

**MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, APRIL 4, 2022**

The Lincoln County Board of County Commissioners met on April 4, 2022, in the Commissioners Room, 353 N. Generals Blvd., Lincolnton, at 6:30 PM.

Commissioners Present:

Milton Sigmon, Vice-Chairman
Anita McCall
Bud Cesena
Cathy Davis

Commissioners Absent:

Carrol Mitchem, Chairman

Others Present:

Kelly Atkins, County Manager
Davin Madden, Assistant County Manager
Megan Gilbert, County Attorney
Deanna Rios, Finance Director
Amy S. Atkins, Clerk to the Board

Planning Board Members:

Robert Shugarman, Chair
Doug Tallent, Vice-Chair
Jenni Boyles
Keith Gaskill
Jim Konieczny
Kyle Land
Keith Poston

Planning Staff:

Andrew Bryant, Director of Development Services
Joshua Grant, Planning & Inspections Division Manager
Jeremiah Combs, Planner

Vice Chairman Sigmon called for a Moment of Silence and led in the Pledge of Allegiance.

Adoption of Agenda: Vice Chairman Sigmon presented the agenda for the Board's approval.

UPON MOTION by Commissioner Cesena, the Board voted unanimously to adopt the agenda as presented.

**AGENDA
Lincoln County Board of Commissioners Meeting
Monday, April 4, 2022
6:30 PM**

Lincoln County Administration Office
353 N. Generals Blvd
Lincolnton, NC 28092

Call to Order – Vice Chairman Sigmon

Moment of Silence

Pledge of Allegiance

1. Adoption of the Agenda
2. Consent Agenda
 - a. Approval of Minutes – [March 21, 2022](#)
 - b. [GPO #10](#)
 - c. [CPOA #6](#)
 - d. [BOA #8](#)
 - e. [GPOA #3](#)
 - f. [VTS Refunds – February, 2022](#)
 - g. [Approval of WSSUP #24 Stormwater Structure, Release of 75% Construction Bond](#)
3. [Planning Board Recommendation for ZMA #687 – Jeremiah Combs](#)
4. [Zoning Public Hearings](#) – Jeremiah Combs

Joint Public Hearings with Planning Board - Legislative Cases:

[ZMA #686 Moe Abba, applicant](#) (Parcel ID# 31659) A request to rezone a 0.7-acre parcel from R-SF (Residential Single-Family) to B-G (Business General). The property is located at 4282 N N.C. 16 Business in Catawba Springs Township.

[PD #2014-2-A6 First Federal Properties, Inc., applicant](#) First Federal Properties, Inc. has officially requested to postpone the public hearing for PD#2014-2-A6 (Rivercross Commercial) scheduled for Monday April 4th, 2022 to June 6th, 2022. All public notices and legal advertisements will be re-published and mailed to adjoining property owners as appropriate.

5. [Public Hearing – Proposed Industrial Incentive Grant Application for Existing Industry and Adoption of Resolution to Adopt Economic Incentive Grant Agreement – John Dancoff](#)
6. [Contract Award for the Library Study to McMillan, Pazdan, Smith in the amount of \\$61,380.00 – John Henry](#)
7. [Approval of Directed Grant to Lincoln County Senior Services – Kathryn Saine](#)
8. [Public Comments](#)

9. [Resolution to Request a North Carolina Geodetic Survey of Boundary Lines Between Lincoln County and Catawba County – Megan Gilbert](#)
10. [Resolution to Adopt the Allowable Costs and Cost Principles Policy for Expenditure of American Rescue Plan Act Coronavirus State and Local Fiscal Recovery Funds – Deanna Rios](#)
11. [Resolution to Adopt the Eligible Project Policy for the Expenditure of American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recovery Funds by Lincoln County – Deanna Rios](#)
12. [Resolution to Adopt the Record Retention Policy for Documents Created or Maintained Pursuant to the ARP/CSLFRF Award – Deanna Rios](#)
13. [Resolution to Adopt the Conflict of Interest Policy Applicable to Contracts and Sub-awards of Lincoln County Supported by Federal Financial Assistance Under the American Rescue Plan Act – Deanna Rios](#)
14. [Resolution to Adopt the Non-Discrimination Policy for Expenditure of American Rescue Plan Act Coronavirus State and Local Fiscal Recovery Funds – Deanna Rios](#)
15. [Resolution to Adopt the Policy for Property Management Related to the Expenditure of American Rescue Plan Act Coronavirus State and Local Fiscal Recovery Funds – Deanna Rios](#)
16. [Finance Officer’s Report – Deanna Rios](#)
17. [Other Business](#)
18. Closed Session Pursuant to NCGS 143.318.11(a)
 - (3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged.
 - (5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment contract.
 - (6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee

Adjourn

Consent Agenda: UPON MOTION by Commissioner McCall, the Board voted unanimously to approve the Consent Agenda as presented.

Consent Agenda

- a. Approval of Minutes – [March 21, 2022](#)
- b. [GPO #10](#)
- c. [CPOA #6](#)
- d. [BOA #8](#)
- e. [GPOA #3](#)
- f. [VTS Refunds – February, 2022](#)
- g. [Approval of WSSUP #24 Stormwater Structure, Release of 75% Construction Bond](#)

Planning Board Recommendation: Jeremiah Combs presented the following:

The Planning Board voted to recommend approval of the proposed rezoning in ZMA #687 following a public hearing that was held jointly with the Board of Commissioners on March 7. On March 21, the Board of Commissioners postponed a final vote on ZMA #687.

UPON MOTION by Commissioner McCall, the Board voted unanimously to adopt the Statement of Consistency and Reasonableness as recommended by the Planning Board.

UPON MOTION by Commissioner McCall, the Board voted unanimously to approve the rezoning as recommended by the Planning Board for ZMA #687 – Scott Holliday, applicant.

Zoning Public Hearings: Megan Gilbert, County Attorney, presented information concerning legislative hearings. No conflicts disclosed.

Jeremiah Combs presented the following case:

Zoning Map Amendment #686 – Moe Abba, applicant:

The applicant is requesting the rezoning of a 0.7-acre lot from R-SF (Residential-Single Family) to B-G (Business General).

Site Area & Description

The subject property is located at 4282 N. N.C. 16 Business Hwy., on the east side of N.C. 16 Business about 500 feet south of its intersection with Mundy Road. It is adjoined by

property zoned I-G (Industrial General), I-L (Industrial Light), and R-SF (Residential Single Family); with O-R (Office Residential) and B-G (Business General) across N. Hwy 16. This property is located in the East Lincoln Development District (ELDD) overlay district. Land uses in this area include residential, business and industrial. The subject property is located in an area designated by the Lincoln County Land Use Plan as an Industrial Center.

Vice Chairman Sigmon opened the Public Hearing concerning ZMA #686 – Moe Abba, applicant.

Moe Abba, applicant, asked to rezone the property for a small retail or office building. He said he plans to put a small lighting store there, which is not a high traffic business.

Being no additional speakers, Vice Chairman Sigmon closed the public hearing.

The Planning Board recessed their meeting to room 310.

Public Hearing – Proposed Industrial Incentive Grant Application for Existing Industry and Adoption of Resolution to Adopt Economic Incentive Grant Agreement – John Dancoff: John Dancoff presented the following:

Vice Chairman Sigmon opened the Public Hearing concerning the proposed Industrial Incentive Grant Application for FMS.

Being no speakers, Vice Chairman Sigmon closed the public hearing.

**RESOLUTION TO ADOPT ECONOMIC
INCENTIVE GRANT AGREEMENT WITH
FMS.**

WHEREAS, the Lincoln County Board of Commissioners verily believes that it is in the best interests of the citizens of Lincoln County to encourage and support economic development within Lincoln County through the recruitment of new industries to the County and the expansion of existing industries in the County; and

WHEREAS, FMS, have developed plans for expansion of their manufacturing equipment in Lincoln County; and

WHEREAS, the Board of Commissioners wishes to encourage such development by means of offering incentives to aid in such efforts;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED AS FOLLOWS:

1. The Lincoln County Board of Commissioners hereby approves the Lincoln County Incentive Grant Agreement (attached hereto as Exhibit A and incorporated herein by reference) among Lincoln County, FMS.

2. The Chairman of the Board of Commissioners and the Clerk to the Board are hereby authorized to sign all necessary documents on behalf of Lincoln County in order to effectuate this transaction.

3. This resolution shall become effective upon adoption. This 4th day of April 2022.

Milton Sigmon, Vice Chairman
Lincoln County Board of Commissioners

ATTEST:

Amy Atkins, Clerk to the Board

LINCOLN COUNTY INCENTIVE GRANT AGREEMENT

NORTH

CAROLINA

LINCOLN

COUNTY

THIS AGREEMENT is made and entered into as of the 4th day of April, 2022 by and between LINCOLN COUNTY, a body corporate and politic (hereinafter referred to as “the County”), and FMS, a Delaware corporation (hereinafter referred to as “FMS”).

