**<u>NOTICE OF A SPECIAL MEETING OF THE</u>**
**<u>CITY COUNCIL OF THE CITY OF ASHEBORO</u>**

**MEETING DATE:** **TUESDAY, JULY 26, 2022**

**MEETING TIME:** **7:00 PM**

**LOCATION:** **CITY OF ASHEBORO**
**PUBLIC WORKS FACILITY,**
**1312 N. FAYETTEVILLE STREET,**
**ASHEBORO, NORTH CAROLINA 27203**

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At 7:00 p.m. on Tuesday, July 26, 2022, the Asheboro City Council will convene for a special meeting in the main conference room at the City of Asheboro Public Works Facility, 1312 North Fayetteville Street, Asheboro, North Carolina 27203. The first business item will be governing board action on policies required for the expenditure of funds from the American Rescue Plan Act Coronavirus State and Local Fiscal Recovery Fund. The specific policies under consideration are as follows: (a) Records Retention Policy, (b) Eligible Project Policy, (c) Allowable Costs and Cost Principles Policy, (d) Nondiscrimination Policy, and (e) Conflict of Interest Policy.

The next item of business will be the governing board's review of options for improving public access to McCrary Park, 138 Southway Road, Asheboro, North Carolina 27205. This review process will include active participation by meeting attendees, specifically including individuals who are not officials or employees of the city government.

As part of the review process, input will be sought on the feasibility and advisability of acquiring real property for the construction of a public street designed to enhance access to McCrary Park. All interested persons are invited to attend this special meeting.

This special meeting notice was issued on the 21st day of July, 2022.

/s/ David H. Smith
David H. Smith, Mayor
City of Asheboro, North Carolina

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**SPECIAL MEETING**
**ASHEBORO CITY COUNCIL**
**PUBLIC WORKS FACILITY**
**1312 N. FAYETTEVILLE STREET**
**TUESDAY, JULY 26, 2022**
**7:00 P.M.**

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This being the time and place for a special meeting of the Asheboro City Council, a meeting was held with the following elected officials and city management team members present:

David H. Smith ) – Mayor Presiding

Clark R. Bell )
Edward J. Burks )
Kelly L. Heath ) – Council Members Present
William N. McCaskill )
Walker B. Moffitt )
Charles A. Swiers )

Jane H. Redding ) – Council Member Absent

John N. Ogburn, III, City Manager
Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal
David J. Hutchins, Public Works Director
Michael L. Leonard, PE, City Engineer
Spencer C. Patton, Assistant City Engineer
Tom Scaramastra, City Surveyor
A. Todd Stout, Information Systems Director
Jeffrey C. Sugg, City Attorney

**1. Call to order**

A quorum thus being present, Mayor Smith called the meeting to order for the transaction of business, and business was transacted as follows.

**2. Consent agenda**

Council Member Burks moved, and Council Member Heath seconded the motion, to approve/adopt, as presented, the following consent agenda items pertaining to policies required for the expenditure of funds from the American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recovery Funds. Council Members Bell, Burks, Heath, McCaskill, Moffitt, and Swiers voted aye. There were no dissenting votes.

**(a) Record Retention Policy**

**RESOLUTION NUMBER 24 RES 7-22**

**CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA**

**RECORDS RETENTION POLICY FOR DOCUMENTS GENERATED AND MAINTAINED FOR THE AWARD OF FUNDING FROM THE AMERICAN RESCUE PLAN ACT OF 2021 CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS**

**WHEREAS,** the terms and conditions of the award of funding from the American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recovery Funds (the "ARPA/CSLFRF Award") as well as the compliance and reporting guidance from the United States Department of the Treasury (the "Treasury Department") set forth records retention requirements for documents generated and maintained in connection with the ARPA/CSLFRF Award; and

**WHEREAS,** the city's professional staff has prepared a "City of Asheboro Records Retention Policy for Documents Generated and Maintained for the ARPA/CSLFRF Award" that is attached to this Resolution as EXHIBIT 1; and

**WHEREAS,** the policy stated in EXHIBIT 1 is hereby incorporated into this Resolution by reference as if copied fully herein; and

**WHEREAS,** the Asheboro City Council finds it advisable to adopt the records retention policy attached to this Resolution as EXHIBIT 1.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that the City of Asheboro shall, in connection with the expenditure of funds received from the ARPA/CSLFRF Award, follow the Treasury Department's records retention requirements for the ARPA/CSLFRF Award; and

**BE IT FURTHER RESOLVED** by the City Council of the City of Asheboro that the City of Asheboro Records Retention Policy for Documents Generated and Maintained for the ARPA/CSLFRF Award attached to this Resolution as EXHIBIT 1 is hereby approved as an official policy of the City of Asheboro.

**This Resolution was adopted by the Asheboro City Council in open session during a special meeting held on July 26, 2022.**

**/s/ David H. Smith**
**David H. Smith, Mayor**

**ATTEST:**

**/s/ Holly H. Doerr**
**Holly H. Doerr, CMC, NCCMC, City Clerk**

## EXHIBIT 1

## CITY OF ASHEBORO RECORDS RETENTION POLICY FOR DOCUMENTS GENERATED AND MAINTAINED FOR THE ARPA/CSLFRF AWARD

### ARTICLE I – RETENTION OF RECORDS

The terms and conditions of the award of funding from the American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recovery Funds (the "ARPA/CSLFRF Award") along with the compliance and reporting guidance from the United States Department of the Treasury (the "Treasury Department") set forth record retention requirements for documents generated and maintained in connection with the ARPA/CSLFRF Award. It is the policy of the City of Asheboro (the "City") to follow the Treasury Department's records retention requirements as the City expends funds pursuant to the ARPA/CSLFRF Award. Accordingly, the City agrees to the commitments stated below.

**Section 1.01** The City agrees to retain all financial and programmatic records related to the use and expenditure of funds pursuant to the ARPA/CSLFRF award for a period of five (5) years after all ARPA/CSLFRF Award funds have been expended or returned to the Treasury Department, whichever is later.

**Section 1.02** The City agrees to retain records for real property and equipment acquired with ARPA/CSLFRF Award fund for a period of five (5) years after final disposition.

**Section 1.03** The City agrees to ensure that the financial and programmatic records retained will sufficiently evidence compliance with Section 603(c) of the Social Security Act as added by the American Rescue Plan Act, the Treasury Department's regulations implementing that section, and the guidance issued by the Treasury Department regarding the foregoing.

**Section 1.04** The City agrees to allow the Treasury Department's Office of Inspector General and the Government Accountability Office, or their authorized representatives, the right of timely and unrestricted access to any records for the purpose of audits or other investigations.

**Section 1.05** The City agrees that if any litigation, claim, or audit is started before the expiration of the above-referenced 5-year period, the records will be retained until all litigation, claims, or audit findings involving the records have been resolved.

### ARTICLE II – COVERED RECORDS

For purposes of this policy, and regardless of the physical form or characteristics of the information, records are information created, received, or retained that evidence the City's expenditure of funds on eligible projects, programs, or activities pursuant to the

ARPA/CSLFRF Award. Records that shall be retained pursuant to this policy include, but are not limited to, the following list of types of information.

