared null and void or voidable, if such action is in the best interest of the Town.

Section 5                      CONTRACT ADMINISTRATION

Section 5.1                      CONTRACT PROVISION

- 1. Standard Contract Clauses and Their Modification. The Town after consultation with the Town Attorney, may establish standard contract clauses for use in Town contracts. However, the Purchasing Officer may, upon consultation with the Town Attorney, vary any such standard contract clauses for any particular contract.
- 2. Contract Clauses. All Town contracts for supplies, services, and construction shall include provisions necessary to define the responsibilities and rights of the parties to the contract. The Purchasing Officer after consultation with the Town Attorney, may propose provisions appropriate for supply, service, or construction contracts, addressing among others the following subjects:
  - (1) the unilateral right of the Town to order, in writing, changes in the work within the scope of the contract;
  - (2) the unilateral right of the Town to order in writing temporary stopping of the work or delaying performance that does not alter the scope of the contract;
  - (3) variations occurring between estimated quantities or work in contract and actual quantities;
  - (4) defective pricing;
  - (5) time of performance and liquidated damages;
  - (6) specified excuses for delay or nonperformance;
  - (7) termination of the contract for default;
  - (8) termination of the contract in whole or in part for the convenience of the Town;
  - (9) suspension of work on a construction project ordered by the Town;
  - (10) site conditions differing from those indicated in the contract, or ordinarily encountered, except that a differing site conditions clause need not be included in a contract
    - (a) when the contract is negotiated;
    - (b) when the contractor provides the site or design; or

- (c) when the parties have otherwise agreed with respect to the risk of differing site conditions;
- (11) value engineering proposals;
- (12) remedies;
- (13) access to records/retention records;
- (14) environmental compliance; and
- (15) prohibition against contingency fees;
- (16) insurance to be provided by contractor covering employee property damage, liability and other claims, with requirements of certificates of insurance and cancellation clauses;
- (17) bonding requirements for construction contracts shall adhere to 255.05 Florida Statutes and 2 CFR 200.326 and shall include five percent (5%) Bid Bond, 100% Performance Bond and 100% Payment Bond for projects costing \$200,000 or more;
- (18) causes of and authorization for suspension of contract for improper contractor activity.
- (19) as appropriate and to the extent consistent with law, the Town will, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The Town will include these requirements in all subawards including all contracts and purchase orders for work or products under this award.
- (20) the Town typically does not utilize Time and Materials contracts related to CDBG procurements, however, in the event that this type contract is utilized, a not to exceed ceiling price will be included.

Section 5.2                      PRICE ADJUSTMENTS

- 1.     Method of Price Adjustment. Adjustments in price during the term of a contract shall be computed in one or more of the following ways upon approval by the Town:
  - (1) by agreement on a fixed price adjustment before adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
  - (2) by unit prices specified in the correct or subsequently agreed upon;
  - (3) by costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon by the Town;
  - (4) in such other manner as the contracting parties may mutually agree; or
  - (5) in the absence of agreement by the parties, by a unilateral determination by the Town of the costs attributable to the events or situations under such clauses with adjustment of profit or fee as computed by the Town, subject to the provisions of this Section.
- 2.     Costs or Pricing Data Required. A contractor shall be required to submit cost or pricing data if any adjustment in contract price is subject to the provisions of this Section.



Section 5.3                      CHANGE ORDERS/CONTRACT AMENDMENTS

Change orders and contract amendments, which provide for the alteration of the provisions of a contract may be approved by an appropriate person based upon the dollar value of the change or amendment. The purchasing categories thresholds designated in Section 4.01 shall govern the appropriate level of approval.

Section 5.4                      ASSIGNMENTS OF CONTRACTS

No agreement made pursuant to any section of this policy shall be assigned or sublet as a whole or in part without the written consent of the Town nor shall the contractor assign any monies due or to become due to the contractor hereunder without the previous written consent of the Town.

Section 5.5                      RIGHT TO INSPECT PLANT

The Town may, as its discretion, inspect the part of the plant or place of business of a contractor or any subcontractor which is related to the performances of any contract awarded, or to be awarded, by the Town. The right expressed herein shall be included in all contracts or subcontracts that involve the performance of any work or service involving the Town.

Section 6                        TOWN PROCUREMENT RECORDS

1.     Contract File. All determinations and other written records pertaining to the solicitation, award, or performance of a contract shall be maintained for the Town in a contract file.
  
2.     Retention of Procurement Records. All procurement records shall be retained and disposed of by the Town in accordance with records retention guidelines and schedules established by the State of Florida and Federal Guidelines. For CDBG related activities that retention period is six years.
  
3.     Personally Identifiable Information, bids that include proprietary or copyrighted materials, and any financial statements submitted by bidders will be kept secure and private, unless otherwise designated as a public record by Chapter 119, Florida Statutes.

Section 7                        SPECIFICATIONS

Section 7.1                      MAXIMUM PRACTICABLE COMPETITION

All specifications shall be drafted to promote overall economy and encourage competition in satisfying the Town needs and shall not be unduly restrictive. The policy applies to all specifications including, but not limited to, those prepared for the Town by architects, engineers, designers, and draftsmen.

Section 7.2                      USE OF BRAND NAME OR EQUIVALENT SPECIFICATIONS

1.     Use. Brand name or equivalent specifications may be used when the Town determines that:
  - (1)     no other design, performance, or qualified product list is available;
  - (2)     time does not permit the preparation of another form of purchase description, not

- including a brand name specification;
- (3) the nature of the product or the nature of the Town requirements makes use of a brand name equivalent specifications suitable for the procurement; or
- (4) use of brand name or equivalent specification is in the Town’s best interest.
2. Designation of Several Brand Names. Brand names or equivalent specifications shall seek to designate three, or as many different brands as are practicable, as “or equivalent” references and shall further state the substantially equivalent products to those designated may be considered for award.
3. Required Characteristics. The brand name or equivalent specifications shall include a description of the particular design, functional, or performance characteristics required.
4. Nonrestrictive Use of Brand Name or Equivalent Specifications. Where a brand name or equivalent specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.
5. Determination of Equivalents. Any prospective bidder may apply, in writing, for a pre-bid determination of equivalence by the Purchasing Director. If sufficient information is provided by the prospective bidder, the Purchasing Director may determine, in writing and prior to the bid opening time, that the proposed product would be equivalent to the brand name used in the solicitation.
6. Specifications of Equivalents Required for Bid Submittal. Vendors proposing equivalent products must include in their bid submittal the manufacturer’s specifications for those products. Brand names and model numbers are used for identification and reference purposes only.

Section 7.3                      BRAND NAME SPECIFICATIONS

1. Use of Brand Name Specifications. Since the use of a brand name specification is restrictive of product competition, it may be used only when the Purchasing Director makes a determination that only the identified brand name item will satisfy the Town needs.
2. Competition. The Purchasing Director shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 4.10, Sole Source Purchases.

Section 8                      ETHICS IN PUBLIC CONTRACTING

Section 8.1                      CRIMINAL PENALTIES

To the extent that violations of the ethical standards of conduct set forth in this section constitute

violations of the State Criminal Code they shall be punishable as provided therein. Such penalties shall in addition to civil sanctions set forth in this part.

Section 8.2                      EMPLOYEE CONFLICT OF INTEREST

1.     Participation. It shall be unethical for any Town employee, officer, or agent to participate directly or indirectly in a procurement or administration of a contract. A conflict of interest would arise when:
- (1)     the Town employee, officer or agent;
  - (2)     any member of his immediate family;
  - (3)     his or her partner; or
  - (4)     an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The officer's employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, or parties to sub-agreements.

Section 8.3                      CONTEMPORANEOUS EMPLOYMENT PROHIBITED

It shall be unethical for any Town employee who is participating directly or indirectly in the procurement process to become or to be, while such a Town employee, the employee of any person contracting with the Town of Eatonville.

Section 8.4                      USE OF CONFIDENTIAL INFORMATION

It shall be unethical for any employee knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of other persons.

Section 8.5                      GRATUITIES AND KICKBACKS

- 1.     Gratuities. It shall be unethical for any person to offer, give, or agree to give any Town employee, officer, or agent to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with the decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard rendering of advise, investigation, auditing, or performing in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, subcontract, or to any solicitation or proposal theretofore.
  
- 2.     Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or behalf a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.
  
- 3.     Contract Clause. The prohibition against gratuities and kickbacks prescribed in this section shall conspicuously set forth in every contract and solicitation therefore.

Section 8.6                      SANCTIONS

1.     Employee Sanctions. Upon violation of the ethical standards by an employee, officer or agent of the Town, or other appropriate authority may:
  - (1)     impose one or more appropriate disciplinary actions as defined in the Town Personnel Rules and regulations, up to and including termination of employment; and;
  - (2)     may request investigations and prosecution
  
2.     Non-employee Sanctions. The Council may impose any one or more of the following sanctions on a non-employee for violation of the ethical standards:
  - (1)     written warnings;
  - (2)     termination of contracts; or
  - (3)     debarment or suspension as provided in Section 11-8.