WITNESSETH

:

WHEREAS, FMS has developed plans for the installation of manufacturing equipment in Lincoln County, North Carolina;

WHEREAS, the Board of Commissioners of Lincoln County verily believes that the location of new industries and the expansion of existing industries is vital to the economic health of Lincoln County and to the welfare of its citizens; and

WHEREAS, the Board of Commissioners wishes to encourage such development by means of offering incentives to recruit new industries and to aid in expansion of existing industries; and

WHEREAS, such incentives are predicated on the notion of expanding Lincoln County's tax base and providing additional jobs for Lincoln County's citizens that pay wages higher than the current prevailing average hourly wage in the particular industry; and

WHEREAS, the Board of Commissioners has determined that it is appropriate and in the best interests of Lincoln County and its citizens to offer incentives in the form of both cash grants and assistance with making public services available; and

WHEREAS, the Board of Commissioners believes that it is appropriate and reasonable to expect FMS to bind itself to the County to produce certain results in conjunction with the project described herein as conditions of the incentives being offered by the County;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein set forth, the parties hereby agree as follows:

1. On or before April 4th, 2022, FMS shall begin installation of an equipment and machinery expansion in Lincoln County, North Carolina.
2. Within two years of the effective date of this agreement (said effective date being referred in item 1.), FMS shall make an investment upon such site in building/land and/or machinery and equipment of \$1,450,000 (the expected capital investment) of which \$1,015,000 will qualify for incentives under the Lincoln County Industrial Incentive Grant Policy.
3. Within two years of the effective date of this agreement, FMS shall provide at such site at least 6 new jobs paying average annual wages of \$34,000 including benefits.
4. In consideration of the performance of the aforesaid obligations by FMS, the County will provide cash grants to FMS of \$4,712.14 per year for a five-year period. Lincoln County will pay such grants beginning in the tax year after the project's completion. Grants will be paid to FMS within 30 days after FMS has made its tax payment for the then-current year and has notified Lincoln Economic Development Association of the payment. This amount represents a Level II grant under the Lincoln County Industrial Development Incentive Grant Policy for New and Existing Industries.
5. FMS shall on a no less than annual basis provide evidence satisfactory to the County of how many jobs (as provided in Paragraph 3 herein) it has maintained.
6. a. In the event that the value of the investment actually made by FMS pursuant to this agreement is greater or less than the Expected Capital Investment then the grant will be equitably adjusted upward or downward on a pro-rata basis.

b. In the event that the number of people in qualifying jobs actually employed by FMS pursuant to this Agreement in any year during the term of the Agreement is fewer than the Expected Number of Jobs, then the County may, in its discretion, reduce the amount of the Grant to be paid for the year (or seek reimbursement for the Grant already paid for said year) in the amount of \$1,000.00 per job shortfall.

7. FMS specifically agrees that in the event that all or any portion of this agreement or any incentive grant or payment to be made hereunder is declared to be unconstitutional, illegal, or otherwise enjoined by a court of competent jurisdiction, FMS shall indemnify and hold harmless Lincoln County and its Board of Commissioners, individually and collectively, from any loss or liability and shall reimburse Lincoln County by the amount of any such grant or payment.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of the day and year first above written.

FMS

By: _____
President

LINCOLN COUNTY

By: _____
Milton Sigmon, Vice Chairman
Board of Commissioners

UPON MOTION by Commissioner Davis, the Board voted unanimously to adopt the Resolution to Adopt Economic Incentive Grant Agreement with FMS.

Contract Award for the Library Study to McMillan, Pazdan, Smith in the amount of \$61,380.00: John Henry presented the following:

Purchasing issued RFQ 2022-0201 on December 7, 2021. Five firms submitted and two were shortlisted and interviewed. He requested that the Board award the contract for the Library Study to McMillan, Pazdan, Smith in the amount of \$61,380.00.

UPON MOTION by Commissioner Cesena, the Board voted unanimously to approve the Contract Award for the Library Study to McMillan, Pazdan, Smith in the amount of \$61,380.00 as presented.

Approval of Directed Grant to Lincoln County Senior Services: Kathryn Saine presented the following:

Lincoln County Senior Services would like to build an outdoor patio space as well as a raised garden area for the participants at the Senior Center. This will encourage socialization, provide outdoor programming not offered in the past as well as hosting gardening classes that will teach seniors to grow and maintain vegetables for their use at the Center as well as at their homes. She requested that the Board approve the directed grant of \$20,000, from the State of North Carolina, for this project.

UPON MOTION by Commissioner McCall, the Board voted unanimously to approve the \$20,000 Directed Grant to Lincoln County Senior Services as presented.

Public Comments: Vice Chairman Sigmon opened Public Comments.

Being no additional speakers, Vice Chairman Sigmon closed Public Comments

Resolution to Request a North Carolina Geodetic Survey of Boundary Lines Between Lincoln County and Catawba County: Megan Gilbert presented the following:

Lincoln County together with Catawba County have determined that it is in the best interest of both counties to endeavor through the process of establishing a County line with the North Carolina Geodetic Survey ("NCGS") team pursuant to G.S. 153A-18. In order to start that process, both governing boards are required to pass a resolution to request the assistance of NCGS. Catawba County intends to pass a similar resolution during the month of April, 2022.

UPON MOTION by Commissioner Cesena, the Board voted unanimously to approve Resolution to Request a North Carolina Geodetic Survey of Boundary Lines Between Lincoln County and Catawba County.

RESOLUTION TO REQUEST A NORTH CAROLINA GEODETIC SURVEY OF BOUNDARY LINES BETWEEN LINCOLN COUNTY AND CATAWBA COUNTY

WHEREAS, there are various ambiguities as to the exact boundary line between Lincoln County, North Carolina and Catawba County, North Carolina; and

WHEREAS, the North Carolina Department of Environment and Natural Resources, Division of Land Resources currently has a program called the North Carolina Geodetic Survey (NCGS) designated and funded by the North Carolina General Assembly; and

WHEREAS, the purpose of the North Carolina Geodetic Survey is to establish precisely located monuments on the North Carolina Grid System and Bench Marks referenced to a vertical datum (NGVD 1929 and NAVD 1988); and

WHEREAS, pursuant to N.C.G.S. §153-18(a) if two or more counties are uncertain as to the exact location of the boundary between them, the North Carolina Geodetic Survey (NCGS), on a cooperative basis, shall assist counties in defining and monumenting the location of the uncertain or disputed boundary as established in accordance with law; and

WHEREAS, due to the uncertainty of the boundary line between Lincoln County, North Carolina and Catawba County, North Carolina, the respective counties desire to establish an exact boundary; and

NOW, THEREFORE, BE IT RESOLVED that the Lincoln County Board of Commissioners, in cooperation with the Catawba County Board of Commissioners, hereby resolves to request the assistance of the North Carolina Geodetic Survey program to establish the boundary between Lincoln County and Catawba County.

Adopted this the 4th day of April, 2022.

Carrol Mitchem

Chairman of the Board of County Commissioners

The US Treasury has required several policies to be approved and implemented in order to use the funds allocated to the County through the American Rescue Plan Act. The following agenda items are these policies. The Resolutions and Policies are hereby incorporated by reference and attached to this set of minutes.

Resolution To Adopt the Allowable Costs and Cost Principles Policy for Expenditure of American Rescue Plan Act Coronavirus State and Local Fiscal Recovery Funds:

UPON MOTION by Commissioner Davis, the Board voted unanimously to approve Resolution to Adopt the Allowable Costs and Cost Principles Policy for Expenditure of American Rescue Plan Act Coronavirus State and Local Fiscal Recovery Funds as presented.

Resolution to Adopt the Eligible Project Policy for the Expenditure of American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recovery Funds by Lincoln County:

UPON MOTION by Commissioner McCall, the Board voted unanimously to approve Resolution to Adopt the Eligible Project Policy for the Expenditure of American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recovery Funds by Lincoln County.

Resolution to Adopt the Record Retention Policy for Documents Created or Maintained Pursuant to the ARP/CSLFRF Award:

UPON MOTION by Commissioner Cesena, the Board voted unanimously to approve Resolution to Adopt the Record Retention Policy for Documents Created or Maintained Pursuant to the ARP/CSLFRF Award.

Resolution to Adopt the Conflict of Interest Policy Applicable to Contracts and Sub-awards of Lincoln County Supported by Federal Financial Assistance Under the American Rescue Plan Act:

UPON MOTION by Commissioner Davis, the Board voted unanimously to approve Resolution to Adopt the Conflict of Interest Policy Applicable to Contracts and Sub-awards of Lincoln County Supported by Federal Financial Assistance Under the American Rescue Plan Act.