**Section 2.01** Financial statements and accounting records evidencing expenditures of ARPA/CSLFRF Award funds for eligible projects, programs, or activities.

**Section 2.02** Documentation of rational to support a particular expenditure of ARPA/CSLFRF Award funds (*e.g.,* expenditure constitutes a general government service).

**Section 2.03** Documentation of administrative costs charged to the ARPA/CSLFRF Award funds.

**Section 2.04** Procurement documents evidencing the significant history of a procurement process, including, at a minimum, the rationale for the method of procurement, the selection of contract type, contractor selection or rejection, and the basis for contract cost or price.

**Section 2.05** Subaward agreements and documentation of subrecipient monitoring.

**Section 2.06** Documentation evidencing compliance with the Uniform Guidance property management standards set forth in 2 C.F.R. §§ 200.310-316 and 200.329.

**Section 2.07** Personnel and payroll records for full-time and part-time employees compensated with ARPA/CSLFRF Award funding, including time and effort reports.

**Section 2.08** Indirect cost rate proposals.

## ARTICLE III – STORAGE OF RECORDS

The City's records shall be stored in a safe, secure, and accessible manner. Wherever practicable, such records should be collected, transmitted, and stored in open and machine-readable formats.

## ARTICLE IV – DEPARTMENTAL RESPONSIBILITIES

**Section 4.01** Any department or unit of the City, and its employees, with responsibility for creating or maintaining the covered documents in this policy shall strictly comply with the terms of this policy. Failure to do so may subject the City to civil and/or criminal liability. Any employee who fails to comply with the records retention requirements set forth herein may be subject to disciplinary sanctions, including suspension or dismissal from employment with the City.

**Section 4.02** The City Clerk is responsible for identifying the documents that the City must or should retain and arrange for the proper storage and retrieval of the records. The City Clerk shall also ensure that all personnel subject to the terms of this policy are aware of the records retention requirements set forth herein.

## ARTICLE V – REPORTING POLICY VIOLATIONS

The City is committed to enforcing this policy as it applies to all forms of records. Any employee that suspects the terms of this policy have been violated shall report the incident immediately to that employee's supervisor. If an employee is not comfortable bringing the matter up with the supervisor, the employee may bring the matter to the attention of the City Clerk. The City prohibits any form of discipline, reprisal, intimidation, or retaliation for reporting incidents of inappropriate conduct of any kind, pursuing any record destruction claim, or cooperating in related investigations.

**ARTICLE VI – POLICY INTERPRETATION**

Any questions about this policy should be referred to City Clerk Holly H. Doerr, who is in charge of administering, enforcing, and updating this policy. The City Clerk can be reached by telephone at (336) 6262-1201, Extension 252, or by email at the following address: hdoerr@ci.asheboro.nc.us

**(b) Eligible Project Policy**

**RESOLUTION NUMBER 25 RES 7-22**

**CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA**

**ELIGIBLE PROJECT POLICY FOR THE EXPENDITURE BY THE CITY OF ASHEBORO OF AMERICAN RESCUE PLAN ACT OF 2021 CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS**

**WHEREAS,** the City of Asheboro has received an allocation of funds from the American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recovery Funds (the "ARPA/CSLFRF Award"); and

**WHEREAS,** in connection with the ARPA/CSLFRF Award, the United States Department of the Treasury (the "Treasury Department") has implementation responsibilities that led to the Treasury Department's promulgation of a Final Rule outlining eligible projects; and

**WHEREAS,** to the extent such use is also authorized by state law, funds from the ARPA/CSLFRF Award may be used for projects within the following categories:

(a) Support COVID-19 public health expenditures by funding COVID-19 mitigation and prevention efforts, medical expenses, behavioral healthcare, preventing and responding to violence, and certain public health and safety staff;

(b) Address negative economic impacts caused by the public health emergency, including economic harms to households, small businesses, non-profits, impacted industries, and the public sector;

(c) Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;

(d) Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and

(e) Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet; and

**WHEREAS,** funding from the ARPA/CSLFRF Award is subject to the provisions of the federal Uniform Grant Guidance, 2 CFR Part 200; and

**WHEREAS,** the Treasury Department has issued compliance and reporting guidance mandating certain aspects of the implementation of the award terms and compliance requirements found in the ARPA/CSLFRF Award; and

**WHEREAS,** within the compliance and reporting guidance issued by the Treasury Department, the following mandate is stated: "Per 2 CFR Part 200.303, your organization must develop and implement effective internal controls to ensure that funding decisions under the SLFRF award constitute eligible uses of funds, and document determinations;" and

**WHEREAS,** the city's professional staff has prepared a "City of Asheboro Eligibility Determination Policy for American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recovery Funds" that is attached to this Resolution as EXHIBIT 1; and

**WHEREAS,** the policy stated in EXHIBIT 1 is hereby incorporated into this Resolution by reference as if copied fully herein; and

**WHEREAS,** the Asheboro City Council finds it advisable to adopt the eligible project policy attached to this Resolution as EXHIBIT 1.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that the City of Asheboro hereby adopts and enacts the City of Asheboro Eligibility Determination Policy for American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recovery Funds that is attached to this Resolution as EXHIBIT 1.

**This Resolution was adopted by the Asheboro City Council in open session during a special meeting held on July 26, 2022.**

**/s/ David H. Smith**
**David H. Smith, Mayor**

**ATTEST:**

**/s/ Holly H. Doerr**
**Holly H. Doerr, CMC, NCCMC, City Clerk**

**EXHIBIT 1**

## CITY OF ASHEBORO ELIGIBILITY DETERMINATION POLICY FOR AMERICAN RESCUE PLAN ACT OF 2021 CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS

This policy defines the permissible and prohibited uses of funding from the American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recovery Funds (ARPA/CSLFRF). This policy also outlines the procedures for determining how the City of Asheboro (the "City") will spend the funding received by the City from ARPA/CSLFRF.

### ARTICLE I – PERMISSIBLE USES OF FUNDING FROM ARPA/CSLFRF

The United States Department of the Treasury (the "Treasury Department") issued its Final Rule regarding the use of American Rescue Plan Act funds on January 6, 2022. The Final Rule became effective as of April 1, 2022. Until that date, a local government could proceed under the regulations promulgated by the Treasury Department in its Interim Final Rule or the Final Rule.

The Final Rule (and the Interim Final Rule) identified permissible uses of funding from the ARPA/CSLFRF as well as certain limitations and process requirements. Local governments such as the City must allocate funding from the ARPA/CSLFRF no later than December 31, 2024, and disburse all funding no later than December 31, 2026. The failure of an entity to expend all funds by December 31, 2026, will result in the forfeiture of American Rescue Plan Act funds.

Funding from the ARPA/CSLFRF may be used for projects within the following categories of expenditures:

(1) Support COVID-19 public health expenditures by funding COVID-19 mitigation and prevention efforts, medical expenses, behavioral healthcare, preventing and responding to violence, and certain public health and safety staff;

(2) Address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, non-profits, impacted industries, and the public sector;

(3) Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;

(4) Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and

(5) Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet.