Section 8.7                      RECOVERY OF VALUE TRANSFERRED OR RECEIVED IN BREACH OF ETHICAL STANDARDS

1.     General Provisions. The value of anything being transferred or received in breach of the ethical standards of this policy by a Town employee or non-employee may be recovered from both the Town employee and non-employee.
  
2.     Recovery of Kickbacks by the Town of Eatonville. Upon a showing that a subcontractor made a kickback to prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the Town and will be recoverable hereunder from the recipient. In addition, that amount may also be recovered from the subcontractor making such a kickback. Recovery from one offending party shall not preclude recovery from other offending parties.

Section 9                      FEDERAL POLICY NOTICE

Section 9.1                      PATENTS

If a contract involving research and development, experimental, or demonstration work is being funded in whole or in part by assistance from a federal agency, then the contract shall include the following provisions:

1.     Notice to Contractor. The contract shall give notice to the contractor of the applicable grantor agency requirements and regulations concerning reporting of, and rights to, any discovery or inventions arising out of the contract.
  
2.     Notice by Contractor. The contract shall require the contractor to include a similar provision in all subcontracts involving research and development, experimental, or demonstration

work.

Section 9.2                      NOTICE OF FEDERAL PUBLIC POLICY REQUIREMENTS

1.     Applicability. If the contract is being funded in whole or in part by assistance from any federal agency, the contract is subject to one or more federal public policy requirements such as:
  - (1)     equal employment opportunity;
  - (2)     Copeland “anti-kickback” Act;
  - (3)     Davis Bacon Act;
  - (4)     Contract Work Hours and Safety Act;
  - (5)     Americans with Disabilities Act;
  - (6)     Section 3; and
  - (7)     Other requirements set forth in any contract.
2.     Notice. The Purchasing Director shall include in the contract all appropriate provisions giving the contractor notice of these requirements. Where applicable, the Purchasing Director shall include in the contract provisions the requirement that the contractor give similar notice to all of its subcontractors.
3.     All federally funded contracts shall include the provisions outlined in 2 CFR 200.237 and Appendix II to Part 2 CFR 200.

Section 10                      ACCESSIBILITY

1.     When applicable, procurement documents will be made available in compliance with Section 508.

Section 11                      PAYMENT TO VENDORS

All payment to vendors shall also in accordance with the amended “Prompt Payment Act”, Chapter 89-297, Florida Statutes.

Section 12                      MINORITY BUSINESS ENTERPRISE PARTICIPATION PROGRAM

1.     Purpose and Scope. The purpose of the Minority Business Enterprise Program is to enhance the participation of qualified minority and women-owned businesses in providing goods and services and construction contracts required by the Town Council. This program describes procedures to accomplish this purpose and to monitor and evaluate progress. All Department and Divisions under the jurisdiction of the Town Council are responsible for implementing this program.
2.     Policy Statement.
  - (1)     It is the policy goal of the Town that two percent (2%) of the Council approved procurement as contained with both operating and capital improvement budgets (exclusive of in-house services and construction) shall be identified and let through the competitive bid process to minority and women businesses and persons. The

program is based on an in-depth evaluation of all actual as well as projected procurement (Capital Improvement Projects, equipment, commodities and services) and on the market place. Procurement identified to establish a base for this program are not limited to those items only. This evaluation is the main factor in building a realistic program with attainable targets.

- (2) All departments and divisions under the jurisdiction of the Town Council are responsible for implementing this program and for making every reasonable effort to utilize MBEs and WBE's when opportunities are available. The Purchasing Officer will take the lead role in this process by taking active steps to encourage minority or women owned businesses.
  - (3) Regarding the implementation of this policy, it is the Council's intent to foster economic development in the Town's area by establishing its MBE goals based on availability of minority and women-owned businesses located within the Town. This is no way intended to limit or restrict competition. Rather, availability of area companies will be used to guide MBE goals. Such geographical preferences may be adjusted, amended or repealed by the Town Council, with or without a public hearing, as deemed necessary.
- 3. Definition. Minority Business Enterprise (MBE) as used herein, means a business that is owned and controlled at least 51% by one or more minority persons (MBE) or by one or more women (WBE) and whose management and daily operations are controlled by one or more such persons.
- 4. Administrative Responsibilities. The Purchasing Officer is responsible for the coordination of the Minority Business Enterprise Program and registration.
  - (1) Capital Improvement Projects
    - (a) REVIEW  
The Purchasing Officer and an appropriate department representative shall review each proposed project or bid to determine potential for utilization of MBE/WBEs and report their finds to the Town Council. This review is based on known availability of capable MBE/WBEs in the area in relation to the scope of the bid package and considers how a project might be broken down into sub-bids.
    - (b) PRE-BID ACTIVITY
      - (1) Language regarding the Minority Business Enterprise Program will be inserted into bid specifications to assure that prospective bidders are aware of a requirement to make good faith efforts to utilize MBE/WBEs.

- (2) Registered MBE/WBEs, the Minority Contractors Association and other organizations for minority and women owned businesses will be notified in writing regarding pre-bid conferences where information on project scope and specifications will be presented, along with other types of technical assistance.
- (3) Upon request available plans and specification will be provided to MBE/WBE associations along with any special instructions on how to pursue bids.
- (4) Majority (prime) contractors on a bid list will be sent a letter outlining the Minority Business Enterprise Program procedures, the supportive documentation required for submittal with their bid, and a list of MBE/WBE contractors on the bid list.
- (5) Prior to award the Prime Contractor must provide documentation on attempts to solicit participation from MBE/WBE firms.
- (6) The Prime Contractor attempts to utilize MBE/WBE firms during the project must be documented as part of the Prime's contract award responsibilities under this program. Documentation to include but not limited to requests for bids, bids received and justification for not utilizing MBE/WBE firms when bid amounts received are comparable.

Failure to keep these commitments will be deemed noncompliance with the contract and may result in a breach of contract.

(2)     Contractor Responsibilities

- (a) Contractors must indicate all MBE/WBEs, contacted for quotes regarding a particular scope of work and submit a completed "Intent to Perform" sheet containing information and documentation obtained from each MBE/WBEs.
- (b) A contractor who determines that a MBE/WBEs, names in the bid submittal, is unavailable or cannot perform, will request approval from the Purchasing Officer to name an acceptable alternate. Such requests will be approved when adequate documentation of cause for the change is presented by the contractor.
- (c) A contractor's MBE/WBE plan will utilize MBE/WBEs to perform commercially useful functions in the work bid. A MBE/WBE is performing a commercially useful function when it is responsible for the management and performance of a distinct element of the total work.
- (d) Contractors are required to make good faith efforts to obtain MBE/WBE participation when so stipulated by bid specifications and/or contracts. If these efforts are unsuccessful, the contractor will submit a non-

availability or refusal to participate and will request waiver of MBE/WBE participation.

- (e) The contractor who is the successful bidder will attend pre-construction conferences with appropriate Town representatives to review the project scope and the MBE/WBE utilization plan.
- (f) The contractor who is the successful bidder must request a change order for any modification to the MBE/WBE plan. Change orders require Council approval and are contingent on contractor documentation of MBE/WBE involvement in the change requested and documentation of cause for these changes.

5. Joint Venture Responsibilities

Definition of Joint Venture - A business arrangement in which two or more parties agree to pool their resources for the purpose of accomplishing a specific task. All parties agree to share in the profit and losses of the enterprise.

- (1) All joint ventures between minority and non-minority contractors must meet the “joint venture” definition included in the policy.
- (2) The use by MBE/WBEs or prime contractors of “minority fronts” or other fraudulent practices which subvert the true meaning and spirit of the Minority Business Enterprise Program, will not be tolerated and may result in termination of participation.
- (3) A joint venture consisting of minority and non-minority business enterprise will be credited with MBE/WBE participation on the basis of the percentages of the dollar amount of the work to be performed by the MBE/WBEs.
- (4) Contracts subject to this policy shall contain provisions stating that liquidated damages may be assessed against the general contractor and/or the MBE/WBE specifications in the contract(s). Such liquidated damage provisions shall be in a form approved by the Council.

6. Fulfilling MBE/WBE Participation Requirements

For the purpose of this policy, a general contractor may utilize the services of a MBE/WBE subcontractor, manufacturer, and/or supplier in estimating and satisfying the scope of work, provided that written contract/agreement is executed between the general contractor and the subcontractor, manufacturer, and/or the supplier.

7. Payment



- (1) Payment will be expedited by the Town Council within thirty (30) days upon completion and acceptance of the project. Special consideration may be given to hardship cases upon notification by MBEs/WBEs.
  - (2) The Town will provide work progress payments to all business at the completion and subsequent acceptance by Council representatives within various stages of a particular project.
8. Bid List.

A bid list for the purpose of bid solicitations shall be maintained by the Town. The list shall consist of firms that apply.