Resolution to Adopt the Non-Discrimination Policy for Expenditure of American Rescue Plan Act Coronavirus State and Local Fiscal Recovery Funds:

UPON MOTION by Commissioner Cesena, the Board voted unanimously to approve Resolution to Adopt the Non-Discrimination Policy for Expenditure of American Rescue Plan Act Coronavirus State and Local Fiscal Recovery Funds.

Resolution to Adopt the Policy for Property Management Related to the Expenditure of American Rescue Plan Act Coronavirus State and Local Fiscal Recovery Funds:

UPON MOTION by Commissioner McCall, the Board voted unanimously to approve Resolution to Adopt the Policy for Property Management Related to the Expenditure of American Rescue Plan Act Coronavirus State and Local Fiscal Recovery Funds.

Finance Officer's Report: Deanna Rios presented the Finance Officer's Report.

Other Business: Commissioner Cesena offered thanks to Mike Simmons, Chris Henderson and Andrew Bryant for working with the vendor to solve the problem at Trilogy.

Commissioner Davis thanked Mr. Atkins, department directors and employees for their work during the pandemic. Commissioner McCall also thanked Davin Madden and the Health Department for their work during the pandemic.

Commissioner McCall said she and Commissioner Davis attended Senior Games, which started Saturday.

Commissioner Cesena thanked Susan Sain and her staff for their hard work collecting taxes.

Closed Session: UPON MOTION by Commissioner McCall, the Board voted unanimously to enter Closed Session pursuant to NCGS 143.318.11(a)

(3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged.

(5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment contract.

(6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee.

The Board returned to open session and Vice Chairman Sigmon announced that no action was taken in Closed Session.

Candy Stevens presented a request for approval of a Transportation Dispatcher position, to be revised in the Budget Ordinance at a later date. The total cost for the remainder of 2022 will be \$11,091.75.

UPON MOTION by Commissioner McCall, the Board voted unanimously to move forward with the Transportation Dispatcher position as presented.

Megan Gilbert presented a purchase agreement between the Conservation Fund and Lincoln County for the purchase of 176.339 acres, located on Beth Haven Church Road, known as the Mundy property. The purchase amount is \$1,007,788.30 with a 60 day due diligence and \$10,000 earnest money deposit.

UPON MOTION by Commissioner Cesena, the Board voted unanimously to approve the purchase agreement with the Conservation Fund and allow the County Manager to execute on behalf of Lincoln County.

Adjourn: UPON MOTION by Commissioner McCall, the Board voted unanimously to adjourn.

Amy S. Atkins, Clerk
Board of Commissioners

Milton Sigmon, Vice Chairman
Board of Commissioners

**RESOLUTION TO ADOPT THE ALLOWABLE COSTS AND COST PRINCIPLES
POLICY FOR EXPENDITURE OF AMERICAN RESCUE PLAN ACT CORONAVIRUS
STATE AND LOCAL FISCAL RECOVERY FUNDS**

WHEREAS Lincoln County has received an allocation of funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); and

WHEREAS the funds may be used for projects within these categories, to the extent authorized by state law.

1. Support public health expenditures, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, 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, 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; and

WHEREAS the ARP/CSLFRF are subject to the provisions of the federal Uniform Grant Guidance, 2 CFR Sect. 200 (the “UG”), as provided in the Assistance Listing; and

WHEREAS the Compliance and Reporting Guidance for the State and Local Fiscal Recovery Funds provides, in relevant part:

Allowable Costs/Cost Principles. 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.

ARP/CSLFRF Funds may be, but are not required to be, used along with other funding sources for a given project. ARP/CSLFRF 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.

Treasury’s Interim Final Rule and guidance and the Uniform Guidance outline the types of costs that are allowable, including certain audit costs. For example, pursuant to 2 CFR 200.425, a reasonably proportionate share of the costs of audits required by the Single

Audit Act Amendments of 1996 are allowable; however, costs for audits that were not performed in accordance with 2 CFR Part 200, Subpart F are not allowable.

- a. Administrative costs: Recipients may use funds for administering the SLFRF program, including costs of consultants to support effective management and oversight, including consultation for ensuring compliance with legal, regulatory, and other requirements. Further, costs must be reasonable and allocable as outlined in 2 CFR 200.404 and 2 CFR 200.405. Pursuant to the ARP/CSLFRF Award Terms and Conditions, recipients are permitted to charge both direct and indirect costs to their SLFRF award as administrative costs. Direct costs are those that are identified specifically as costs of implementing the ARP/CSLFRF program objectives, such as contract support, materials, and supplies for a project. Indirect costs are general overhead costs of an organization where a portion of such costs are allocable to the ARP/CSLFRF award such as the cost of facilities or administrative functions like a director's office. 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. 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. 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).

- b. Salaries and Expenses: In general, certain employees' wages, salaries, and covered benefits are an eligible use of ARP/CSLFRF award funds; and

WHEREAS Subpart E of the UG dictates allowable costs and cost principles for expenditure of ARP/CSLFRF funds; and

WHEREAS Subpart E of the UG (specifically, 200.400) states that:

The application of these cost principles is based on the fundamental premises that:

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

NOW THEREFORE BE IT RESOLVED that the Lincoln County Board of Commissioners hereby adopts and enacts the following Lincoln County Allowable Costs and Costs Principles Policy for the expenditure of ARP/CSLFRF funds.

This the _____ day of April, 2022.

Milton Sigmon, Vice-Chairman
Lincoln County Board of Commissioners

ATTEST:

Amy S. Atkins
Clerk to the Board



LINCOLN COUNTY

Allowable Costs and Costs Principles Policy

I. ALLOWABLE COSTS AND COSTS PRINCIPLES POLICY OVERVIEW

Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, commonly called Uniform Guidance (“UG”), specifically Subpart E, defines those items of cost that are allowable, and which are unallowable. The tests of allowability under these principles are: (a) the costs must be reasonable; (b) they must be allocable to eligible projects under the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); (c) they must be given consistent treatment through application of those generally accepted accounting principles appropriate to the circumstances; and (d) they must conform to any limitations or exclusions set forth in these principles or in the ARP/CSLFRF grant award as to types or amounts of cost items. Unallowable items fall into two categories: expenses which are by their nature unallowable (e.g., alcohol), and unallowable activities (e.g., fund raising).

Lincoln County (the “County”) 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 ARP/CSLFRF funded projects and enacts procedures to ensure that proposed and actual expenditures are consistent with the ARP/CSLFRF grant award terms and all applicable federal regulations in the UG.

Responsibility for following these guidelines lies with the Lincoln County Finance Department (the “Finance Department”), who are charged with the administration and financial oversight of the ARP/CSLFRF funds. Further, all County employees and officials who are involved in obligating, administering, expending, or monitoring ARP/CSLFRF grant funded projects 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 Finance Department. As questions on allowability of certain costs may require interpretation and judgment, County personnel are encouraged to ask for assistance in making those determinations.

II. GENERAL COST ALLOWABILITY CRITERIA. All costs expended using ARP/CSLFRF funds must meet the following general criteria:

- 1. Be necessary and reasonable for the proper and efficient performance and administration of the grant program.**

A cost must be *necessary* to achieve a project object. When determining whether a cost is

necessary, consideration may be given to:

- Whether the cost is needed for the proper and efficient performance of the grant project.
- Whether the cost is identified in the approved project budget or application.
- Whether the cost aligns with identified needs based on results and findings from a needs assessment.
- Whether the cost addresses project goals and objectives and is based on program data.

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 reasonableness of a cost, consideration must be given to:

- Whether the cost is a type generally recognized as ordinary and necessary for the operation of Lincoln County or the proper and efficient performance of the federal award.
- 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 ARP/CSLFRF 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 County, its employees, the public at large, and the federal government.
- Whether the County significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the ARP/CSLFRF award's cost.

2. Be allocable to the ARP/CSLFRF federal award.

A cost is allocable to the ARP/CSLFRF award if the goods or services involved are chargeable or assignable to the ARP/CSLFRF award in accordance with the relative benefit received. This means that the ARP/CSLFRF grant program derived a benefit in proportion to the funds charged to the program.

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. 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. Where the purchase of equipment or other capital asset is specifically authorized by the ARP/CSLFRF, 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.

3. **Be authorized and not prohibited under state or local laws or regulations.**
4. **Conform to any limitations or exclusions set forth in the principles, federal laws, ARP/CSLFRF award terms, and other governing regulations as to types or amounts of cost items.**
5. **Be consistent with policies, regulations, and procedures that apply uniformly to both the ARP/CSLFRF federal award and other activities of the County.**
6. **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. And a cost must be treated consistently for both federal award and non-federal award expenditures.

7. **Be determined in accordance with generally accepted accounting principles (GAAP), unless provided otherwise in the Uniform Guidance.**
8. **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 County related to the federal award, they shall be credited to the ARP/CSLFRF award, either as a cost reduction or a cash refund, as appropriate and consistent with the award terms.