**ARTICLE II – PROHIBITED USES OF FUNDING FROM ARPA/CSLFRF**

The ARPA/CSLFRF and the Treasury Department's Final Rule prohibit certain uses of funding from the ARPA/CSLFRF. Specifically, funding from the ARPA/CSLFRF may not be used for projects within the following categories of expenditures:

(1) To make a deposit into a pension fund that constitutes an extraordinary payment of an accrued, unfunded liability (Note that routine contributions as part of a payroll obligation for an eligible project are allowed.);

(2) To borrow money or make debt service payments;

(3) To replenish rainy day funds or fund other financial reserves;

(4) To satisfy an obligation arising from a settlement agreement, judgment, consent decree, or judicially confirmed debt resulting from a judicial, administrative, or regulatory proceeding (There is an exception to this prohibition if the settlement or judgment requires the City of Asheboro to provide services to respond to the COVID-19 public health emergency, including its negative economic impacts, or to provide government services, then the costs of those otherwise ARPA/CSLFRF-eligible projects are allowed.);

(5) For a project that includes a term or condition that undermines efforts to stop the spread of COVID-19 or discourages compliance with recommendations and guidelines in CDC guidance for stopping the spread of COVID-19;

(6) In violation of the conflict-of-interest requirements imposed by the ARPA/CSLFRF award terms and 2 CFR 200.318(c); and

(7) For any expenditure that would violate other applicable federal, state, and local laws and regulations.

With regard to the above-listed categories of expenditures in Article II of this policy, the City of Asheboro, and any of its contractors or subrecipients, **may not expend** any funding from the ARPA/CSLFRF for these purposes.

## ARTICLE III – PROCEDURES FOR PROJECT APPROVAL

The following requirements are the City's procedures for ARPA/CSLFRF project approvals. All City of Asheboro employees and officials must comply with these requirements.

(1) Requests for funding from the ARPA/CSLFRF award must be made in writing and shall include the following information in a format deemed by the requesting official to be the most effective methodology for communicating the request in compliance with this policy:

(a) A brief description of the project;

(b) Identification of the ARPA/CSLFRF expenditure category (A list of the expenditure categories is located in the appendix to the United States Treasury Compliance and Reporting Guidance. The City finance department can assist the requestor with locating the list of expenditure categories.);

(c) Required justifications for applicable projects, according to the requirements in the Final Rule (City employees or any applicant seeking ARPA funding should review the Treasury Department's Final Rule and the Final Rule Overview prior to submitting a proposal.);

(d) A proposed budget, broken down by cost item, in accordance with the City of Asheboro's Allowable Cost Policy; and

(e) A project implementation plan and estimated implementation timeline (All funding from the ARPA/CSLFRF must be fully obligated by December 31, 2024, and fully expended by December 31, 2026.).

(2) Requests for funding must be submitted to City Manager/Budget Officer for approval. All requests will be reviewed by the City Manager/Budget Officer for, at a minimum, ARPA/CSLFRF compliance and will also be reviewed by the City's Finance Director for allowable costs and other financial review.

(3) No funding from the ARPA/CSLFRF may be obligated or expended before final written approval is received from the City Manager/Budget Officer.

(4) If a proposal does not meet the required criteria, it will be returned to the requesting party for revision and resubmittal.

(5) Following approval, employees responsible for implementing the project must conform actual obligations and expenditures to the pre-approved project budget. Changes in project budgets must be approved by the City's Finance Director and the City Manager/Budget Officer. A budget amendment may be required before proceeding. Any delay in the estimated project completion date shall be immediately communicated to the City's Finance Director and to the City Manager/Budget Officer.

(6) The City of Asheboro Finance Director, in coordination with the Asheboro City Clerk as the City's designated records custodian, must collect and document required information for each expenditure category for purposes of completing the required project and expenditure reports.

(7) The City of Asheboro Finance Director, in coordination with the Asheboro City Clerk as the City's designated records custodian, must maintain written project requests and approvals, all supporting documentation, and financial information at least until December 31, 2031.

**(c) Allowable Costs and Cost Principles Policy**

**RESOLUTION NUMBER 26 RES 7-22**

**CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA**

**ALLOWABLE COSTS AND COST PRINCIPLES FOR THE EXPENDITURE BY THE CITY OF ASHEBORO OF AMERICAN RESCUE PLAN ACT OF 2021 CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS**

**WHEREAS,** the City of Asheboro has received an allocation of funds from the American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recovery Funds (the "ARPA/CSLFRF Award"); and

**WHEREAS,** to the extent such use is also authorized by state law, funds from the ARPA/CSLFRF Award may be used for projects within the following categories:

(a) Support COVID-19 public health expenditures by funding COVID-19 mitigation and prevention efforts, medical expenses, behavioral healthcare, preventing and responding to violence, and certain public health and safety staff;

(b) Address negative economic impacts caused by the public health emergency, including economic harms to households, small businesses, non-profits, impacted industries, and the public sector;

(c) Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;

(d) Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and

(e) Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet; and

**WHEREAS,** funding from the ARPA/CSLFRF Award is subject to the provisions of the federal Uniform Grant Guidance, 2 CFR Part 200, (the "Uniform Guidance"); and

**WHEREAS,** the United States Department of the Treasury (the "Treasury Department") has issued compliance and reporting guidance for the use of funds from the ARPA/CSLFRF Award; and

**WHEREAS,** in relevant part, the Treasury Department's compliance guidance addresses the issue of allowable costs/cost principles by providing as follows:

> As outlined in the Uniform Guidance at 2 CFR Part 200, Subpart E regarding Cost Principles, allowable costs are based on the premise that a recipient is responsible for the effective administration of Federal awards, application of sound management practices, and administration of Federal funds in a manner consistent with the program objectives and terms and conditions of the award. Recipients must implement robust internal controls and effective monitoring to ensure compliance with the Cost Principles, which are important for building trust and accountability; and

**WHEREAS,** ARPA/CSLFRF Award funds may be, but are not required to be, used along with other funding sources for a given project (Note: ARPA/CSLFRF Award funds may not be used for a non-federal cost share or match where prohibited by other federal programs, *e.g.,* funds may not be used for the state share for Medicaid.); and

**WHEREAS,** the Treasury Department's guidance and the Uniform Guidance outline the types of costs that are allowable, including certain audit costs; and

**WHEREAS,** in terms of administrative costs, recipients may use ARPA/CSLFRF Award funds for administrative costs such as the costs of consultants to support effective management and oversight, including consultation for ensuring compliance with legal, regulatory, and other requirements; and

**WHEREAS,** costs must be reasonable and allocable as outlined in 2 CFR 200.404 and 2 CFR 200.405; and

**WHEREAS,** pursuant to the ARPA/CSLFRF Award terms and conditions, recipients are permitted to charge both direct and indirect costs to their ARPA/CSLFRF Award funds as administrative costs, with the following additional instructions:

(a) Direct costs are those costs that are specifically identified as costs of implementing the program objectives of the ARPA/CSLFRF Award, such as contract support, materials, and supplies for a project;