  - (1) The Council may remove firms from the bid list for the following reasons:
    - (a) failure to perform according to contract provisions;
    - (b) conviction in a court of law of any criminal offense in connection with the conduct of business.
    - (c) clear and convincing evidence of a violation of any federal or state anti-trust law based on the submission of bids or proposals or the awarding of contracts.
    - (d) clear and convincing evidence that a vendor has attempted to give a Council employee, officer or agent a gratuity of any kind for the purpose of influencing recommendation or decision in connection with any part of the Town Council purchasing activity;
    - (e) violation of circumvention of the Minority Business Enterprise Program; or
    - (f) other reasons deemed appropriate by the Town Council
  - (2) This policy is consistent with the Town’s Purchasing Policy. Wherever conflicts may exist, the provision in this Purchasing Policy will prevail.
9. Reporting.

The Purchasing Officer or appropriate person will report, at least annually, to the Council on the Status of the Minority Business Enterprise Program. Records will be maintained reflecting participation of local minority and women owned businesses and shall be reported.

Section 13      SECTION 3

1. The Town of Eatonville shall make every reasonable effort to contract with Section 3 businesses and shall require prime contractors to make every reasonable effort to hire Section 3 businesses as subcontractors as well as require the prime contractor and the sub-contractors to make every reasonable effort to hire Section 3 personnel when new positions are needed for the project. The Town shall utilize the Section Opportunity Portal to solicit Section 3 Businesses and shall require the prime contractors to utilize the Section Opportunity Portal to solicit Section 3 subcontractors. The Town of Eatonville may utilize other strategies such as local postings and local Section 3 resident lists

to assist the contractors and sub-contractors in their efforts, if applicable, to hire Section 3 workers.



**TOWN**

**OF**

**EATONVILLE, FLORIDA**

**FINANCIAL MANAGEMENT PROCEDURES**

**Table of Contents**

Introduction	3
Responsibilities and Responsible Parties	3
Monitoring	4
Internal Controls	5
Financial System	6
Process Files	7
Permanent Files	8
CDBG Accounting Records	8
Cash Receipts Journal	8
Cash-disbursements Journal	8
Property Register	8
Detailed Activity Ledger	8
Cash Control Register	9
Accounting for Cash Receipts	9
Accounting for Cash Disbursements	9
Allowable Costs	10
Necessary Costs	11
Reasonable Costs	11
Allocable Costs	11
Program Income	12
Annual Audits	12
Common Deficiencies	13
CDBG Payments	13
Record Keeping	14

**Financial Management Policy and Procedures**

**Introduction**

The Town of Eatonville (the Town) will manage all financial aspects of the CDBG-MIT by ensuring that its financial systems and staff are structured in a manner that ensures optimal accountability and adheres to federal and state accounting requirements. All CDBG-MIT awards will be included in the Town's budget. A staffing system will be structured that ensures, to the extent possible, segregation of duties in the financial processes.

In instances where non-CDBG-MIT funding will be used with CDBG-DR funding, the funding sources and uses will be clearly represented as separate funding streams and expenses in the Town's accounting systems. The Town's accounting system or subset of the same will be structured in a manner that reports budget to actual expenditures, detailed check/expenditure registers, and cash balance reporting and expenditures by request for funds.

**Responsible Party and Responsibilities**

The Town acknowledges that it is solely responsible for the financial management and control of CDBG-MIT funds it receives. This document is the Town's accounting procedures that will be followed to comply with state and federal requirements for financial management. The Town will maintain a financial management system that provides the following:

- Effective control over and accountability for all funds, property, and other assets
- Accurate, complete, and timely disclosure of the status and financial results in accordance with specified requirements
- Records that adequately identify (by activity) the source and use of funds for each CDBG-MIT – supported project, including “reasonableness, allowability, and allocability” of costs
- Procedures to comply with the timely distribution of funds

The Town's CDBG responsibility is divided between the local CDBG program administration office that has primary responsibility for CDBG-MIT program administration and the finance officer. The Town's program administration office along with Town management are responsible for reviewing and approving all transactions involving CDBG-MIT funds before the transactions are processed by the finance officer. The administrative and management offices’ responsibilities include the following:

- Approval of purchase orders (where applicable) and contracts to be paid with CDBG-MIT funds
- Receipt and approval of invoices
- Assurance that transactions involving CDBG-MIT funds are properly coded
- Review of and approval of requisitions for payments involving CDBG-MIT funds

The finance officer is responsible for maintaining official CDBG-MIT financial records and for posting account transactions. Official records will be maintained in either an automated or a manual format. The finance officer’s responsibilities also include the following:

- Control of accounting documents once they are approved for processing by the program department
- Preparation of financial reports (based on accounting records)
- Preparation of Requests for Funds (prepared in conjunction with the administration office)
- Entry of transactions into the accounting system
- Assisting the Town's auditor in preparing an annual financial audit

The Town will be familiar with and adhere to the applicable Federal requirements to financial management found in 2 CFR 200; and will review this regulation for more detailed and additional information when financial management questions arise, including special circumstances.

**Monitoring**

The Town will be prepared and have the necessary documentation available for DEO monitoring of its financial system and financial transactions and understands that DEO staff will utilize the following (or similar) testing tools, which are based on HUD’s monitoring checklists:

- the Financial Management I Monitoring Checklist: System Review Checklist is typically utilized for the first pre-award and the initial onsite monitoring of financial management to review the Town's:
  - internal controls,
  - separation of duties,
  - the accounting system used by the Town, and
  - the procedures for determining allowable costs and housing escrow accounts.
- Financial Management II Monitoring Checklist: Transaction Testing Checklist is typically utilized at the second onsite monitoring visit to review the Town's:
  - accounting records and checks a sampling of invoices,
  - contracts,
  - distributions, and bank statements to ensure that the local government is complying with federal regulations and state laws.

These checklists are located on the DEO website. The Town will respond in a timely manner to any potential DEO financial monitoring findings or concerns.

**Internal Controls**

Internal controls consist of policies and procedures, job responsibilities, qualified personnel, and records management that are designed to safeguard assets such as cash, property, and other assets. The Town will establish a system of internal controls that meets the following minimum requirements:

- A single individual will not be allowed to exercise complete control over all phases of any significant transaction. This means, for example, that the same person cannot purchase materials, receive materials, authorize payment for the materials, and write the check to pay for materials.
- Record keeping will be kept separate from operations and handling and custody of assets.
- Monthly reconciliation and verification of cash balances with bank statements will be made by employees who do not handle or record cash or sign checks.
- Actual lines of responsibility will be clearly established, and a single person identified to assume responsibility for management oversight of the entire financial management system.
- The person who prepares payrolls will not handle related paychecks. If signature stamps are used, they will not be under the control of the same individual who retains blank checks.

The Town's system of internal controls will outline specific program and financial management responsibilities and will enable the Town to maintain the necessary records needed for compliance with Florida law and federal requirements. Where possible, the Town's accounting policies and procedures will mirror the requirements of the Florida Office of the Auditor General.

**Financial System**

The Town will ensure that all source documentation for each transaction is adequately maintained and provided upon request with all details deemed necessary by DEO, the U.S. Department of Housing and Urban Development (HUD), Florida's Chief Financial Officer, and Auditor General. The information contained in source documents is necessary for accounting purposes and will be recorded in one of the books of original entry before being filed. The Town acknowledges that a variety of source documents and records are needed to properly account for CDBG-MIT transactions.

Supporting documentation will demonstrate that costs charged against CDBG-MIT funds:

- were incurred during the effective period of the Town's agreement with the state,
- were actually paid out (or properly accrued),
- were expended on allowable items, and
- had been approved by the responsible staff and official(s) for the Town.

These documents include the following:

- **Purchase Orders** (if utilized) will be prepared in the same format as other purchase orders except that appropriate CDBG-MIT program classification data will be coded on the document. Purchase orders, when utilized, will be approved by the Town's program office and other approver. After approval, one copy will be retained by the program administrative office to

verify receipt of goods, and remaining copies must be forwarded to the finance officer.