9. **Be adequately documented.**

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) in 2 CFR § 200.420-475, which are further identified in Exhibit A.

The Lincoln County Finance Department shall be responsible for determining cost allowability, must be familiar with the Selected Items of Cost. Lincoln County, and must follow the applicable regulations when charging these specific expenditures to the ARP/CSLFRF grant. The Lincoln County Finance Department personnel shall check costs against the selected items of cost requirements to ensure the cost is allowable and that all processes and documentation requirements are followed. In addition, North Carolina law, Lincoln County regulations, and program-specific rules may deem a cost as unallowable, and the Lincoln County Finance Department personnel must follow those non-federal rules as well.

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.

DIRECT COSTS are expenses that are specifically associated with a particular ARP/CSLFRF-eligible project 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.

INDIRECT COSTS are (1) costs incurred for a common or joint purpose benefitting more than one ARP/CSLFRF-eligible project, 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, administrative or secretarial salaries.

For indirect costs, Lincoln County may charge a 10 percent *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 \$25,000.00 of each subaward (regardless of the period of performance the subawards under the award). 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.

V. SPECIAL PROVISIONS FOR STATE AND LOCAL GOVERNMENTS. There are special provisions of the Uniform Guidance that apply only to states, local governments, and Indian Tribes and are provided herein.

2 CFR § 200.444 – GENERAL COSTS OF GOVERNMENT.

(a) For states, local governments, and Indian Tribes, the general costs of government are unallowable (except as provided in 2 CFR [§ 200.475](#)). Unallowable costs include:

- (1) 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](#);
- (2) 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;
- (3) Costs of the judicial branch of a government;

(4) 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 2 CFR [§ 200.435](#)); and

(5) 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 statute or regulation.

(b) For [Indian tribes](#) and Councils of Governments (COGs) (see definition for *Local government* in [§ 200.1](#) of this part), up to 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.

2 CFR § 200.416 – COST ALLOCATION PLANS AND INDIRECT COST PROPOSALS.

(a) For states, local governments and Indian tribes, certain services, such as 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.

(b) 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:

(1) The indirect costs originating in each department or agency of the governmental unit carrying out Federal awards and

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

(c) 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 this part.

2 CFR § 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 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.

VI. COST ALLOWABILITY REVIEW PROCESS.

PREAPPROVAL COST ALLOWABILITY REVIEW. Before an ARP/CSLFRF-funded project is authorized, the Finance Department 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 will occur concurrently with the review of project eligibility and *before* obligating or expending any ARP/CSLFRF funds.

- a. County personnel must submit proposed ARP/CSLFRF projects to the Finance Department for review. In addition to other required information, all proposed project submissions must delineate estimated costs by cost item.
- b. Along with a general review of project eligibility and conformance with other governing board management directives, the 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 US Treasury. The Finance Department should also refer to the Eligibility Determination Policy for the American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recovery Funds during this review.
- c. If a proposed project includes a request for an unallowable cost, the Finance Department will return the proposal to the requesting party for review and, if practicable, allow for re-submission with the corrected cost items.
- d. Once a proposed project budget is pre-approved by the Finance Department, the County personnel responsible for implementing the project must conform actual obligations and expenditures to the pre-approved project budget.

POST-EXPENDITURE COST ALLOWABILITY REVIEW. Once an expenditure is incurred related to an eligible project, and an invoice or other demand for payment is submitted to the County, the Finance Department must perform a second review to ensure that actual expenditures comprise allowable costs.

- a. 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 Finance Department will return the invoice to the project manager and/or vendor, or contractor for correction.
- b. The Finance Department must review the individual cost items listed on the invoice or other demand for payment to determine their allowability and allocability.
- c. If all cost items are deemed allowable and properly allocable, the Finance Department must proceed through the County's normal disbursement process.

- d. If any cost item is deemed unallowable, the Finance Department will notify the project management and/or vendor, or contractor that a portion of the invoice or other demand for payment will not be paid with ARP/CSLFRF funds. The Finance Department may in their discretion, and consistent with this policy, allow an invoice or other demand for payment to be resubmitted with a revised cost allocation. If the County remains legally obligated by contract or otherwise to pay the disallowed cost item, it must identify other County funds to cover the disbursement. The Lincoln County Board of Commissioners must approve any allocation of other funds for this purpose.
- e. The Finance Department must retain appropriate documentation of budgeted cost items per project and actual obligations and expenditures of cost items per project pursuant to the Record Retention Policy.

VII. COST TRANSFERS

Any costs charged to the ARP/CSLFRF federal 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

| Selected Items of Cost | Uniform Guidance General Reference | Allowability |
|---|---|---|
| Advertising and public relations costs | 2 CFR § 200.421 | Allowable with restrictions |
| Advisory councils | 2 CFR § 200.422 | Allowable with restrictions |
| Alcoholic beverages | 2 CFR § 200.423 | Unallowable |
| Alumni/ae activities | 2 CFR § 200.424 | Not specifically addressed |
| Audit services | 2 CFR § 200.425 | Allowable with restrictions |
| Bad debts | 2 CFR § 200.426 | Unallowable |
| Bonding costs | 2 CFR § 200.427 | Allowable with restrictions |
| Collection of improper payments | 2 CFR § 200.428 | Allowable |
| Commencement and convocation costs | 2 CFR § 200.429 | Not specifically addressed |
| Compensation – personal services | 2 CFR § 200.430 | Allowable with restrictions; Special conditions apply (e.g., § 200.430(i)(5)) |
| Compensation – fringe benefits | 2 CFR § 200.431 | Allowable with restrictions |
| Conferences | 2 CFR § 200.432 | Allowable with restrictions |
| Contingency provisions | 2 CFR § 200.433 | Unallowable with exceptions |
| Contributions and donations | 2 CFR § 200.434 | Unallowable (made by non-federal entity); not reimbursable but value may be used as cost sharing or matching (made to non-federal entity) |
| Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements | 2 CFR § 200.435 | Allowable with restrictions |
| Depreciation | 2 CFR § 200.436 | Allowable with qualifications |
| Employee health and welfare costs | 2 CFR § 200.437 | Allowable with restrictions |
| Entertainment costs | 2 CFR § 200.438 | Unallowable with exceptions |
| Equipment and other capital expenditures | 2 CFR § 200.439 | Allowability based on specific requirement |

| | | |
|--|-----------------|---|
| Exchange rates | 2 CFR § 200.440 | Allowable with restrictions |
| Fines, penalties, damages and other settlements | 2 CFR § 200.441 | Unallowable with exceptions |
| Fund raising and investment management costs | 2 CFR § 200.442 | Unallowable with exceptions |
| Gains and losses on disposition of depreciable assets | 2 CFR § 200.443 | Allowable with restrictions |
| General costs of government | 2 CFR § 200.444 | Unallowable with exceptions |
| Goods and services for personal use | 2 CFR § 200.445 | Unallowable (goods/services); allowable (housing) with restrictions |
| Idle facilities and idle capacity | 2 CFR § 200.446 | Idle facilities - unallowable with exceptions; Idle capacity - allowable with restrictions |
| Insurance and indemnification | 2 CFR § 200.447 | Allowable with restrictions |
| Intellectual property | 2 CFR § 200.448 | Allowable with restrictions |
| Interest | 2 CFR § 200.449 | Allowable with restrictions |
| Lobbying | 2 CFR § 200.450 | Unallowable |
| Losses on other awards or contracts | 2 CFR § 200.451 | Unallowable (however, they are required to be included in the indirect cost rate base for allocation of indirect costs) |
| Maintenance and repair costs | 2 CFR § 200.452 | Allowable with restrictions |
| Materials and supplies costs, including costs of computing devices | 2 CFR § 200.453 | Allowable with restrictions |
| Memberships, subscriptions, and professional activity costs | 2 CFR § 200.454 | Allowable with restrictions; unallowable for lobbying organizations |
| Organization costs | 2 CFR § 200.455 | Unallowable except federal prior approval |
| Participant support costs | 2 CFR § 200.456 | Allowable with prior approval of the federal awarding agency |
| Plant and security costs | 2 CFR § 200.457 | Allowable; capital expenditures are subject to § 200.439 |
| Pre-award costs | 2 CFR § 200.458 | Allowable if consistent with other allowabilities and with prior approval of the federal awarding agency |

| | | |
|---|-----------------|---|
| Professional services costs | 2 CFR § 200.459 | Allowable with restrictions |
| Proposal costs | 2 CFR § 200.460 | Allowable with restrictions |
| Publication and printing costs | 2 CFR § 200.461 | Allowable with restrictions |
| Rearrangement and reconversion costs | 2 CFR § 200.462 | Allowable (ordinary and normal) |
| Recruiting costs | 2 CFR § 200.463 | Allowable with restrictions |
| Relocation costs of employees | 2 CFR § 200.464 | Allowable with restrictions |
| Rental costs of real property and equipment | 2 CFR § 200.465 | Allowable with restrictions |
| Scholarships and student aid costs | 2 CFR § 200.466 | Not specifically addressed |
| Selling and marketing costs | 2 CFR § 200.467 | Unallowable with exceptions |
| Specialized service facilities | 2 CFR § 200.468 | Allowable with restrictions |
| Student activity costs | 2 CFR § 200.469 | Unallowable unless specifically provided for in the federal award |
| Taxes (including Value Added Tax) | 2 CFR § 200.470 | Allowable with restrictions |
| Termination costs | 2 CFR § 200.471 | Allowable with restrictions |
| Training and education costs | 2 CFR § 200.472 | Allowable for employee development |
| Transportation costs | 2 CFR § 200.473 | Allowable with restrictions |
| Travel costs | 2 CFR § 200.474 | Allowable with restrictions |
| Trustees | 2 CFR § 200.475 | Not specifically addressed |