(b) Indirect costs are general overhead costs of an organization where a portion of such costs are allocable to the ARPA/CSLFRF Award such as the cost of facilities or administrative functions such as a director's office;

(c) Each category of cost should be treated consistently in like circumstances as direct or indirect, and recipients may not charge the same administrative costs to both direct and indirect cost categories, or to other programs;

(d) If a recipient has a current Negotiated Indirect Costs Rate Agreement ("NICRA") established with a federal cognizant agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals, then the recipient may use its current NICRA; and

(e) Alternatively, if the recipient does not have a NICRA, the recipient may elect to use the de minimis rate of 10 percent of the modified total direct costs pursuant to 2 CFR 200.414(f); and

**WHEREAS,** with regard to salaries and expenses, in general, certain employees' wages, salaries, and covered benefits are an eligible use of ARPA/CSLFRF Award funds; and

**WHEREAS,** Subpart E of the Uniform Guidance dictates allowable costs and cost principles for the expenditure of ARPA/CSLFRF Award funds; and

**WHEREAS,** Subpart E of the Uniform Guidance, specifically 2 CFR 200.400, states that the application of these cost principles is based on the following fundamental premises:

(a) The non-federal entity is responsible for the efficient and effective administration of the federal award through the application of sound management practices;

(b) The non-federal entity assumes responsibility for administering federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the federal award;

(c) The non-federal entity, in recognition of its own unique combination of staff, facilities, and experiences, has the primary responsibility for employing whatever form of sound organization and management techniques may be necessary in order to assure proper and efficient administration of the federal award;

(d) The application of these cost principles should require no significant changes in the internal accounting policies and practices of the non-federal entity. However, the accounting practices of the non-federal entity must be consistent with these cost principles and support the accumulation of costs as required by the principles, and must provide for adequate documentation to support costs charged to the federal award;

(e) In reviewing, negotiating, and approving cost allocation plans or indirect cost proposals, the cognizant agency for indirect costs should generally assure that the non-federal entity is applying these cost accounting principles on a consistent basis during their review and negotiation of indirect cost proposals. Where wide variations exist in the treatment of a given cost item by the non-federal entity, the reasonableness and equity of such treatments should be fully considered;

(f) For non-federal entities that educate and engage students in research, the dual role of students as both trainees and employees (including pre- and post-doctoral staff) contributing to the completion of federal awards for research must be recognized in the application of these principles; and

(g) The non-federal entity may not earn or keep any profit resulting from the federal financial assistance, unless explicitly authorized by the terms and conditions of the federal award; and

**WHEREAS,** the city's professional staff has prepared the "Uniform Guidance Allowable Costs and Cost Principles Policy for the Expenditure of American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recovery Funds by the City of Asheboro" that is attached to this Resolution as EXHIBIT 1; and

**WHEREAS,** the policy stated in EXHIBIT 1 is hereby incorporated into this Resolution by reference as if copied fully herein; and

**WHEREAS,** the Asheboro City Council finds it advisable to adopt the cost principles policy attached to this Resolution as EXHIBIT 1.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that the City of Asheboro hereby adopts and enacts the Uniform Guidance Allowable Costs and Cost Principles Policy for the Expenditure of American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recovery Funds by the City of Asheboro that is attached to this Resolution as EXHIBIT 1.

**This Resolution was adopted by the Asheboro City Council in open session during a special meeting held on July 26, 2022.**

**/s/ David H. Smith**
**David H. Smith, Mayor**

**ATTEST:**

**/s/ Holly H. Doerr**
**Holly H. Doerr, CMC, NCCMC, City Clerk**

**EXHIBIT 1**

## UNIFORM GUIDANCE ALLOWABLE COSTS AND COST PRINCIPLES POLICY FOR THE EXPENDITURE OF AMERICAN RESCUE PLAN ACT OF 2021 CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS BY THE CITY OF ASHEBORO

### ARTICLE I – ALLOWABLE COSTS AND COST PRINCIPLES POLICY OVERVIEW

Part 200 in Title 2 of the United States Code of Federal Regulations, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, commonly called the Uniform Guidance (the "UG"), specifically Subpart E, defines those items of cost that are allowable along with those items of cost that are unallowable.

(A) The tests of allowability under these principles are as follows:

(1) The costs must be reasonable;

(2) The costs must be allocable to eligible projects under the American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recovery Funds award ("ARPA/CSLFRF Award");

(3) The costs must be given consistent treatment through application of those generally accepted accounting principles appropriate to the circumstances; and

(4) The costs must conform to any limitations or exclusions set forth in these principles or in the ARPA/CSLFRF Award as to types or amounts of cost items.

(B) Unallowable items fall into two categories: expenses which are by their nature unallowable (*e.g.,* alcohol), and unallowable activities (*e.g.,* fund raising).

(C) The City of Asheboro (the "City") shall adhere to all applicable cost principles governing the use of federal grants. This policy addresses the proper classification of both direct and indirect charges to projects funded by the ARPA/CSLFRF Award and enacts procedures to ensure that proposed and actual expenditures are consistent with the ARPA/CSLFRF Award terms as well as all applicable federal regulations in the UG.

(D) Responsibility for following these guidelines lies with the City Manager/Budget Officer and the City's Finance Director, who are jointly charged with the administration and financial oversight of the ARPA/CSLFRF Award. Furthermore, all City employees and officials who are involved in obligating, administering, expending, or monitoring projects funded by the ARPA/CSLFRF Award should be well versed with the categories of costs that are generally allowable and unallowable. Questions on the allowability of costs should be directed to the City's Finance Director. As questions on allowability of certain costs may require interpretation and judgment, City personnel are encouraged to ask for assistance in making those determinations.

### ARTICLE II – GENERAL COST ALLOWABILITY CRITERIA

All costs expended in reliance upon funds from the ARPA/CSLFRF Award must meet the following general criteria:

(A) A cost must be *necessary* and *reasonable* for the proper and efficient performance and administration of the grant program. More specifically, a cost must be necessary to achieve a project object.

(1) When determining whether a cost is necessary, consideration may be given to the following factors:

(a) Whether the cost is needed for the proper and efficient performance of the grant project;

(b) Whether the cost is identified in the approved project budget or application;

(c) Whether the cost aligns with identified needs based on results and findings from a needs assessment; and

(d) Whether the cost addresses project goals and objectives and is based on program data.

(2) 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 to incur the cost was made. For example, reasonable means that sound business practices were followed, and purchases were comparable to market prices. When determining the reasonableness of a cost, consideration must be given to the following factors:

(a) Whether the cost is a type of cost generally recognized as ordinary and necessary for the operation of the City of Asheboro or the proper and efficient performance of the federal award;

(b) The restraints or requirements imposed by factors such as sound business practices; arm's-length bargaining; federal, state, and other laws and regulations; and terms and conditions of the ARPA/CSLFRF Award;

(c) Market prices for comparable goods or services in the geographic area;

(d) Whether individuals involved in a transaction conducted themselves with prudence in the circumstances considering their responsibilities to the City of Asheboro, its employees, the public at large, and the federal government; and

(e) Whether the City of Asheboro has significantly deviated from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the costs charged to the ARPA/CSLFRF Award.