- **Contracts** will be filed in the CDBG-MIT program administrative office. Each contract will identify the activity, program, or project to be charged. If multiple contracts are issued for each project or if non-contractual charges are recorded against a project, a separate record will be maintained for each contract to provide readily available information on contract balances. The Town will ensure there is a separate obligation for each contract relating to the same activity to prevent overpayment of any contract. In addition, a Cash Control Register will be maintained to provide summary information for all CDBG-MIT contracts.
- **Vendor Invoices** to be paid with CDBG-MIT funds will first be referred to the program administrative office, compared to the purchase order, checked for appropriateness and accuracy, approved, and coded, as necessary. Approved vendor invoices and appropriate supporting documents will then be forwarded to the finance officer for processing, entry into the financial system and payment.
- **Weekly Time-distribution Sheets** for all employees paid from CDBG-MIT funds. Employees will complete time sheets that indicate the number of hours worked on CDBG-MIT projects, other grant projects, local government activities, and job duties. Time sheets will then be referred to the finance department so that charges to the correct programs and projects can be computed and properly charged. The Town understands that payroll expenses can only be paid from CDBG-MIT funds based on time and attendance records.
- **CDBG Financial Files** that demonstrate the program's financial soundness and regulatory compliance. The Town will maintain an orderly record of CDBG-MIT transactions that will withstand the scrutiny of DEO monitoring and an audit. The Town's financial files will be maintained in logical system. Two broad categories of files will be utilized: process files and permanent files (see below).
- **Space and Utilities:** Costs for space will be supported by documentation such as rental or lease agreements. Utility costs will be supported by bills from utility companies. Both types of expenses will be supported by canceled checks. If the cost of space or utilities is split between the CDBG-MIT program and other sources, a reasonable method will be in place to allocate the charges fairly among the sources.
- **Supplies:** Documentation for expenditures for supplies will include: 1) purchase orders or requisition forms initiated by an authorized representative of the Town, 2) invoices from vendors that have been signed off by the Town to indicate goods were received, 3) canceled checks from vendors demonstrating payment was made, 4) information regarding where supplies are being stored, and 5) for what cost objective(s) the supplies are being used.

## Process Files



Process files are working files that are used until source documents are processed and posted. They include the following:

- **Open Purchase Order File:** All purchase orders that have been issued but not yet filled by vendors will be filed sequentially by purchase-order number. When goods are delivered, all invoices received, and all appropriate approvals obtained, the purchase order will be removed and filed with related invoices and the receiving report in the pending payments file. This file contains encumbrances against the project budget.
- **Pending Payments File:** All source documents that will generate a cash disbursement will be stored in the pending payments file and will be maintained by due date. If a discount is offered for early payment, every effort will be made to make the payment early. A schedule of bills payable from approved invoices and the account to be charged will also be kept in this file.
- **Pending Receipt File:** This file will contain copies of outstanding bills and requests for funds submitted to the CDBG-MIT program that have not yet been recorded in the Cash Receipts Journal or posted to the CDBG-MIT Cash Control Register. Documentation will also include each completed request for funds package submitted to DEO through SERA.
- **Personnel Payroll File:** This file will contain a record for each employee who works on CDBG-MIT activities and includes the rate at which the employee's salary can be charged to the CDBG-MIT program. Time sheets showing the amount of time each employee spends on CDBG-MIT activities will be kept on file. This file will be maintained in addition to the local government's official personnel records.

**Permanent Files**

The Town will maintain these files for all source documents and other records once they have been processed and posted to books of original entry. Documents removed from process files will be placed in the permanent files after all processing is complete (i.e., placing bank verifications or CDBG-MIT contract payment transactions in a CDBG-MIT Receipt File).

Purchase requisitions, purchase orders, and related invoices are filed together; contracts, related invoices, payment vouchers, and check copies are filed together; and grant fund receipt documentation is filed together. Permanent files contain the documents necessary for undertaking an audit of the program. For ease of DEO financial monitoring, complete request for funds packages will be included in a permanent request for funds (RFF) file.

**CDBG Accounting Records**

CDBG-MIT records are used to accumulate CDBG-MIT accounting information for financial reporting. The Town will utilize and maintain the following required CDBG-MIT accounting records listed below.

- **Cash-receipts Journal:** All receipts of cash that are deposited into the CDBG-MIT account(s) will be recorded in the cash-receipts journal. Receipts may include contract payments to the Town from the CDBG-MIT program,

receipts from the disposition of land, program income, and any other CDBG related cash received. The general procedure for using this journal will be to record every CDBG-MIT receipt by date in the order that it was received and indicate the source of the funds received, account or activity line item to be credited, receipt number, and date. A notation regarding final disposition for all funds received will also be included in the journal.

- **Cash-disbursements Journal:** The Town will enter all expenditures for CDBG-MIT program costs into the cash-disbursements journal. Disbursement entries will include the names of the vendors, dates paid, purchase order numbers paid against, check numbers, and references to the CDBG-MIT program activities the disbursements address.
- **Property Register:** The Town will maintain a listing of all property acquired in part or entirely using CDBG-MIT funds. This list will be maintained to comply with state and federal standards relating to acquisition, control, and disposition of real and personal property. Examples of property that would be recorded in the register include both real property and office equipment.
- **Detailed Activity Ledger:** To maintain accounting control, the Town will establish and utilize a detailed activity ledger that records all financial transactions, including receipts and expenditures, under a CDBG-MIT agreement. In instances when the Town has several ongoing projects (e.g., Smith Street sewer-line installation and Jones Street repaving), the Town will maintain a separate project activity ledger, each relating to a particular project in this ledger. The project activity ledgers will combine to create the overall detailed activity ledger.
- **Cash Control Register**  
In addition to the above control procedures, CDBG-MIT financial reporting and control, the Town will utilize a CDBG-MIT Cash Control Register. This register will be used to document and control the following:
  - State of Florida funds received
  - Requests for Funds (drawdowns on grant reservation)
  - Balance of CDBG-MIT cash on hand
  - Balance of CDBG-MIT grant funds (budget balances) available by line item
  - Collections, refunds, and miscellaneous receipts
  - Disbursements

This register is critical because it summarizes the status of CDBG-MIT cash on hand and line-item budget balances. The Town will review the Cash Control Register on a regular basis to endure ongoing compliance with CDBG-MIT rules and regulations relating to cash on hand. The register will also serve as a cross-reference to the journal accounts such as cash receipts and disbursements and the detailed project ledger

**Accounting for Cash Receipts**

Cash receipts for the CDBG-MIT program come primarily from the state as contract payments based on Requests for Funds. The Town will log all CDBG-MIT project

related cash receipts from all sources including DEO and other sources in a Cash Receipts Journal, a CDBG-MIT Cash Control Register, and a detailed Project Ledger.

**Accounting for Cash Disbursements**

The Town will establish specific days on which it will disburse CDBG-MIT funds. The frequency of these payment dates will depend on transaction volumes. To allow time for orderly processing and requisitioning of CDBG-MIT contract funds, cut-off dates for receipt of invoices to be paid in the next pay date will be established. The Town will take measures to ensure that all cash disbursements are supported by source documentation, that fully explains and documents the reason for the disbursement. Examples of source documentation include invoices, time sheets, and payroll vouchers.

Contractor payments will be made only after determining that the contractor is performing in accordance with contract provisions and time schedules, that deliverables have been completed, and that any problems identified by the Town during compliance monitoring or inspections have been corrected. The Town will require contractor invoices that fully explain and document the reason for the disbursement. The Town will then record all cash disbursements in the CDBG Cash Disbursements Journal, the CDBG Cash Control Register, and CDBG Detailed Activity Ledger.

For infrastructure, public facility and some multifamily construction project, disbursements, the contractor will be required to provide weekly signed certified payrolls to ensure compliance with Labor Standards (Davis-Bacon, Copeland Act, and CWHSSA). The Town's staff or consultant will review the certified payrolls for compliance prior to any payments being made to the contractor. Also, prior to payments being made to the contractor, the Town's engineer will conduct an onsite review of the work accomplished to date, compare the accomplishments to the work reported in the contractor's invoice and will sign off on any pay requests, certifying that the work reported by the contractor has been completed.

Prior to the final payment being made to the contractor, the Town's engineer must inspect the work site(s) and provide a Certification of Completion, and the Town or its consultant will confirm that all required documentation and reports from the contractor have been received and are complete and in good order.

**Allowable Costs**

The standards for determining reasonableness, allowability, and allocability of costs incurred as part of CDBG-MIT -financed activities are found in 2 CFR 200.403. According to general guidelines contained in 2 CFR 200.403, a cost is allowable under the CDBG-MIT program as follows:

- The expenditure is necessary, reasonable, and directly related to the grant.
- The cost conforms with any limitations or exclusions established in 24 CFR 200 Subpart E (Cost Principles) or the CDBG-MIT award.

- The expenditure is consistent with policies and procedures that apply uniformly to both federally funded and other activities of the state or the Town.
- The cost is accorded equal treatment. For example, a direct cost cannot be assigned if in other similar circumstances the cost was allocated as an indirect cost.
- The cost is in accordance with generally accepted accounting principles, except for states, local governments, and tribes only, as otherwise provided for in 2 CFR 200.416 and 2 CFR 200.417 (Cost Allocation Plans and Indirect Cost Proposals), and 2 CFR 200.417 (Interagency Service).
- The cost is not used to meet cost-sharing or matching requirements of any federally funded program. See 2 CFR 200.306(b) regarding cost sharing and matching.
- Costs must be adequately documented. See 2 CFR 200.300 through 2 CFR 200.309 for more information.

The Town will ensure that all costs under the CDBG-MIT program are allowable as outlined in 24 CFR 570 and the HUD's State Community Development Block Grant Program: Guide to National Objectives and Eligible Activities, December 2014.