RESOLUTION TO ADOPT THE CONFLICT OF INTEREST POLICY APPLICABLE TO CONTRACTS AND SUBAWARDS OF LINCOLN COUNTY SUPPORTED BY FEDERAL FINANCIAL ASSISTANCE UNDER THE AMERICAN RESCUE PLAN ACT

WHEREAS Lincoln County has received an allocation of funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); and

WHEREAS the funds may be used for projects within these categories, to the extent authorized by state law.

- 6. Support public health expenditures, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;

7. Address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, impacted industries, and the public sector;
8. 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;
9. 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,
10. 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 the ARP/CSLFRF are subject to the provisions of the federal Uniform Grant Guidance, 2 CFR Sect. 200 (the “UG”), as provided in the Assistance Listing; and

WHEREAS the Final Rule for the State and Local Fiscal Recovery Funds provides, in relevant part:

As part of accepting the Award Terms and Conditions for SLFRF, each recipient agreed to maintain a conflict-of-interest policy consistent with 2 C.F.R. § 200.318(c) that is applicable to all activities funded with the SLFRF award. Pursuant to this requirement, decisions concerning SLFRF funds must be free of undisclosed personal or organizational conflicts of interest, both in fact and in appearance. Recipients may avoid conflicts of interest in providing assistance to nonprofits or making subrecipient awards by, inter alia, making aid available to nonprofits on generally applicable terms or utilizing a competitive grant process, respectively. A recipient may not use control over SLFRF funds for their own private gain. Furthermore, no employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest.

WHEREAS, the UG (specifically, 2 C.F.R. § 200.318(c)(1)) requires recipients of Federal financial assistance to “maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts”; and

NOW THEREFORE BE IT RESOLVED that the Lincoln County Board of Commissioners hereby adopts and enacts the following Conflict of Interest Policy Applicable to Contracts of Lincoln County Supported by Federal Financial Assistance Under the American Rescue Plan Act.

This the _____ day of April, 2022.

Milton Sigmon, Vice-Chairman
Lincoln County Board of Commissioners

ATTEST:

Amy S. Atkins
Clerk to the Board



LINCOLN COUNTY
CONFLICT OF INTEREST POLICY APPLICABLE TO CONTRACTS OF LINCOLN
COUNTY SUPPORTED BY FEDERAL FINANCIAL ASSISTANCE UNDER THE
AMERICAN RESCUE PLAN ACT

I. Scope of Policy

- a. Purpose of Policy. This Conflict of Interest Policy (the “*Policy*”) establishes conflict of interest standards that (1) apply when Lincoln County, a body corporate and politic (the “*County*”) enters into a Contract (as defined in Section II hereof) and (2) 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 County (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 under the **American Rescue Plan Act**. 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.

II. Definitions

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

- a. “*COI Point of Contact*” means the individual identified in Section III(a) of this Policy.
- b. “*Contract*” means, for the purpose of Federal Financial Assistance, a legal instrument by which the County purchases property or services needed to carry out a program or project under a Federal award.
- c. “*Contractor*” means an entity or individual that receives a Contract.
- d. “*Covered Individual*” means a Public Officer, employee, or agent of the County.¹

¹ 2 C.F.R. § 200.318(c)(1) prohibits any “employee, officer, or agent” of a recipient or subrecipient from participating in the “selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest.” 2 C.F.R. Part 200 does not define the term “agent”. The plain meaning of the term suggests that it likely would encompass individuals that are directly under contract with a unit and that act on behalf of or provide

- e. “*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 the County.
- f. “*Direct Benefit*” means, with respect to a Public Officer or employee of the County, or the spouse of any such Public Officer or employee, (i) having a ten percent (10%) ownership interest or other interest in a Contract; (ii) deriving any income or commission directly from a Contract; or (iii) acquiring property under a Contract.
- g. “*Federal Financial Assistance*” means Federal financial assistance that the County 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).
- h. “*Governing Board*” means the Board of County Commissioners of the County.
- i. “*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.
- j. “*Involved in Making or Administering*” means (i) with respect to a Public Official or employee, (a) overseeing the performance of a Contract or having authority to make decisions regarding a Contract or to interpret a Contract, or (b) participating in the development of specifications or terms or in the preparation or award of a Contract, (ii) only with respect to a Public Official, being a member of a board, commission, or other body of which the Public Official is a member, taking action on the Contract, whether or not the Public Official actually participates in that action.
- k. “*Public Officer*” means an individual who is elected or appointed to serve or represent the County (including, without limitation, any member of the Governing Board), other than an employee or independent contractor of the County.

advice to a unit—but the term also might encompass individuals who have an ownership interest in a legal entity under contract with a unit.

- l. “*Recipient*” means an entity, usually but not limited to non-Federal entities, 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.
- m. “*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 County) of a Covered Individual, of a partner of a Covered Individual, or of an Immediate Family Member of a Covered Individual.
- n. “*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.
- o. “*Subcontractor*” means an entity that receives a Subcontract.

III. COI Point of Contact.

- a. Appointment of COI Point of Contact. The **Human Resources Director** of the County, shall have primary responsibility for managing the disclosure and resolution of potential or actual conflicts of interest arising under this Policy. In the event that the **Human Resources Director** is unable to serve in such capacity, the **County Attorney** 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 Section III(a) shall be known as the “*COI Point of Contact*”.
- b. Distribution of Policy. The COI Point of Contact shall ensure that each Covered Individual receives a copy of this Policy.

IV. Conflict of Interest Standards in Contracts and Subawards

- a. North Carolina Law. North Carolina law restricts the behavior of Public Officials and employees of the County involved in contracting on behalf of the County. The County shall conduct the selection, award, and administration of Contracts in accordance with the prohibitions imposed by the North Carolina General Statutes and restated in this Section III.
 - i. G.S. § 14-234(a)(1). A Public Officer or employee of the County Involved in Making or Administering a Contract on behalf of the County shall not derive a Direct Benefit from such a Contract.

- ii. G.S. § 14-234(a)(3). No Public Officer or employee of the County may solicit or receive any gift, favor, reward, service, or promise of reward, including a promise of future employment, in exchange for recommending, influencing, or attempting to influence the award of a Contract by the County.
- iii. G.S. § 14-234.3. If a member of the Governing Board of the County 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 between the County and the Covered Nonprofit Corporation, (2) attempt to influence any other person who deliberates or votes on a Contract between the County 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 to the Covered Nonprofit Organization.
- iv. G.S. § 14-234.1. A Public Officer or employee of the County 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 official 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.

- i. Prohibited Conflicts of Interest in Contracting. Without limiting any specific prohibition set forth in Section IV(a), a Covered Individual may not participate in the selection, award, or administration of a Contract if such Covered Individual has a real or apparent conflict of interest.
 - 1. 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. Exhibit A attached hereto provides a non-exhaustive list of examples of (i) financial or other interests in a firm considered for a Contract, and (ii) tangible personal benefits from a firm considered for a Contract.
 - 2. Apparent Conflict of Interest. An apparent conflict of interest shall exist where a real conflict of interest may not exist under Section IV(b)(i)(1), 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.

ii. Identification and Management of Conflicts of Interest.

1. Duty to Disclose.

- a. Each Covered Individual expected to be or actually involved in the selection, award, or administration of a Contract has an ongoing duty to disclose to the COI Point of Contact potential real or apparent conflicts of interest arising under this Policy.
- b. If the value of a proposed Contract or Subaward exceeds \$250,000.00, the COI Point of Contact shall collect a Conflict of Interest Disclosure Form contained in Exhibit C from each Covered Individual and file such Conflict of Interest Disclosure Form in records of the County.

2. Identification Prior to Award of Contract.

- a. Prior to the County's award of a Contract, the COI Point of Contact shall complete the appropriate Compliance Checklist contained in Exhibit B attached hereto and file such Compliance Checklist in the records of the County.