(B) A cost must be allocable to the ARPA/CSLFRF Award. A cost is allocable to the ARPA/CSLFRF Award if the goods or services involved are chargeable or assignable to the ARPA/CSLFRF Award in accordance with the relative benefit received (i.e., the grant program funded by the ARPA/CSLFRF Award derived a benefit in proportion to the funds charged to the program. For example, if 50 percent of a local government program officer's salary is paid with grant funds, then the local government must document that the program officer spent at least 50 percent of his/her time on the grant program. The following guidance applies when a cost benefits two or more projects:

(1) If a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost must be allocated to the projects based on the proportional benefit; and

(2) If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship of the work involved, then the costs may be allocated or transferred to benefitted projects on any reasonable documented basis.

(C) In cases where the purchase of equipment or other capital asset is specifically authorized by the ARPA/CSLFRF Award, the costs are assignable to the federal award regardless of the use that may be made of the equipment or other capital asset involved when no longer needed for the purpose for which it was originally required.

(D) The cost must be authorized and not prohibited under state or local laws or regulations.

(E) The expenditure must conform to any limitations or exclusions set forth in the principles, federal laws, terms of the ARPA/CSLFRF Award, and any other governing regulations as to types or amounts of cost items.

(F) The cost must be consistent with policies, regulations, and procedures that apply uniformly to both the ARPA/CSLFRF Award and other activities of the City of Asheboro.

(G) The cost must be accorded consistent treatment. A cost MAY NOT be assigned to a federal award as a direct cost and also be charged to a federal award as an indirect cost. Furthermore, a cost must be treated consistently for both federal award and non-federal award expenditures.

(H) The cost must be determined in accordance with generally accepted accounting principles, unless provided otherwise in the UG.

(I) The cost must be net of all applicable credits. The term “applicable credits” refers to those receipts or reduction of expenditures that operate to offset or reduce expense items allocable to the federal award. Typical examples of such transactions are purchase discounts; rebates or allowances; recoveries or indemnities on losses; and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to and received by the local government related to the federal award, they shall be credited to the ARPA/CSLFRF Award, either as a cost reduction or a cash refund, as appropriate and consistent with the award terms.

(J) The cost must be adequately documented.

## ARTICLE III – SELECTED ITEMS OF COST

The Uniform Guidance examines the allowability of fifty-five (55) specific cost items (commonly referred to as Selected Items of Cost) at 2 CFR § 200.420 through .475. The City of Asheboro Finance Department, which is responsible for determining cost allowability, must be familiar with the Selected Items of Cost. The City must follow the applicable regulations when charging these specific expenditures to the grant money received from the ARPA/CSLFRF Award. City finance department personnel will check costs against the selected items of cost requirements to ensure the cost is allowable and that all process and documentation requirements are followed. In addition, laws of the State of North Carolina, City of Asheboro regulations and policies, and program-specific rules may deem a cost as unallowable. Personnel in the City’s finance department must follow those non-federal rules as well. Exhibit A, which is attached hereto and incorporated into this policy by reference as if copied fully herein, identifies and summarizes the Selected Items of Cost.

## ARTICLE IV – DIRECT AND INDIRECT COSTS

Allowable and allocable costs must be appropriately classified as direct or indirect charges. It is essential that each item of cost be treated consistently in like circumstances either as a direct or an indirect cost.

(A) *Direct costs* are expenses that are specifically associated with a particular project that is eligible for funding from the ARPA/CSLFRF Award and that can be directly assigned to such activities relatively easily with a high degree of accuracy. Common examples of direct costs include salary and fringe benefits of personnel directly involved in undertaking an eligible project, equipment and supplies for the project, subcontracted service provider, or other materials consumed or expended in the performance of a grant-eligible project.

(B) *Indirect costs* are (1) costs incurred for a common or joint purpose benefitting more than one project eligible for funding from the ARPA/CSLFRF Award, and (2) not readily assignable to the project specifically benefited, without effort disproportionate to the results achieved. They are expenses that benefit more than one project or even more than one federal grant. Common examples of indirect costs include utilities, local telephone charges, shared office supplies, and administrative or secretarial salaries.

(C) For indirect costs, the City of Asheboro may charge a ten percent (10%) de minimis rate of modified total direct costs (MTDC). According to Uniform Guidance Section 200.68, MTDC means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subaward. MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs, and the portion of each subaward in excess of $25,000.

## ARTICLE V – SPECIAL PROVISIONS FOR STATE AND LOCAL GOVERNMENTS

There are some special provisions in the Uniform Guidance that apply only to states, local governments, and Indian Tribes.

(A) § 200.444 General Costs of Government

(1) For states, local governments, and Indian Tribes, the general costs of government are unallowable, except as provided in § 200.475. Unallowable costs include the following:

(a) Salaries and expenses of the Office of the Governor of a state or the chief executive of a local government or the chief executive of an Indian Tribe;

(b) Salaries and other expenses of a state legislature, tribal council, or similar local governmental body, such as a county supervisor, city council, school board, etc., whether incurred for purposes of legislation or executive direction;

(c) Costs of the judicial branch of a government;

(d) Costs of prosecutorial activities unless treated as a direct cost to a specific program if authorized by statute or regulation (however, this does not preclude the allowability of other legal activities of the Attorney General as described in § 200.435); and

(e) Costs of other general types of government services normally provided to the general public such as fire and police, unless provided for as a direct cost under a program statutes or regulation.

(2) For Indian Tribes and Councils of Governments, up to fifty percent (50%) of salaries and expenses directly attributable to managing and operating federal programs by the chief executive and his or her staff can be included in the indirect cost calculation without documentation.

(3) Notwithstanding the above-stated provisions, expenditures of ARPA/CSLFRF Award funds in the revenue replacement category are explicitly authorized in the Treasury Department's Final Rule to be spent on general government services.

(B) § 200.416 Cost Allocation Plans and Indirect Cost Proposals

(1) For states, local governments, and Indian Tribes, certain services (*e.g.,* motor pools, computer centers, purchasing, accounting, etc.) are provided to operating agencies on a centralized basis. Since federal awards are performed within the individual operating agencies, there needs to be a process whereby these central service costs can be identified and assigned to benefitted activities on a reasonable and consistent basis. The central service cost allocation plan provides that process.

(2) Individual operating agencies (governmental department or agency) normally charge federal awards for indirect costs through an indirect cost rate. A separate indirect cost rate(s) proposal for each operating agency is usually necessary to claim indirect costs under federal awards. Indirect costs include:

(a) The indirect costs originating in each department or agency of the governmental unit carrying out federal awards; and

(b) The costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

(3) The requirements for development and submission of cost allocation plans (for central service costs and public assistance programs) and indirect cost rate proposals are contained in appendices V, VI and VII to § 200.416.

(C) § 200.417 Interagency Service

The cost of services provided by one agency to another within the governmental unit may include allowable direct costs of the service plus a pro-rated share of indirect costs. A standard indirect cost allowance equal to ten percent (10%) of the direct salary and wage cost of providing the service (excluding overtime, shift premiums, and fringe benefits) may be used in lieu of determining the actual indirect costs of the service. These services do not include centralized services included in central service cost allocation plans as described in Appendix V to Part 200.