### **Necessary Costs**

Costs must be necessary expenditures of Federal funding in order to meet program objectives. Unnecessary costs are those that are not required to achieve the objectives of the CDBG-MIT agreement or not related to the CDBG-MIT program being administered.

### **Reasonable Costs**

Reasonable costs are described in 2 CFR 200.404: "A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost."

In determining reasonableness of a given cost, consideration must be given to the following:

- Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the non-federal entity or the proper and efficient performance of the federal award
- Restraints or requirements imposed by such factors as sound business practices; arm's-length bargaining; federal, state, local, tribal, and other laws and regulations; and terms and conditions of the federal award
- Market prices for comparable goods or services for the geographic area
- Whether individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-federal entity, its employees, its students or membership (where applicable), the public at large, and the federal government

- Whether the non-federal entity significantly deviates from its established practices and policies regarding incurrence of costs, which may unjustifiably increase the federal award's cost.

The Town will ensure that all costs under the CDBG-MIT program are reasonable.

### **Allocable Costs**

Allocable costs are described in 2 CFR 200.405: "A cost is allocable to a particular Federal award or other cost objective if the goods or services involved are chargeable or assignable to that Federal award or cost objective in accordance with relative benefits received." This standard is met if the cost:

- Is incurred specifically for the federal award;
- Benefits both the federal award and other work of the non-federal entity and can be distributed in proportions that may be approximated using reasonable methods; and
- Is necessary to the overall operation of the non-federal entity and is assignable in part to the federal award in accordance with the principles in this subpart (2 CFR 200, Subpart E, Cost Principles).

The Town will ensure that all costs under the CDBG-MIT program are allocable.

### **Program Income**

Program income is the gross income received by a state, a unit of general local government (ULGL), or a subrecipient of a UGLG that was generated from the use of CDBG funds that exceeds \$35,000 received in a single year (24 CFR 570.489(e)2). Examples of program income include the following:

- Proceeds from the sale or long-term lease of real property purchased or improved with CDBG funds
- Proceeds from disposition of equipment purchased with CDBG funds
- Gross income from use or rental of property acquired by the Town or its subrecipient with CDBG funds, less the costs incidental to the generation of such income
- Gross income from use or rental of property owned by the Town or other entity that was constructed or improved with CDBG funds, less any costs incidental to the generation of such income
- Payments of principal and interest on loans made using CDBG funds
- Proceeds from the sale of loans made with CDBG funds
- Proceeds from the sale of obligations secured by loans made with CDBG funds
- Interest earned on program income, pending the disposition of such program income
- Funds collected through special assessments made against nonresidential properties owned and occupied by households not of low and moderate income, where such assessments are used to recover all or part of the CDBG portion of a public improvement

Program income received by a unit of local government must be recorded in its financial records system and must be recorded in the same activity line item as generated the program income. Program income must be spent first on subsequent expenditures.

The Town will report any program income generated from CDBG projects in the Quarterly Status Report. The Town will return any program income generated after the closeout of the CDBG-MIT agreement to DEO. The Town also understands that any program income generated prior to closeout must be returned to DEO, unless the program income can be used for additional units of CDBG-MIT activities that are specified in a modification to the agreement executed prior to the closeout. It is also understood that program income included in the project by modification to the agreement must be used in accordance with 2 C.F.R. part 200, 24 C.F.R. part 570.504 and the terms of the CDBG-MIT agreement.

**Annual Audits**

The Town will maintain detailed and organized financial records and will be prepared to provide the same to its auditor for annual audits. For years that the Town expends \$750,000 or more in federal funds, it will submit a Single Act or Program Specific Audit to DEO and the Florida Auditor General no later than June 30. For years that the Town expends less than \$750,000 in federal funds, it will submit a DEO Audit Certification Memo to DEO no later than June 30. Additionally, the Town will submit an Audit Compliance Certification (an attachment to the CDBG agreement) no later than sixty calendar days following the end of its fiscal year. The Town will respond in a timely manner to any potential audit findings or issues and to any potential DEO Audit Management Letters.

**Common Deficiencies**

The Town is aware that the issues listed below are the most common record-keeping deficiencies encountered during program monitoring and audits.

- Inadequate financial records
- Inadequate source documentation
- Inadequate procedures for verification of cost allowability
- Inadequate procedures for certifying operating agencies' financial systems
- Delays between drawdown and expenditure of funds
- Inadequate process to prevent overpayment of an activity budget line item
- Inadequate accounting of program income
- Inadequate or untimely financial reports

The Town will take the necessary measures to be prepared and avoid these inadequacies.

**CDBG Payments**

Prior to transmission of contract funds, the Town will complete and submit to the CDBG-MIT program a Subrecipient Enterprise Resource Application (SERA) system Access Authorization Form. The Town understands that his form is used to inform

DEO of the names of persons permitted to sign Requests for Funds. Requests for Funds forms will be signed by one or more of the Town's authorized individuals identified on the form. The Signature Authorization will identify the financial institution, its mailing address, telephone number, and the account number to which CDBG-MIT funds will be transmitted.

The Town understands there can be no erasures or corrections on the SERA Access Authorization Form. The Town will submit three copies, each having original signatures, to DEO. In instances when it is necessary to change or update information on the Signature Authorization Form, the Town will follow the same instructions.

The Town will ensure that there is no comingling of funds by placing CDBG-MIT funds in a separate bank account or by demonstrating that its accounting system has sufficient capacity and internal controls to separately track the receipts and expenditures of the CDBG-MIT grant. For CDBG-MIT projects that are funded through an advance process, the Town will ensure that these CDBG funds will be maintained in a separate non-interest-bearing account. Any interest paid on the account will be remitted to DEO for return to the U.S. Treasury.

The Town will submit requests for funds through the DEO SERA system. To ensure the timely expenditure of CDBG-MIT funds the Town will submit requests for funds on a regular basis and in accordance with the CDBG-MIT agreement's Scope of Work, Project Detail Budget and Activity Work Plans. These request for funds will include a signed invoice from the Town as well as all contractor invoices, cancelled checks and other documentation required by DEO that supports the expenditures reflected in the Town's invoice.

The Town will not expend or obligate more than \$5,000 for administration, prior to receiving a Release of Funds from the CDBG-MIT program. The release will clearly state that environmental conditions have been removed and funds have been released for expenditure. Furthermore, the Town will not draw funds for any activity that has been conditioned in the contract agreement until a Removal of Special Conditions is granted by DEO. The Town will review its contract award agreement for special conditions prior to obligating or requesting funds.

**Record Keeping**

In the simplest terms, CDBG financial transactions involve receiving cash (such as contract funds from DEO's CDBG-MIT program or program income) and spending cash for eligible activities. Every CDBG-MIT financial transaction will be recorded in the accounting records as soon as possible. The Town will ensure timely and accurate recording of financial transactions utilizing the appropriate source documents, files, and accounting records. The Town will maintain records a minimum of 6 years from the date of the receipt of the final audit for the year in which the grant was closed out (2 CFR 200.333). The Town understands that this period for records retention will be extended if any litigation, claim, negotiation, audit or other action involving the records has been started prior to the expiration of the controlling period. The Town

will provide access to these records and audits to DEO, Florida’s CFO, and the Auditor General upon request for a period of six (6) years following the final audit, unless extended by DEO. The Town additionally understands that such extensions will be in place until the completion of any associated actions and resolution of all associated issues have been determined.

Effective Date.

This resolution shall take effect immediately upon its adoption.

**DULY PASSED AND ADOPTED** by the Town Council of the Town of Eatonville, Florida at a regular meeting on this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Angie Gardner, Mayor

**ATTESTED:**

\_\_\_\_\_  
Veronica King, Town Clerk



# Quality Assurance/Quality Control Plan

## CDBG Funded Projects



*May 2023*

Table of Contents

**Introduction.....1**

**1.0 Self-Evaluation, Capacity and Monitoring Plan.....2**

**2.0 Eligible Activities and Meeting a National Objective.....2**

**3.0 Duplication of Benefits.....2**

**4.0 Procurement.....3**

**5.0 Environmental Review .....4**

**6.0 Acquisition and Displacement/Relocation.....4**

**7.0 Financial Managements Systems and Financial Management .....5**

**8.0 Monitoring .....6**

**9.0 Project Progress and Amendments .....8**

**10. Construction Elements .....8**

**11.0 Civil Rights Compliance .....9**

**12.0 Reporting .....10**

**13.0 Citizen’s Complaints .....11**

**14.0 Records Retention and Access .....12**

**15.0 Public Records Requests.....12**

**16.0 Summary .....13**

Introduction

The purpose of these Quality Assurance/Quality Control (QA/QC) procedures are to assure The Town of Eatonville (Town) projects funded in whole or partially through the Community Development Block Grant (CDBG) program meet quality, performance measures and with rules, regulations, statutes, laws, best practices and requirements identified by the federal government, the State of Florida and those incorporated in the Town's contractual agreement with the Florida Department of Economic Opportunity (DEO) while reducing the risks of HUD and DEO CDBG-MIT program non-conformance. The Town will exercise impartial, unbiased and professional and balanced assessment/care when completing their QA/QC reviews and are not unduly influenced by their own interests or by others in forming judgements. This document is the general approach for compliance of the Town’s CDBG program, establishing monitoring practices and oversight of professional services to meet acceptable standards of professional practices and be based on sound engineering and science fundamentals and principles of all program areas including:

- Self-Evaluation
- Eligible Activities and National Objective
- Duplication of Benefits
- Procurements
- Environmental Review
- Acquisition
- Financial Systems and Financial Management
- Monitoring
- Project Progress and Amendments
- Construction Related (Labor Standards Compliance/Engineer Specialist
- Civil Rights (Fair Housing, EEO, MWBE, Section 504, and Section 3)
- Reporting
- Complaints
- Records Retention
- Public Records Requests

1.0 Self-Evaluation, Capacity and Monitoring Plan

The City will, upon receipt of notification of award or receipt of an executed CDBG agreement, evaluate its capacity, staffing, grant management history, financial systems and fiscal history (i.e. any previous financial monitoring findings or concerns from previous grants and/or audit findings or compliance issues) and coupled with DEO’s Risk Assessment will put into place strategic adjustments that supplement the City's existing capacity. These adjustments may include such actions as purchasing updated accounting software, hiring additional staff or hiring consultants. In addition, to these adjustments, the City will adhere to and participate in monitoring in accordance with DEO’s monitoring plan. The City will exhibit the highest level of professional objectivity in gathering, evaluation and communicating information, finding, and conclusion about the processes and data being examined.

2.0 Eligible Activities and Meeting a National Objective

The City will take the appropriate steps to ensure that only eligible activities are addressed with CDBG funds and that projects paid for with these grant funds meet a National Objective. Activities approved through the project’s application and contracting with DEO are assumed to meet the tests for being eligible activities and for meeting a National Objective. Any changes in the activities, beneficiaries and scope of work will require reviews by City staff and DEO to determine the eligibility of activities and whether or not a project continues to meet a National Object. Projects that provide direct benefit to residents, such as housing rehabilitation will require the beneficiaries to provide substantial documentation of household income to ensure they are low-to-moderate income, or in the case of work on a multi-unit housing project documentation confirming that at least 51% of the units are occupied by person from low-to moderate income and/or will be or remain available and affordable to persons from low-to moderate income households.

3.0 Duplication of Benefits

The City will take ongoing measures to ensure that there is no Duplication of Benefits (DOB) utilizing the CDBG funds. For Disaster Recovery projects the City will adhere to the requirements of the Stafford Act to avoid DOB. A DOB occurs when a person, household, business, government, or other entity receives financial assistance from multiple sources for the same purpose, and the total assistance received for that purpose is more than the total need for assistance. Within the CDBG program, all grantees are bound by Section 312 of the Stafford Act, as amended by the DRRRA, and the OMB Cost

Principles within 2 C.F.R. § 200 that requires all costs to be “necessary and reasonable for the performance of the Federal award.”

The Town will ensure that no DOB occurs by:

1. **Assessing Need:** Determine the amount of need (total cost) to accomplish a project.
2. **Determining Available Assistance:** Determine the amount of assistance that has or will be provided from all sources to pay for the cost of the project.
3. **Calculating Unmet Need:** Determine the amount of assistance already provided compared to the need to determine the maximum CDBG award (unmet need)
4. **Documenting the Analysis:** Document calculation and maintain adequate documentation justifying determination of maximum award.

Additionally, the Town will adhere to the Disaster Recovery Subrogation Agreement, enclosed in the CDBG agreement, and cooperate with DEO in its prescribed monitoring for and recovery of dollars that are deemed a DOB.

4.0 Procurement

The Town will follow 2 CFR 200.317-326 and the Town's adopted and DEO approved Procurement Policy for all procurements funded by CDBG. Additionally, the Town will adhere to the requirements of Section 287.055 Florida Statutes when conducting procurements for professional services such as grant administration engineering. The Town will advertise its procurements for CDBG funded work and services in a regional Metropolitan Statistical Area newspaper of general circulation. Construction procurements will additionally adhere to Sections 255.05 (bonding), 255.0525 and DEO requirements (advertising times). Requests for Proposals, at a minimum, must be advertised at least twelve (12) days prior to the deadline for receipt of proposals.

The Town will make every effort to ensure that no conflicts of interest occur in the procurements process. Town elected officials and staff will be required to divulge any potential conflicts of interest and will be required to remove themselves from the process and abstain from participation in any procurements where an actual or a perceived conflict of interest exists. In the event of any bid protest, the Town will

follow the procedure as outlined in Section 127.57(3) Florida Statutes and will notify its DEO contract manager immediately of any protests it receives. The Town will communicate any other procurement challenges or problems to its DEO contract manager immediately. The Town will ensure that it has an E-Verify Memorandum of Understanding (MOU) and will include a requirement in all contracts with contractors, subcontractors, consultants and subrecipients, funded with CDBG funds, to utilize the U.S. Department of Homeland Security’s E-verify system (E-Verify) to verify employment eligibility of all new employees hired during the term of the CDBG agreement. Additionally, the Town will utilize E-Verify for any new employees it hires during the Grant Period. The Town will include the Section 3 Clause in all contracts with contractors, subcontractors, consultants and subrecipients that are \$100,000 or more.

### 5.0 Environmental Review

Prior to the expenditure of any CDBG funded project, other than the allowable expenditures for administration, the Town will complete a HUD required Environmental Review that meets the requirements of 24 CFR Part 58. While additional environmental reviews, studies or reports (such as a Phase I and Phase II Environmental Study typically conducted by an engineer) may be required and may also be needed for the HUD Environmental Review, the Town understands that these reviews, studies and reports are not a substitute for the HUD required Environmental Review. The Town understands that any expenditure of or commitment to expend CDBG funds (other than the allowable \$5,000 for initial administration) prior to its receipt of DEO’s Authority to Use Grants Funds will not be eligible for payment or reimbursement with CDBG funds. Commitments to expend funds include but are not limited to the actual expenditure of funds, construction bidding and/or award, and agreements to acquire property.

### 6.0 Acquisition and Displacement/Relocation

The Town will adhere to 49 CFR Part 24, the Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs when purchasing property for a CDBG, regardless of the source of the funding. Additionally, the Town will make every effort to avoid CDBG funded projects that displace people or businesses. In instances where the CDBG funded project will displace persons or businesses, the Town will ensure that those displaced are accommodated as directed and required in the regulations.

## 7.0 Financial Managements Systems and Financial Management

The Town will manage all financial aspects of the CDBG program by ensuring that its financial systems and staff are structured in a manner that ensures optimal accountability and adheres to federal and state accounting requirements. All CDBG awards will be included in the Town’s budget. A staffing system will be structured that ensures, to the extent possible, segregation of duties in the financial processes.

In instances where non-CDBG funding will be used with CDBG funding, the funding sources and uses will be clearly represented as separate funding streams and expenses in the Town's accounting systems. The Town's accounting system or subset of the same will be structured in a manner that reports budget to actual expenditures, detailed check/expenditure registers, and cash balance reporting and expenditures by request for funds.

The Town will ensure that there is no comingling of funds by placing CDBG funds in a separate bank account or by demonstrating that its accounting system has sufficient capacity and internal controls to separately track the receipts and expenditures of the CDBG grant. For CDBG projects that are funded through an advance process, the Town will ensure that these CDBG funds will be maintained in a separate non-interest-bearing account.

The Town will return any program income generated after the closeout of the CDBG agreement to DEO. The Townalso understands that any program income generated prior to closeout must be returned to DEO unless the program income can be used for additional units of CDBG activities that are specified in a modification to the agreement executed prior to the closeout. It is also understood that program income included in the project by modification to the agreement must be used in accordance with 2C.F.R. part 200, 24 C.F.R. part 570.504 and the terms of the CDBG agreement.

The Town will submit requests for funds through the DEO Subrecipient Enterprise Resource Application (SERA) system. To ensure the timely expenditure of CDBG funds the Town will submit requests for funds on a regular basis and in accordance with the CDBG agreement’s Scope of Work, Project Detail Budget and Activity Work Plans. These request for funds will include a signed invoice from the Town as well as all contractor invoices, cancelled checks and other documentation required by DEO that supports the expenditures reflected in the Town's invoice.

The Town will maintain detailed and organized financial records and will be prepared to provide the same for DEO monitoring and annual audits. For years that the Town expends \$750,000 or more in federal funds, it will submit a Single Act or Program Specific Audit to DEO and the Florida Auditor General no later than June 30. For years that the Town expends less than \$750,000 in federal funds, it will submit a DEO Audit Certification Memo to DEO no later than June 30. Additionally, the Town will submit an Audit Compliance Certification (an attachment to the CDBG agreement) no later than sixty (60) calendar days following the end of its fiscal year. The Town will respond in a timely manner to any potential DEO financial monitoring findings or concerns and to any potential audit findings or issues.