3. Management Prior to Award of Contract.

- a. If, after completing the Compliance Checklist, the COI Point of Contact identifies a potential real or apparent conflict of interest relating to a proposed Contract, the COI Point of Contact shall disclose such finding in writing to the County Manager and to each member of the Governing Board. If the Governing Board desires to enter into the proposed Contract 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 from the Federal awarding agency with appropriate mitigation measures; or

- ii. Reject the finding of the COI Point of Contact and enter into the Contract. In rejecting any finding of the COI Point of Contact, the Governing Board shall in writing document a justification supporting such rejection.
 - b. If the COI Point of Contact does not identify a potential real or apparent conflict of interest relating to a proposed Contract, the County may enter into the Contract in accordance with the County's purchasing policy.
- 4. Identification After Award of Contract.
 - a. If the COI Point of Contact discovers that a real or apparent conflict of interest has arisen *after* the County has entered into a Contract, the COI Point of Contact shall, as soon as possible, disclose such finding to the County Manager and to each member of the Governing Board. Upon discovery of such a real or apparent conflict of interest, the County shall cease all payments under the relevant Contract until the conflict of interest has been resolved.
- 5. Management After Award of Contract.
 - a. Following the receipt of such disclosure of a potential real or apparent conflict of interest pursuant to Section IV(b)(ii)(4), 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. 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

V. Gift Standards

- a. Federal Standard. Subject to the exceptions set forth in Section V(b), a Covered Individual may not solicit or accept gratuities, favors, or anything of monetary value from a Contractor or a Subcontractor.

- b. Exception. Notwithstanding Section V(a), 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 \$20.00 or less per source per occasion, provided that the aggregate market value of all gifts received by the Covered Individual pursuant to this Section V(b) does not exceed \$50.00 in a calendar year:
 - i. honorariums for participating in meetings;
 - ii. advertising items or souvenirs of nominal value; or
 - iii. meals furnished at banquets.
- c. Internal Reporting. A Covered Individual shall report any gift accepted under Section V(b) 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.

VI. 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 County.
- b. Disciplinary Actions for Contractors and Subcontractors. The County 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 County 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: (i) a member of Congress or a representative of a committee of Congress; (ii) an Inspector General; (iii) the Government Accountability Office; (iv) a Treasury or other federal agency employee responsible for grant oversight or management; (v) an authorized official of the Department of Justice or other law enforcement

agency; (vi) a court or grand jury; of (vii) a management official or other employee of the County, a Contractor, or Subcontractor who has the responsibility to investigate, discover, or address misconduct.

EXHIBIT A

Examples

| <i>Potential Examples of a “Financial or Other Interest” in a Firm Or Organization Considered for a Contract or Subaward</i> | <i>Potential Examples of a “Tangible Personal Benefit” From a Firm or Organization Considered for a Contract or Subaward</i> |
|---|--|
| Direct or indirect equity interest in a firm or organization considered for a Contract or Subaward, which may include: <ul style="list-style-type: none">- Stock in a corporation.- Membership interest in a limited liability company.- Partnership interest in a general or limited partnership.- Any right to control the firm or organization’s affairs. For example, a controlling equity interest in an entity that controls or has the right to control a firm considered for a contract.- Option to purchase any equity interest in a firm or organization. | Opportunity to be employed by the firm considered for a contract, an affiliate of that firm, or any other firm with a relationship with the firm considered for a Contract. A position as a director or officer of the firm or organization, even if uncompensated. |
| Holder of any debt owed by a firm considered for a Contract or Subaward, which may include: <ul style="list-style-type: none">- Secured debt (e.g., debt backed by an asset of the firm (like a firm’s building or equipment))- Unsecured debt (e.g., a promissory note evidencing a promise to repay a loan).<ul style="list-style-type: none">o Holder of a judgment against the firm. | A referral of business from a firm considered for a Contract or Subaward. |
| Supplier or contractor to a firm or organization considered for a Contract or Subaward. | Political or social influence (e.g., a promise of appointment to an local office or position on a public board or private board). |

EXHIBIT B

COMPLIANCE CHECKLIST FOR OVERSIGHT OF CONTRACT CONFLICTS OF INTEREST

Lincoln County, a body corporate and politic (the “*County*”) has adopted a Conflict of Interest Policy (“*Policy*”) that governs the County’s expenditure of Federal Financial Assistance (as defined in Section II of the Policy). The Policy designates the Human Resources Director of the County as the “COI Point of Contact.” The Policy requires the COI Point of Contact to complete this Compliance Checklist to identify potential real or apparent conflicts of interest in connection with proposed Contracts (as defined in Section II) and file the Checklist in the records of the County.

Instructions for Completion

1. The COI Point of Contact shall complete Steps 1 through 5 of the Checklist below.

2. If the value of the proposed Contract exceeds \$250,000.00, the COI Point of Contact shall collect a Conflict of Interest Disclosure Form from each Covered Individual.

3. If the COI Point of Contact identifies a potential real or apparent conflict of interest after completing this Compliance Checklist, the COI Point of Contact shall report such potential conflict of interest to the County Manager and to each member of the Governing Board.

Definitions.

1. *Covered Individual.* Each person identified in Section 1 of this Checklist is a “Covered Individual” for purposes of this Compliance Checklist and the Policy.

2. *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.

3. *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 County) of a Covered Individual, of a partner of a Covered Individual, or of an Immediate Family Member of a Covered Individual.

| | | |
|-------------|--|--|
| Step | | |
|-------------|--|--|

| | | | | |
|--|---|---|--------------------------------------|--|
| 1 | Identify the proposed Contract, counterparty, and the subject of the Contract. | <u>Name of Contract:</u> <hr/> <u>Name of Counterparty</u> <hr/> <u>Subject of Contract:</u> <hr/> | | |
| 2 | Identify all individuals involved in the selection, award, or administration of the Contract. These individuals are “Covered Individuals”. Ensure that each Covered Individual has been provided with a copy of the Conflict of Interest Policy. | | | |
| | <u><i>Public Officials</i></u> | <u><i>Employees</i></u> | <u><i>Agents</i></u> | |
| 3 | Identify whether any Covered Individual has a (i) financial or other interest in, or (ii) tangible personal benefit from the firm considered for a Contract. [If the estimated Contract amount exceeds \$250,000.00, ensure that each Covered Individual files a Conflict of Interest Disclosure Form with the COI Point of Contact.] | | | |
| Any identified interest in Step 3 is a potential “real” conflict of interest. | <u><i>Public Officials</i></u> | <u><i>Employees</i></u> | <u><i>Agents</i></u> | |
| | | | | |
| 4 | Identify whether any Related Party has a (i) financial or other interest in or (ii) tangible personal benefit from the firm considered from a Contract. If the estimated Contract amount exceeds \$250,000.00, ensure that each Covered Individual files a Conflict of Interest Disclosure Form with the COI Point of Contact. | | | |
| Any identified interest in Step 4 is a potential | <u><i>Public Officials – Related Party</i></u> | <u><i>Employees – Related Party</i></u> | <u><i>Agents – Related Party</i></u> | |
| | | | | |

| | | | |
|--|--|-------------------------|----------------------|
| “real” conflict of interest. | | | |
| 5 | Identify whether a reasonable person with knowledge of the relevant facts would find that an existing situation or relationship creates the <i>appearance</i> 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? If yes, explain. | | |
| Any identified interest in Step 5 is a potential “apparent” conflict of interest. | <u>Public Officials</u> | <u>Employees</u> | <u>Agents</u> |
| | | | |

COI Point of Contact: _____
Signature of COI Point of Contact: _____
Date of Completion: _____

EXHIBIT C
LINCOLN COUNTY CONTRACT CONFLICT OF INTEREST DISCLOSURE FORM
FOR OFFICIALS, EMPLOYEES, AND AGENTS

Lincoln County, a body corporate and politic (the “County”) has adopted a Conflict of Interest Policy (“Policy”) that governs the County’s expenditure of Federal Financial Assistance (as defined in Section II of the Policy). The Policy designates the Lincoln County Director of Human Resources as the “COI Point of Contact.”

The COI Point of Contact has identified you as an official, employee, or agent of the County that may be involved in the selection, award, or administration of the following contract: _____ (the “Contract”). To safeguard the County’s expenditure of Federal Financial Assistance, the COI Point of Contact has requested that you identify any potential real or apparent conflicts of interest in the Firm considered for the award of a Contract. Using the Exhibit A to the Policy as a guide, please answer the following questions:

1. Do you have a financial or other interest in a firm considered for this Contract?

Yes _____ No _____ Unsure: _____

If the answer is Yes or Unsure, please explain:

2. Will you receive any tangible personal benefit from a firm considered for this Contract?

Yes _____ No _____ Unsure: _____

If the answer is Yes or Unsure, please explain:

3. For purposes of Question 3(a) and 3(b), your “Immediate Family Members” include: (i) your spouse and their parents, (ii) your child, (iii) your parent and any spouse of your parent, (iv) your sibling and any spouse of your sibling, (v) your grandparents or grandchildren, and the spouses of each, (vi) any domestic partner of any individual in (ii) through (v) of this definition; and (vii) any individual related by blood or affinity whose close association with you is the equivalent of a family relationship.

a. Do you have an Immediate Family Member with a financial or other interest in a firm considered for this Contract?