## ARTICLE VI – COST ALLOWABILITY REVIEW PROCESS

(A) Pre-Approval Cost Allowability Review – Before a project funded by the ARPA/CSLFRF Award is authorized, the City Manager/Budget Officer and the City's Finance Director must review the proposed cost items within an estimated project budget to determine whether they are allowable and allocable and whether cost items will be charged as direct or indirect expenses. This review shall occur concurrently with the review prescribed by the City of Asheboro Eligibility Determination Policy for American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recovery Fund and before obligating or expending any ARPA/CSLFRF Award funds. The specific procedural steps to be followed during this pre-approval review process are as follows:

(1) City personnel must submit projects proposed for funding with ARPA/CSLFRF Award funds projects to the City Manager/Budget Officer and the City Finance Director for review. In addition to other required information, all proposed project submissions must delineate estimated costs by cost item.

(2) Along with a general review of project eligibility and conformance with other governing board management directives, the City finance department must review estimated costs for specific allowable cost requirements, budget parameters, indirect rates, fringe benefit rates, and those activities/costs that require pre-approval by the Treasury Department. During this stage of the review process, the City Manager/Budget Officer and the City Finance Director

will take active steps to ensure compliance with the City's adopted eligible project policy.

(3) If a proposed project includes a request for an unallowable cost, City Finance Director will return the proposal to the requesting party for review and, if practicable, resubmission with corrected cost items.

(4) Once a proposed project budget is pre-approved by the City Manager/Budget Officer and the City Finance Director, the City personnel responsible for implementing the project must conform actual obligations and expenditures to the pre-approved project budget.

(B) Post-Expenditure Cost Allowability Review – Once an expenditure related to an eligible project is incurred, and an invoice or other demand for payment is submitted to the City, the City finance department must perform a second review to ensure that actual expenditures comprise allowable costs. The specific procedural steps to be followed during this post-expenditure review process are as follows:

(1) All invoices or other demands for payment must include a breakdown by cost item. The cost items should mirror those presented in the proposed budget for the project. If an invoice or other demand for payment does not include a breakdown by cost item, the City finance department will return the invoice to the project manager and/or vendor, contractor, or subrecipient for correction.

(2) The City finance department must review the individual cost items listed on the invoice or other demand for payment to determine their allowability and allocability.

(3) If all cost items are deemed allowable and properly allocable, the City finance department must proceed through the City's normal disbursement process.

(4) If any cost item is deemed unallowable, the City Finance Director will notify the project management and/or vendor, contractor, or subrecipient that a portion of the invoice or other demand for payment will not be paid with ARPA/CSLFRF Award funds. The City Finance Director may, in her discretion, and consistent with this policy, allow an invoice or other demand for payment to be resubmitted with a revised cost allocation. If the City remains legally obligated by contract or otherwise to pay the disallowed cost item, it must identify other local government funds to cover the disbursement. The Asheboro City Council must approve any allocation of other funds for this purpose.

(5) The City finance department, in consultation with the City Clerk in her capacity as the City's designated records custodian, must retain appropriate documentation of budgeted cost items per project and actual obligations and expenditures of cost items per project.

## ARTICLE VII – COST TRANSFERS

Any costs charged to the ARPA/CSLFRF Award that do not meet the allowable cost criteria must be removed from the award account and charged to an account that does not require adherence to federal Uniform Guidance or other applicable guidelines. Failure to adequately follow this policy and related procedures could result in questioned costs, audit findings, potential repayment of disallowed costs, and discontinuance of funding.

**[Exhibit A, which is referenced as an attachment in the immediately preceding policy, is on file in the city clerk's office.]**

**(d) Conflict of Interest Policy**

**CITY OF ASHEBORO CONFLICT OF INTEREST POLICY APPLICABLE TO CONTRACTS AND SUBAWARDS SUPPORTED BY FEDERAL FINANCIAL ASSISTANCE**

## ARTICLE I – SCOPE OF POLICY

(A) Purpose of Policy. This Conflict of Interest Policy (the "Policy") establishes conflict of interest standards that apply when the City of Asheboro (the "City") enters into a Contract (as defined in Article II hereof) or makes a Subaward (as defined in Article II hereof), and these conflict of interest standards meet or exceed the requirements of North Carolina law and 2 C.F.R. § 200.318(c).

(B) Application of Policy. This Policy shall apply when the City (1) enters into a Contract to be funded, in part or in whole, by Federal Financial Assistance to which 2 C.F.R. § 200.318(c) applies, or (2) makes any Subaward to be funded by Federal Financial Assistance to which 2 C.F.R. § 200.318(c) applies. If a federal statute, regulation, or the terms of a financial assistance agreement applicable to a particular form of Federal Financial Assistance conflicts with any provision of this Policy, such federal statute, regulation, or terms of the financial assistance agreement shall govern.

## ARTICLE II – DEFINITIONS

Capitalized terms in this Policy shall have the meanings ascribed thereto in this Article II. Any capitalized term used in this Policy but not defined in this Article II shall have the meaning set forth in 2 C.F.R. § 200.1.

(A) "*City*" means the City of Asheboro, a North Carolina municipal corporation.

(B) "*COI Point of Contact*" means the individual identified in Article III of this Policy.

(C) "*Contract*" means, for the purpose of Federal Financial Assistance, a legal instrument by which the City purchases property or services needed to carry out a program or project under a federal award.

(D) "*Contractor*" means an entity or individual that receives a Contract.

(E) "*Covered Individual*" means a Public Officer, employee, or agent of the City of Asheboro.

(F) "*Covered Nonprofit Organization*" means a nonprofit corporation, organization, or association, incorporated or otherwise, that is organized or operating in the State of North Carolina primarily for religious, charitable, scientific, literary, public health and safety, or educational purposes, excluding any board, entity, or other organization created by the State of North Carolina or any political subdivision of the State (including the City of Asheboro).

(G) "*Direct Benefit*" means, with respect to a Public Officer or employee of the City of Asheboro, or the spouse of any such Public Officer or employee, (i) having a ten percent (10%) ownership interest or other interest in a Contract or Subaward; (ii) deriving any income or commission directly from a Contract or Subaward; or (iii) acquiring property under a Contract or Subaward.

(H) "*Federal Financial Assistance*" means federal financial assistance that the City of Asheboro receives or administers in the form of grants, cooperative agreements, non-cash contributions or donations of property (including donated surplus property), direct appropriations, food commodities, and other federal financial assistance (except that the term does not include loans, loan guarantees, interest subsidies, or insurance).

(I) "*Governing Board*" means the City Council of the City of Asheboro, North Carolina.

(J) "*Immediate Family Member*" means, with respect to any Covered Individual, (i) a spouse, and parents thereof; (ii) a child, and parent thereof; (iii) a parent, and spouse thereof; (iv) a sibling, and spouse thereof; (v) a grandparent and grandchild, and spouses thereof; (vi) domestic partners and parents thereof, including domestic partners of any individual in (ii) through (v) of this definition; and (vii) any individual related by blood or affinity whose close association with the Covered Individual is the equivalent of a family relationship.