### 8.0 Monitoring

The Town, on an ongoing basis, within the terms of the CDBG-MIT Grant Agreement and DEO and HUD guidelines set by DEO and HUD, create a QA/QC team that will monitor, comply with monitoring requirements, identify potential compliance issues and implement best practices for CDBG-MIT program managements. The team will maintain a complete and accurate record of both Observations/Concerns, Finding/Material Exceptions all review/monitoring reviews conducted internally in order to ensure:

1. Adherence to the requirements of the CDBG agreement, as well as state and federal requirements;
2. Classify findings according to their potential impact on the outcome of the CDBG Grant Program/Project by Observation/Concerns and Finding/Material Exceptions;
3. Adequate efforts are made, and actions taken to Affirmatively Further Fair Housing, that additional efforts are made toward Affirmative Action, enhancing opportunities for minority and women business enterprises (MWBE) in procurements, ensuring program access for handicap persons (Section 504), as well as staffing and beneficiaries, and proactive approaches to providing opportunities to low to moderate income persons (Section 3);
4. The project’s timely progress as it relates to the agreement’s Milestones/Activity Work Plans/Timeline;
5. The project’s timely expenditure rate;
6. The maintenance and accuracy of project related accounting;



7. That project work is certified complete by a Housing Rehab Specialist and Building Official for housing projects and by an engineer for infrastructure and public facilities projects;
8. Timely submission of required reporting;
9. Complete, correct, and organized retention of records;
10. The avoidance of conflicts of interest in procurements and beneficiaries;
11. The timely and appropriate response to complaints;
12. The timely response to public records requests; and
13. Continuing file reviews in order to collect data and improve the program processes and procedures.

The Town will prioritize preparation for, participation in and responses to DEO monitoring visits and desk monitoring. The Town will prepare for these monitoring's by:

1. Completing, when available, DEO monitoring checklists to organize appropriate files and copies of backup;
2. Utilizing DEO monitoring checklists and/or DEO Initial Document Request List from the DEO monitoring notification letter to organize appropriate files, documents, policies, financials record, etc.;
3. Providing DEO advanced copies of requested files, documents, policies, financial records, etc., for desk and remote monitoring;
4. Having appropriate Town staff including program and fiscal staff as well as consultants (if applicable) available for the monitoring, whether they are desk, remote or in person monitoring;
5. Making sure a local elected official or Town Administrator is available for the entrance and exit interviews; and
6. Making appropriate Town staff available for interim telephone conference calls, which are not actual monitoring, but serve to provide DEO project updates;

The Town will respond to DEO monitoring questions, findings, and concerns by:

1. Providing DEO any requested additional documentation or information in a timely manner;
2. Taking appropriate action(s) to correct any monitoring findings and/or concerns; and
3. Providing DEO with a timely written response to any monitoring findings and/or concerns.

The Town will additionally review ongoing DEO and HUD correspondence and notices as well as annual audit reports and will take necessary prescribed actions to correct or improve any items requiring corrections or improvements and will in a timely manner respond in writing to DEO regarding these actions, when required. The Town is committed to requesting technical assistance from DEO, as needed, to ensure project quality, compliance, and progress.

## 9.0 Project Progress and Amendments

The Town understands that the timely completion of the CDBG project and timely expenditure of funds must be a priority as it is vital to provide the grant funded repairs, improvements, infrastructure, public facilities, housing and/or services to its residents. Additionally, the Town is aware of the mandates on HUD and DEO to expend the grant funds in a timely manner, and that failure to do so can potentially jeopardize additional future funding opportunities.

The Town is committed to working within the parameters and requirements of the program to ensure timely completion of the CDBG project. In the event that unforeseen and unavoidable delays are imminent, the Town will communicate in a reasonable timeframe with the appropriate DEO staff and if necessary, will initiate a request for any necessary contract amendments to align actual timeframes with project work plans, timelines and to adjust expiration dates if necessary.

## 10. Construction Elements

The Town will conduct the bidding process, taking actions to promote minority and women business enterprises and Section 3 participation and advertising for the required time frames. As required, the Town will conduct a pre-bid conference/meeting, will provide bid documents at a reasonable cost, will receive sealed bids with proper bonding and required documents, will open the bids publicly, will create or obtain a bid tabulation and award recommendation from staff or the project engineer, will have

the governing body vote to award the contract to the contractor pending receipt of any additional information including proof of active registration in the SAM.gov system, required bonds and proof documenting that the contractor is not on the Excluded Parties list. Following receipt of these documents, the Town will request contractor clearance from DEO and once received, will execute a contract with the contractor.

Following execution of a construction contract or planning project, the Town will determine the necessary protocols and if warranted conduct a pre-construction meeting with the contractor and discuss requirements for Section 3, MWBE, Davis Bacon (prevailing wage requirements) including submission of weekly certified payroll reports, Contract Work Hours and Safety Standards Act (CWHSSA) requiring time and a half pay for hours worked over 40 hours per week, and Copeland Act-Anti-Kickback assuring contractors do not induce an employee to give up part of their compensation they are entitle to. This meeting will also serve to outline schedules for work, payments and other discussions deemed necessary with the contractor. The Town will then issue a Notice to Proceed to the contractor allowing the contractor to begin construction.

The contractor will be required to provide weekly signed certified payrolls to ensure compliance with Labor Standards (Davis-Bacon, Copeland Act, and CWHSSA). The Town's staff or consultant will review the certified payrolls for compliance prior to any payments to the contractor. Also, prior to payments being made to the contractor, the Town's engineer will conduct an onsite review of the work accomplished to date, compare the accomplishments to the work reported in the contractor's invoice and will sign off on any pay requests certifying that the work reported by the contractor has been completed.

Prior to the final payment being made to the contractor, the Town's engineer must inspect the work site(s) and provide a Certification of Completion, and the Town or its consultant will confirm that all required documentation and reports from the contractor have been received and are complete and in good order.

### 11.0 Civil Rights Compliance

The Town will adhere to contract requirements, federal regulations and state laws and rules in meeting Civil Rights requirements. To this end, the Town will follow the Civil Rights Compliance

attachment to the CDBG agreement, adopting required policies, ordinances, and resolutions, designating various coordinators, advertising the coordinators’ contact information, conducting various required activities, and establishing various complaint procedures and tracking logs.

The Town will ensure compliance in regard to:

- 1. Affirmatively Furthering Fair Housing;
- 2. Equal Employment Opportunity (EEO);
- 3. Section 504 and the Americans with Disabilities Act; and
- 4. Section 3.

Additionally, the Town will maintain a list of minority and women business enterprises and will take measures to ensure that when requesting bids, Minority and Women Business Enterprises (MWBE) on this list are contacted and that contractors awarded CDBG funded contracts are required to take measures to hire MWBE subcontractors and make efforts to hire Section 3 residents for available work.

12.0 Reporting

The Town will provide the required reports as established in the Reports attachment to the CDBG agreement. The Town understands that if all reports are not submitted to DEO in an acceptable manner, payments from DEO may be withheld until the reports are properly completed and submitted. The following reports will be submitted to DEO through the SERA system (or other DEO specified means) by the required outlined dates:

- 1. Monthly Progress Reports (for Disaster Recovery) will be submitted no later than 10 days following the end of the month;
- 2. Quarterly Progress Reports or Quarterly Status Reports will be submitted no later than the 10<sup>th</sup> of April, July, October, and January;
- 3. QA/QC Quarterly Report;
- 4. Valid QA/QC findings will be addressed as necessary by the Engineer, Finance Director and Grants Administrator. All valid findings will require the development of a Corrective Action Plan (CAP);

- 5. Contract and Subcontract Activity forms, HUD 2516, reporting MWBE participation as well as Section 3 participation, will be submitted no later than April 15 and October 15;
- 6. Single or Program Specific Audit will be submitted no later than June 30, if the Town expends \$750,000 or more in total federal funds from all sources. If the Town expends less than \$750,000 in total federal funds, a DEO Audit Certification Memo will be submitted no later than June 30. Submissions will be made to [Audit@deo.myflorida.com](mailto:Audit@deo.myflorida.com) or as specified by the DEO staff and to the Florida Auditor General through their website at <https://flaauditor.gov>. Hard copies of the audits may be submitted to DEO and the Audit General via the addresses outlined in the CDBG agreement;
- 7. Audit Compliance Certification, attesting whether or not an audit submission will be required, will be annually submitted no later than 60 days following the end of the Town’s fiscal year;
- 8. An Administrative Closeout Report and supporting documentation will be submitted no later than 60 days following the expiration of the CDBG agreement;
- 9. Section 3 Report, HUD 60002, will be annually submitted no later than July 30; and
- 10. Any additional updates or reports as requested by DEO will be provided in a timely manner.