Yes _____ No _____ Unsure: _____

If the answer is Yes or Unsure, please explain:

b. Do you have an Immediate Family Member that will receive a tangible personal benefit from a firm considered for this Contract?

Yes _____ No _____ Unsure: _____

4. Do you have any other partner with a financial or other interest in a firm considered for this Contract?

Yes _____ No _____ Unsure: _____

If the answer is Yes or Unsure, please explain:

5. Will any other partner of yours receive any tangible personal benefit from a firm considered for this Contract?

Yes _____ No _____ Unsure: _____

If the answer is Yes or Unsure, please explain:

6. Does your current or potential employer (other than the County) have a financial or other interest in a firm considered for this Contract or will such current or potential employer receive a tangible personal benefit from this Contract?

Yes _____ No _____ Unsure: _____

If the answer is Yes or Unsure, please explain:

7. Benefits to Employers

- a. Does a current or potential employer (other than the County) of any of your Immediate Family Members have a financial or other interest in a firm considered for this Contract?

Yes _____ No _____ Unsure: _____

If the answer is Yes or Unsure, please explain:

- b. Will a current or potential employer (other than the County) of any of your Immediate Family Members receive a tangible personal benefit from this Contract?

Yes _____ No _____ Unsure: _____

If the answer is Yes or Unsure, please explain:

- c. Does a current or potential employer (other than the County) of any partner of yours have a financial or other interest in a firm considered for this Contract?

Yes _____ No _____ Unsure: _____

If the answer is Yes or Unsure, please explain:

- d. Will a current or potential employer (other than the County) of any partner of yours receive a tangible personal benefit from this Contract?

Yes _____ No _____ Unsure: _____

If the answer is Yes or Unsure, please explain:

8. Does any existing situation or relationship create the appearance that you have a financial or other interest in a firm considered for this Contract or will receive a tangible personal benefit from a firm considered for this Contract?

Yes _____ No _____ Unsure: _____

If the answer is Yes or Unsure, please explain:

9. Does any existing situation or relationship create the appearance that any Immediate Family Member of yours has a financial or other interest in a firm considered for this Contract or will receive a tangible personal benefit from a firm considered for this Contract?

Yes _____ No _____ Unsure: _____

If the answer is Yes or Unsure, please explain:

10. Does any existing situation or relationship create the appearance that your current or potential employer (other than the County) has a financial or other interest in a firm considered for this Contract or will receive a tangible personal benefit from a firm considered for this Contract?

Yes _____ No _____ Unsure: _____

If the answer is Yes or Unsure, please explain:

11. Does any existing situation or relationship create the appearance that any current or potential employer (other than the County) of any of your Immediate Family Members has a financial or other interest in a firm considered for this Contract or will receive a tangible personal benefit from a firm considered for this Contract?

Yes _____ No _____ Unsure: _____

If the answer is Yes or Unsure, please explain:

12. Does any existing situation or relationship create the appearance that any current or potential employer (other than the County) of any other partner has a financial or other

interest in a firm considered for this Contract or will receive a tangible personal benefit from a firm considered for this Contract?

Yes _____ No _____ Unsure: _____

If the answer is Yes or Unsure, please explain:

* * * * *

Sign Name: _____
Print Name: _____
Name of Employer _____
Job Title: _____
Date of Completion: _____

* * * * *

RESOLUTION TO ADOPT THE ELIGIBLE PROJECT POLICY FOR THE EXPENDITURE OF AMERICAN RESCUE PLAN ACT OF 2021 CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS BY LINCOLN COUNTY

WHEREAS, Lincoln County has received an allocation of funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); and

WHEREAS, the US Treasury is responsible for implementing ARP/CSLFRF and has enacted a Final Rule outlining eligible projects; and

WHEREAS, the funds may be used for projects within these categories, to the extent authorized by North Carolina law.

- 11. Support public health expenditures, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
- 12. Address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, impacted industries, and the public sector;
- 13. 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;
- 14. 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,
- 15. 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, the expenditure of ARP/CSLFRF funds are subject to the provisions of the federal Uniform Grant Guidance, 2 CFR Part 200 (UG), as provided in the Assistance Listing; and

WHEREAS, the US Treasury has issued a Compliance and Reporting Guidance v.2.1 (November 15, 2021) dictating implementation of the ARP/CSLFRF award terms and compliance requirements; and

WHEREAS the Compliance and Reporting Guidance states on page 6 that:

“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.”

NOW THEREFORE BE IT RESOLVED that the Lincoln County Board of Commissioners hereby adopts and enacts the following Eligibility Determination Policy for American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recovery Funds for ARP/CSLFRF funds.

This the _____ day of April, 2022.

Milton Sigmon, Vice-Chairman
Lincoln County Board of Commissioners

ATTEST:

Amy S. Atkins
Clerk to the Board



LINCOLN COUNTY

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 the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF) funds. It also outlines the procedures for determining how Lincoln County (the “County”) will spend its ARP/CSLFRF funds.

I. PERMISSIBLE USES OF ARP/CSLFRF FUNDING.

The US Treasury issued its [Final Rule](#) regarding use of ARPA funds on January 6, 2022. The Final Rule is effective as of April 1, 2022. Until that date, a local government may proceed under the regulation promulgated by US Department of the Treasury in its [Interim Final Rule](#) or the Final Rule.) The Final Rule (and the Interim Final Rule) identify permissible uses of ARP/CSLFRF funds and certain limitations and process requirements. Under the Final Rule and Interim Final Rule, local governments must allocate ARP/CSLFRF funds no later than December 31, 2024 and disburse all funding no later than December 31, 2026. Failure of an entity to expend all funds by December 31, 2026 will result in forfeiture of ARPA funds.

ARP/CSLFRF funds may be used for projects within the following categories of expenditures:

- 1.** Support public health expenditures, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, 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, 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.

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.

II. PROHIBITED USES OF ARPA FUNDING.

THE ARP/CSLFRF AND US TREASURY'S FINAL RULE PROHIBIT CERTAIN USES OF ARP/CSLFRF FUNDS. SPECIFICALLY, ARP/CSLFRF FUNDS MAY NOT BE USED FOR THE FOLLOWING PROJECTS, AND THE COUNTY, AND ANY OF ITS CONTRACTORS, MAY NOT EXPEND ANY ARP/CSLFRF FUNDS FOR PURPOSES 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: 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 restricting in a judicial, administrative, or regulatory proceeding;
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 award terms and 2 CFR 200.318(c).
7. For any expenditure that would violate other applicable federal, state, and local laws and regulations.

III. PROCEDURES FOR PROJECT APPROVAL.

ALL COUNTY EMPLOYEES AND OFFICIALS MUST COMPLY WITH THE FOLLOWING REQUIREMENTS AND PROCEDURES FOR ARP/CSLFRF PROJECTS APPROVALS.

1. Requests for ARP/CSLFRF funding, must be made in writing and include all the following:
 - a. Brief description of the project

- b. Identification of ARP/CSLFRF Expenditure Category (“EC”). A list of ECs is located in the Appendix to the [US Treasury Compliance and Reporting Guidance](#).)
- c. Required justifications for applicable projects, according to the requirements in the Final Rule. Employees or any applicant seeking ARPA funding should review the [Final Rule](#) and [Final Rule Overview](#) prior to submitting a proposal.
- d. Proposed budget, broken down by cost item, in accordance with the Lincoln County Allowable Cost and Cost Principles Policy.
- e. A project implementation plan and estimated implementation timeline (All ARP/CSLFRF funds must be fully obligated by December 31, 2024, and fully expended by December 31, 2026.)

A form will be available from the County’s Finance Department for all County employees and officials to submit that includes all of the required information.

2. Requests for funding must be submitted to the County’s Finance Department for approval. All requests will be reviewed by the County’s Finance Department for ARP/CSLFRF compliance and for allowable costs and other financial review.
3. No ARP/CSLFRF may be obligated or expended before final written approval by the County’s Finance Department and approval of a budget amendment for the expenditure by the County’s Board of Commissioners.
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 County’s Finance Department and may require a budget amendment before proceeding. Any delay in the projected project completion date shall be communicated to the County’s Finance Department immediately.
6. The County’s Finance Department must collect and document required information for each Expenditure Category, for purposes of completing the required Project and Expenditure reports.
7. The County’s Finance Department must maintain written project requests and approvals, all supporting documentation, and financial information until at least December 31, 2031.