(K) "*Involved in Making or Administering*" means, with respect to a Public Official or employee, (a) overseeing the performance of a Contract or Subaward or having authority to make decisions regarding a Contract or Subaward or to interpret a Contract or Subaward, or (b) participating in the development of specifications or terms or in the preparation or award of a Contract or Subaward. With respect to a Public Official, *Involved in Making or Administering* also means being a member of a board, commission, or other body that takes action on the Contract or Subaward, whether or not the Public Official actually participates in that action.

(L) "*Pass-Through Entity*" means a non-federal entity that provides a Subaward to a Subrecipient to carry out part of a federal program.

(M) "*Public Officer*" means an individual who is elected or appointed to serve or represent the City of Asheboro (including, without limitation, any member of the Governing Board), other than an employee or independent contractor of the City of Asheboro.

(N) "*Recipient*" means an entity, usually but not limited to a non-federal entity, that receives a federal award directly from a federal awarding agency. The term does not include Subrecipients or individuals that are beneficiaries of the award.

(O) "*Related Party*" means (i) an Immediate Family Member of a Covered Individual, (ii) a partner of a Covered Individual, or (iii) a current or potential employer (other than the City of Asheboro) of a Covered Individual, of a partner of a Covered Individual, or of an Immediate Family Member of a Covered Individual.

(P) "*Subaward*" means an award provided by a Pass-Through Entity to carry out part of a federal award received by the Pass-Through Entity. It does not include payments to a contractor or payments to a subcontractor or payments to an individual that is a beneficiary of a federal program.

(Q) "*Subcontract*" means any agreement entered into by a Subcontractor to furnish supplies or services for the performance of a Contract or a Subcontract. It includes, but is not limited to, purchase orders and changes and modifications to purchase orders.

(R) "*Subcontractor*" means an entity that receives a Subcontract.

(S) "*Subrecipient*" means an entity, usually but not limited to a non-federal entity, that receives a subaward from a Pass-Through Entity to carry out part of a federal award; but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.

## ARTICLE III – COI POINT OF CONTACT

(A) The City Manager/Budget Officer for the City of Asheboro shall have primary responsibility for managing the disclosure and resolution of potential or actual conflicts of interest arising under this Policy. In the event the City Manager/Budget Officer is unable to serve in such capacity, the City of Asheboro Finance Director shall assume responsibility for managing the disclosure and resolution of conflicts of interest arising under this Policy. The individual with responsibility for managing the disclosure and resolution of potential or actual conflicts of interest under this Article III, Section (A) shall be known as the "*COI Point of Contact*."

(B) The COI Point of Contact shall ensure that each Covered Individual receives a copy of this Policy.

**ARTICLE IV – CONFLICT OF INTEREST STANDARDS IN CONTRACTS AND SUBCONTRACTS**

(A) *North Carolina Law.* North Carolina law restricts the behavior of Public Officials and employees of the City involved in contracting on behalf of the City. The City shall conduct the selection, award, and administration of Contracts and Subawards in accordance with the prohibitions imposed by the North Carolina General Statutes and restated in this Article IV.

(1) *G.S. § 14-234(a)(1).* A Public Officer or employee of the City Involved in Making or Administering a Contract or Subaward on behalf of the City shall not derive a Direct Benefit from such a Contract or Subaward.

(2) *G.S. § 14-234(a)(3).* No Public Officer or employee of the City may solicit or receive any gift, favor, reward, service, or promise of reward, including but not limited to a promise of future employment, in exchange for recommending, influencing, or attempting to influence the award of a Contract or Subaward by the City.

(3) *G.S. § 14-234.3.* If a member of the Governing Board of the City serves as a director, officer, or governing board member of a Covered Nonprofit Organization, such member shall not (1) deliberate or vote on a Contract or Subaward between the City and the Covered Nonprofit Corporation, (2) attempt to influence any other person who deliberates or votes on a Contract or Subaward between the City and the Covered Nonprofit Corporation, or (3) solicit or receive any gift, favor, reward, service, or promise of future employment in exchange for recommending or attempting to influence the award of a Contract or Subaward to the Covered Nonprofit Organization.

(4) *G.S. § 14-234.1.* A Public Officer or employee of the City shall not, in contemplation of official action by the Public Officer or employee, or in reliance on information which was made known to the Public Officer or employee and which has not been made public, (1) acquire a pecuniary interest in any property, transaction, or enterprise or gain any pecuniary benefit which may be affected by such information or other information, or (2) intentionally aid another in violating the provisions of this section.

(B) *Federal Standards.*

(1) *Prohibited Conflicts of Interest in Contracting.* Without limiting any specific prohibition set forth herein, a Covered Individual may not participate in the selection, award, or administration of a Contract or Subaward if such Covered Individual has a real or apparent conflict of interest.

(a) *Real Conflict of Interest.* A real conflict of interest shall exist when the Covered Individual or any Related Party has a financial or other interest in or a tangible personal benefit from a firm considered for a Contract or Subaward. Exhibit A attached hereto provides a non-exhaustive list of examples of (i) financial or other interests in a firm considered for a Contract or Subaward, and (ii) tangible personal benefits from a firm considered for a Contract or Subaward.

(b) *Apparent Conflict of Interest.* An apparent conflict of interest shall exist where a real conflict of interest may not exist under the terms of this Policy, but where a reasonable person with knowledge of the relevant facts would find that an existing situation or relationship creates the appearance that a Covered Individual or any Related Party has a financial or other interest in or a tangible personal benefit from a firm considered for a Contract or Subaward.

(2) *Identification and Management of Conflicts of Interest.*

(a) *Duty to Disclose and Disclosure Forms.*

(i) Each Covered Individual expected to be or actually involved in the selection, award, or administration of a Contract or Subaward has an ongoing duty to disclose to the COI Point of Contact potential real or apparent conflicts of interest arising under this Policy.

(ii) Prior to the City's award of a Contract or Subaward, the COI Point of Contact shall advise Covered Individuals expected to be involved in the selection, award, or administration of the Contract or Subaward of such duty.

(iii) If the value of a proposed Contract or Subaward exceeds $100,000, the COI Point of Contact shall collect a Conflict of Interest Disclosure Form contained in <u>Exhibit C</u> (for Contracts) and <u>Exhibit E</u> (for Subawards) from each Covered Individual and file such Conflict of Interest Disclosure Form in records of the City.

(b) Prior to the City's award of a Contract or Subaward, the COI Point of Contact shall complete the appropriate Compliance Checklist contained in <u>Exhibit B</u> (for Contracts) and <u>Exhibit D</u> (for Subawards) attached hereto and file such Compliance Checklist in the records of the City.