13.0 Citizen’s Complaints

The Town will take prompt actions to address any complaints it receives and will make every effort to resolve these complaints in a timely manner.

All complaints received, including verbal (phone calls, in person) and written, will be documented in appropriate log sheets for general citizens’ complaints, EEO complaints and Section 504/ADA complaints. The Town will notify its DEO grant manager immediately upon receipt of any CDBG grant related complaints and will make efforts to address, assist, resolve and/or make referrals on complaints received, whether verbal or written. The actions, results and conclusions of these complaints will be recorded in the appropriate log sheets.

For a complaint to be formally processed, reviewed, and responded to by the Town in writing, the complaint must:

1. Be submitted in writing;
2. Include the complainant’s full name;
3. Include the Complainant’s Contact information and preferred method of notification for communications regarding complaint (telephone; physical, postal, and Email addresses), Nature of the complaint (CDBG or Other, please specify); and
4. Include a summary of the complaint and desired remedy requested.

Additionally, the complainant should include previously contacted individuals concerning the complaint and any supporting evidence. The Town will respond in writing to written complaints that meet the above criteria within fifteen (15) days and may take additional measures to address and close the complaint. The Town's written response is not a guarantee of resolution to the complaint. CDBG grant related complaints that are not resolved and closed within 30 days will be referred to the Town's DEO contractmanager.

14.0 Records Retention and Access

The Town will retain all grant related and grant agreement specified records and audits for a period of five (5) years following the final audit after the grant closeout, or for six (6) state fiscal years after all reporting requirements have been satisfied and final payments have been received; whichever period is longest. The Town will provide access to these records and audits to DEO, Florida’s CFO, and the Auditor General upon request for a period of six (6) years following the final audit, unless extended by DEO. The Town understands that this period for records retention and access will be extended if any litigation, claim, negotiation, audit, or other action involving the records has been started prior to the expiration of the controlling periods. The Town additionally understands that such extensions will be in place until the completion of any associated actions and resolution of all associated issues have been determined.

15.0 Public Records Requests

The Town will directly respond to each CDBG agreement related public records request and will notify DEO of such requests by email to [PRRequest@deo.myflorida.com](mailto:PRRequest@deo.myflorida.com) within one business day following the date of the records request. Additionally, the Town, upon request from DEO’s custodian of public records, will provide DEO records or allow inspection of these records within a reasonable time. The Town understands that it may be reimbursed for the costs of preparing and providing these records as long

as the costs do not exceed the allowable costs outlined in Chapter 119, Florida Statutes. Furthermore, the Town understands that DEO may terminate the CDBG agreement if the Town fails to provide and/or allow access to public records.

16.0 Summary

Utilizing these procedures, the Town will make it a priority to implement its CDBG programs in a manner that adheres to federal, state and local requirements, will ensure CDBG projects employ a quality and fiscally responsible process that provides a successful project result in a timely manner.



# HISTORIC TOWN OF EATONVILLE, FLORIDA

## TOWN COUNCIL MEETING

### JUNE 20, 2023 AT 7:30 PM

### Cover Sheet

**\*\*NOTE\*\*** Please do not change the formatting of this document (font style, size, paragraph spacing etc.)

**ITEM TITLE:** Approval To Pursue The Registration Options For Use of the Town of Eatonville's Logo (**Randolph**)

**TOWN COUNCIL ACTION:**

<b>PROCLAMATIONS, AWARDS, AND PRESENTATIONS</b>		<b>Department:</b> LEGISLATIVE
<b>PUBLIC HEARING 1<sup>ST</sup> / 2<sup>ND</sup> READING</b>		<b>Exhibits:</b> <ul style="list-style-type: none"> <li>Memo on Protection of the Town's Logo</li> </ul>
<b>CONSENT AGENDA</b>		
<b>COUNCIL DECISION</b>	YES	
<b>ADMINISTRATIVE</b>		

**REQUEST:** Approval to pursue the registration options for use of the Town of Eatonville's Logo.

**SUMMARY:** In general, the name, logo, or insignia of a government agency cannot be used in a manner that suggests association with or endorsement by the agency or implies endorsement by a government agency, official, or employee. To protect the identity, brand, security, and statutory responsibility of the Town of Eatonville, careful consideration is needed to how and who is authorized to use the town's logo, whether for advertisement, partnership, publicity, and other reasons related to the town.

The Town Council discussed this item during the January 3, 2023 Town Council Workshop.

The Town Council will be deciding whether it wants us to pursue the registration options set forth in the attached memo. If it votes to do so, the appropriate documents will be further prepared.

**RECOMMENDATION:** Recommendation is being made for Town Council to approve pursuing registration options for use of the Town of Eatonville's Logo

**FISCAL & EFFICIENCY DATA:** N/A





## Memo

**To:** Councilwoman Randolph  
**CC:** Demetris Pressley  
**From:** Clifford B. Shepard; Ryan G. Knight  
**Date:** June 9, 2023  
**Re:** Protection of the Town's Logo

Councilwoman Randolph,

We have been asked to provide an opinion on protecting the Town's logo and steps the Town can take to prevent use of the Town's logo without permission. As outlined below, the Town's logo cannot be trademarked. However, the Town's logo can be protected through Fla. Stat. § 165.043 and the enactment of an ordinance adopting the Town's logo as the official seal.

**Issue:** Whether the Town's logo can be protected as intellectual property through trademark?

### Legal Background

Section 2(b) of the Trademark Act, 15 U.S.C. § 1052(b), prohibits registration of a mark that "consists of or comprises the flag or coat of arms or other insignia of the United States, or of any State or municipality, or of any foreign nation, or any simulation thereof." This section imposes an absolute bar against registration of a mark that consists of or contains a flag, coat of arms or other insignia, and reflects the sentiment that such symbols are indicia of government authority that ought to be reserved for signifying the government. *In re Gov't of Dist. of Columbia*, 101 USPQ2d 1588, 1597 n.14 (TTAB 2012). The absolute bar to registration under Section 2(b) is founded upon the idea that "these kinds of official governmental insignia . . . should not be registered as symbols of origin for commercial goods and services" because they "ought to be kept solely to signify the government."

Thus, we must first determine whether the Town's logo constitutes official governmental "insignia" that would be an absolute bar to registration. The recent Trademark Trial & Appeal Board ("TTAB") case *In re County of Orange*, is particularly illustrative. In this case, the TTAB affirmed the

US Patent and Trademark Office’s refusal to register two different logo marks filed by California’s County of Orange (“County”) on the ground that they constituted insignia of a municipality. One of the marks at issue in the case is below.



The County argued that the proposed mark did not constitute “insignia” because it was not an “official” seal of the County, *i.e.*, the County never formally adopted the mark as the “official” seal. TTAB found that, although the mark was not the “official” seal of the county, it was displayed prominently by the County to signify broad County of Orange authority, records, functions, and facilities. For example, the mark was displayed on the County website, signage for government offices, and displayed prominently in the meeting room for the Board of Supervisors. Ultimately, TTAB held that although the proposed mark was never adopted as an “official” seal, the mark still constituted “insignia” and was prohibited from trademark protection under Section 2(b) of the Trademark Act.

#### Town of Eatonville Logo

The town logo has not been officially adopted as the town seal pursuant to ordinance. However, as in the County of Orange case, the logo is prominently displayed on the town’s website, government building, and correspondence (such as town council agendas). Essentially, if the town wanted to trademark the logo, it would have to abandon the logo on its website, government building and correspondences. Thus, according to the holding in *In re County of Orange*, the town logo would not be eligible for trademark protection. We believe this is not advisable since the town logo is a special mark unique to the Eatonville government and community.

#### “The Town That Freedom Built”

While the town logo is not eligible for trademark protection, the phrase displayed on the town logo (“The Town That Freedom Built”) would be eligible for trademark protection. We have performed a search on the US Patent and Trademark Office’s website and the phrase “The Town That Freedom Built” has not been registered for trademark protection. To trademark this phrase, we would need to submit a detailed application to the US Patent and Trademark Office for review. The process usually takes 12-18 months. Our office would be happy to assist you should you choose to trademark this phrase.

#### Fla. Stat. § 165.043

Fla. Stat. § 165.043 provides:

Official county or municipal seal.- The governing body of a county or municipality may, by ordinance, designate an official county or municipal

seal. The manufacture, use, display, or other employment of any facsimile or reproduction of the county or municipal seal, except by county or municipal officials or employees in the performance of their official duties, without the express approval of the governing body is a second-degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083.

To qualify for protection under this statute, the Town of Eatonville must first pass an ordinance designating the town logo as the official seal. This seems to make the most sense in this case since once the ordinance designating the town logo as the official seal is enacted, no person or entity will be allowed to use the town logo/seal without the express approval of the Town. Further, the statute provides for criminal penalties should a person use the town seal without authorization. Of course, our office will gladly assist in drafting an ordinance should the council pursue this avenue.

Sincerely,

Ryan G. Knight