(c) After completing the Compliance Checklist, if the COI Point of Contact identifies a potential real or apparent conflict of interest relating to a proposed Contract or Subaward, the COI Point of Contact shall disclose such finding in writing to the Mayor of the City of Asheboro and to each member of the Governing Board. If the Governing Board desires to enter into the proposed Contract or Subaward despite the identification by the COI Point of Contact of a potential real or apparent conflict of interest, it may either:

(i) Accept the finding of the COI Point of Contact and direct the COI Point of Contact to obtain authorization to enter into the Contract or Subaward from (a) if the City is a Recipient of Federal Financial Assistance, the federal awarding agency with appropriate mitigation measures, or (b) if the City is a Subrecipient of Federal Financial Assistance, from the Pass-Through Entity that provided a Subaward to the City; or

(ii) Reject the finding of the COI Point of Contact and enter into the Contract or Subaward. In rejecting any finding of the COI Point of Contact, the Governing Board shall in writing document a justification supporting such rejection.

(d) If the COI Point of Contact does not identify a potential real or apparent conflict of interest relating to a proposed Contract or Subaward, the City may enter into the Contract or Subaward in accordance with the City's purchasing or subaward policy.

(e) If the COI Point of Contact discovers that a real or apparent conflict of interest has arisen after the City has entered into a Contract or Subaward, the COI Point of Contact shall, as soon as possible, disclose such finding to the Mayor of the City of Asheboro and to each member of the Governing Board. Upon discovery of such a real or apparent conflict of interest, the City shall cease all payments under the relevant Contract or Subaward until the conflict of interest has been resolved.

(f) Following the receipt of such disclosure of a potential real or apparent conflict of interest, the Governing Board may reject the finding of the COI Point of Contact by documenting in writing a justification supporting such rejection. If the Governing Board fails to reject the finding of the COI Point of Contact within 15 days of receipt, the COI Point of Contact shall:

(i) If the City is a Recipient of Federal Financial Assistance funding the Contract or Subaward, disclose the conflict to the federal awarding agency providing such Federal Financial Assistance in accordance with 2 C.F.R. § 200.112 and/or applicable regulations of the agency; or

(ii) If the City is a Subrecipient of Federal Financial Assistance, disclose the conflict to the Pass-Through Entity providing a Subaward to the City in accordance with 2 C.F.R. § 200.112 and applicable regulations of the federal awarding agency and the Pass-Through Entity.

**ARTICLE V – OVERSIGHT OF SUBRECIPIENT'S CONFLICT OF INTEREST STANDARDS**

(A) *Subrecipients of City Must Adopt Conflict of Interest Policy.* Prior to the City's execution of any Subaward for which the City serves as a Pass-Through Entity, the COI Point of Contact shall ensure that the proposed Subrecipient of Federal Financial Assistance has adopted a conflict of interest policy that satisfies the requirements of 2 C.F.R. § 200.318(c)(1), 2 C.F.R. § 200.318(c)(2), and all other applicable federal regulations.

(B) *Obligation to Disclose Subrecipient Conflicts of Interest.* The COI Point of Contact shall ensure that the legal agreement under which the City makes a Subaward to a Subrecipient shall require such Subrecipient to disclose to the COI Point of Contact any potential real or apparent conflicts of interest that the Subrecipient identifies. Upon receipt of such disclosure, the COI Point of Contact shall disclose such information to the federal awarding agency that funded the Subaward in accordance with that agency's disclosure policy.

**ARTICLE VI – GIFT STANDARDS**

(A) *Federal Standard.* Subject to the exceptions set forth below, a Covered Individual may not solicit or accept gratuities, favors, or anything of monetary value from a Contractor or a Subcontractor.

(B) *Exception.* Notwithstanding the above-stated prohibition, a Covered Individual may accept an unsolicited gift from a Contractor or Subcontractor of one or more types specified below if the gift has an aggregate market value of $20 or less per source per occasion, provided that the aggregate market value of all gifts received by the Covered Individual pursuant to this provision do not exceed $50 in a calendar year:

(1) Honorariums for participating in meetings;

(2) Advertising items or souvenirs of nominal value; or

(3) Meals furnished at banquets.

(C) *Internal Reporting.* A Covered Individual shall report any gift accepted under the above-listed exceptions to the COI Point of Contact. If required by regulation of a federal awarding agency, the COI Point of Contact shall report such gifts to the federal awarding agency or a Pass-Through Entity for which the City is a Subrecipient.

## ARTICLE VII – VIOLATIONS OF POLICY

(A) *Disciplinary Actions for Covered Individuals.* Any Covered Individual that fails to disclose a real, apparent, or potential real or apparent conflict of interest arising with respect to the Covered Individual or Related Party may be subject to disciplinary action, including, but not limited to, an employee's termination or suspension of employment with or without pay, the consideration or adoption of a resolution of censure of a Public Official by the Governing Board, or termination of an agent's contract with the City.

(B) *Disciplinary Actions for Contractors and Subcontractors.* The City shall terminate any Contract with a Contractor or Subcontractor that violates any provision of this Policy.

(C) *Protections for Whistleblowers.* In accordance with 41 U.S.C. § 4712, the City shall not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant:

(1) A member of Congress or a representative of a committee of Congress;

(2) An Inspector General;

(3) The Government Accountability Office;

(4) A Treasury Department or other federal agency employee responsible for grant oversight or management;

(5) An authorized official of the Department of Justice or other law enforcement agency;

(6) A court or grand jury; or

(7) A management official or other employee of the City, a Contractor, or Subcontractor who has the responsibility to investigate, discover, or address misconduct.

**The foregoing policy was adopted by the City Council of the City of Asheboro in open session during a special meeting held on the 26th day of July, 2022.**

**/s/ David H. Smith**
**David H. Smith, Mayor**

**ATTEST:**

**/s/ Holly H. Doerr**
**Holly H. Doerr, CMC, NCCMC, City Clerk**

**[Exhibits A, B, C, D, and E, which were referenced as attachments in the immediately preceding policy, are on file in the city clerk's office.]**

## 3. Discussion of Options for Improving Public Access to McCrary Park

At the request of Mayor Smith, City Manager John Ogburn opened the discussion with a presentation, including the use of slides, pertaining to some of the improvements contemplated for McCrary Park. Enhanced accessibility and traffic flow for the park are some of the specific improvements under consideration.

After Mr. Ogburn's presentation, Mayor Smith opened the floor for comments from members of the public. In response, the following individuals shared their concerns with the elected officials.

1. Ward Russell
2. Vickie Lorimer
3. Martha M. Toledano
4. Dr. Daljit Caberwal
5. Ron Bennett
6. Carey Durham
7. Darrell Johnson
8. Sam Cranford
9. Mike Miller
10. Donna Miller
11. Mary Hunter
12. Linda Crandford
13. Gail Crawford

Once the comments from the public were heard, Mayor Smith shared a letter from Mr. William C. Perry, who is a citizen who could not attend the meeting. The letter was written to the city council members in order to share comments and concerns about the proposals under consideration.

The governing board considered the comments of every person who wished to be heard during the meeting. No legislative action was taken by the council during this portion of the meeting.

**There being no further business, the meeting was adjourned at 9:46 p.m.**

**/s/Holly H. Doerr**
**Holly H. Doerr, CMC, NCCMC, City Clerk**

**/s/David H. Smith**
**David H. Smith, Mayor**