**RESOLUTION TO ADOPT THE NON-DISCRIMINATION POLICY FOR
EXPENDITURE OF AMERICAN RESCUE PLAN ACT CORONAVIRUS STATE AND
LOCAL FISCAL RECOVERY FUNDS**

WHEREAS, Lincoln County (the “County”) has received an allocation of funds from the “Coronavirus State and Local Fiscal Recovery Funds” (“CSLFRF funds”), established pursuant to Sections 602 and 603 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (the “ARP/CSLFRF award”).

WHEREAS, CSLFRF funds are subject to the U.S. Department of Treasury (“Treasury”) regulations, including the Final Rule, the Award Terms and Conditions, and the Title VII implementing regulations at 31 C.F.R. Part 22.

WHEREAS, pursuant to the ARP/CSLFRF Award Terms and Conditions, and as a condition of receiving CSLFRF funds, the County agrees to follow all federal statutes and regulations prohibiting discrimination in its administration of CSLFRF under the terms and conditions of the ARP/CSLFRF award, including, without limitation, the following:

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury’s implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin within programs or activities receiving federal financial assistance;
- ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
- iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving Federal financial assistance;
- iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury’s implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
- v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

NOW THEREFORE BE IT RESOLVED, that the Lincoln County Board of Commissioners hereby adopts and enacts the following policy, which shall apply to the operations of any program, activity, or facility that is supported in whole, or in part, by expenditures CSLFRF pursuant to the ARP/CSLFRF award.

This the ____ day of April, 2022.

Milton Sigmon, Vice-Chairman
Lincoln County Board of Commissioners

ATTEST:

Amy S. Atkins
Clerk to the Board



LINCOLN COUNTY Non-Discrimination Policy

It is the policy of Lincoln County (the “County”) to ensure that no person shall, on the ground of race, color, national origin (including limited English Proficiency), familial status, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program or activity administered by the County, including programs or activities that are funded in whole or part, with Coronavirus State and Local Fiscal Recovery Funds (“CSLFRF”), which the County has received from the U.S. Department of Treasury (“Treasury”) pursuant to Sections 602 and 603 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (herein the “ARP/CSLFRF award”).

I. Governing Statutory & Regulatory Authorities

As required by the CSLFRF Award Terms and Conditions, the County shall ensure that each “activity,” “facility,” or “program”² that is funded in whole, or in part, with CSLFRF and administered under the ARP/CSLFRF award, will be facilitated, operated, or conducted in compliance with the following federal statutes and federal regulations prohibiting discrimination. These include, but are not limited to, the following:

- a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury’s implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
- b. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
- c. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
- d. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury’s implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age within programs or activities receiving federal financial assistance; and

² 22 C.F.R. § 22.3 defines “program” and “activity” as all operations of an entity, including local governments, that receive Federal financial assistance, and the departments, agencies, or special purpose districts of the local governments to which Federal financial assistance is distributed. “Federal financial assistance” includes, among other things, grants and loans of federal funds. “Facility” includes all or any part of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration, or acquisition of facilities.

- e. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

II. Discriminatory Practices Prohibited in the Administration of the ARP/CSLFRF Award

To ensure compliance with Title VII of the Civil Rights Act of 1964, and Title 31 Code of Federal Regulations, Part 22, the Civil Rights Restoration Act of 1987, and other pertinent nondiscrimination authorities, the County shall prohibit, at a minimum, the following practices in its administration of the ARP/CSLFRF award:

- a. Denying to a person any service, financial aid, or other program benefit without good cause;
- b. Providing to a person any service, financial aid, or another benefit which is different in quantity or quality, or is provided in a different manner, from that provided to others under the program.
- c. Subjecting a person to segregation or separate treatment in any matter related to the receipt of any service, financial aid, or other benefit under the program;
- d. Restricting a person in the enjoyment of any advantages, privileges, or other benefits enjoyed by others receiving any service, financial aid, or other benefit under the program;
- e. Treating a person differently from others in determining whether that person satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which persons must meet to be provided any service, financial aid, or other benefit provided under the program;
- f. Implementing different standards, criteria, or other requirements for admission, enrollment, or participation in planning, advisory, contractual, or other integral activities to the program;
- g. Adopting methods of administration which, directly or through contractual relationships, would defeat or substantially impair the accomplishment of effective nondiscrimination;
- h. Selecting a site or location of facilities with the purpose or effect of excluding persons from, denying them the benefits of, subjecting them to discrimination, or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of Title VI or related acts and regulations;

- i. Discriminating against any person, either directly or through a contractual agreement, in any employment resulting from the program, a primary objective of which is to provide employment;
- j. Committing acts of intimidation or retaliation, including threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by any pertinent nondiscrimination law, or because an individual made a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing.

III. Reporting & Enforcement

1. The County shall cooperate in any enforcement or compliance review activities by the Department of the Treasury. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The County shall comply with information requests, on-site compliance reviews, and reporting requirements.

2. The County shall maintain a complaint log and inform the Treasury of any complaints of discrimination on the grounds of race, color, or national origin (including limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, whether pending or completed, including the outcome. The County shall inform the Treasury if it has received no complaints under Title VI.

3. Any person who believes they have been aggrieved by a discriminatory practice under Title VI has a right to file a formal complaint with the Treasury. Any such complaint must be in writing and filed with the Treasury's Title VI Coordinator within one hundred eighty (180) days following the date of the alleged discriminatory occurrence.

4. Any person who believes that because of that person's race, color, national origin, limited English proficiency, familial status, sex, age, religion, or disability that he/she/they have been discriminated against or unfairly treated by the County in violation of this policy should contact the following office within 180 days from the date of the alleged discriminatory occurrence: Lincoln County, Attn: Human Resources Director, P.O. Box 738, Lincolnton, NC 28093.

RESOLUTION TO ADOPT THE POLICY FOR PROPERTY MANAGEMENT RELATED TO THE EXPENDITURE OF AMERICAN RESCUE PLAN ACT CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS

WHEREAS, Lincoln County has received an allocation of funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); and

WHEREAS, the funds may be used for projects within these categories, to the extent authorized by state and federal law.

16. Support public health expenditures, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
17. Address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, impacted industries, and the public sector;
18. 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;
19. 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,
20. 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, the ARP/CSLFRF are subject to the provisions of the federal Uniform Grant Guidance, 2 CFR Sect. 200 (the “Uniform Guidance” or “UG”), as provided in the Assistance Listing; and

WHEREAS, the Compliance and Reporting Guidance for the State and Local Fiscal Recovery Funds (v2.1 November 2021) provides, in relevant part:

Equipment and Real Property Management. Any purchase of equipment or real property with SLFRF funds must be consistent with the Uniform Guidance at 2 CFR Part 200, Subpart D. Equipment and real property acquired under this program must be used for the originally authorized purpose. Consistent with 2 CFR 200.311 and 2 CFR 200.313, any equipment or real property acquired using SLFRF funds shall vest in the non-Federal entity. Any acquisition and maintenance of equipment or real property must also be in compliance with relevant laws and regulations.

WHEREAS, Subpart D of the Uniform Guidance dictates title, use, management, and disposal of real property, equipment, and supplies acquired in whole or in part with ARP/CSLFRF funds;

BE IT RESOLVED that the Lincoln County Board of Commissioners hereby adopts and enacts the following Policy for Property Management Related to The Expenditure of American Rescue Plan Act Coronavirus State and Local Fiscal Recovery Funds for the expenditure of ARP/CSLFRF funds.

This the _____ day of April, 2022.

Milton Sigmon, Vice-Chairman
Lincoln County Board of Commissioners

ATTEST:

Amy S. Atkins
Clerk to the Board



LINCOLN COUNTY

Policy for Property Management Related to The Expenditure of American Rescue Plan Act Coronavirus State and Local Fiscal Recovery Funds

I. POLICY OVERVIEW

Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, commonly called the Uniform Guidance (the “UG”), specifically Subpart D, details post award requirements related to property management of property acquired or updated, in whole or in part, with funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF).

2 CFR 200.311 through 2 CFR 200.316 detail property standards related to the expenditure of ARP/CLFRF funds. Lincoln County (the “County”) shall adhere to all applicable property standards, as detailed below.

II. DEFINITIONS

The following definitions from 2 CFR 200.1 apply in this policy.

COMPUTING DEVICES: machines used to acquire, store, analyze, process, and publish data and other information electronically, including accessories (or “peripherals”) for printing, transmitting and receiving, or storing electronic information. See also the definitions of supplies and information technology systems in this section.

EQUIPMENT: tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds \$5,000.00. See also the definitions of *capital assets*, *computing devices*, *general purpose equipment*, *information technology systems*, *special purpose equipment*, and *supplies* in this section.

INFORMATION TECHNOLOGY SYSTEMS: computing devices, ancillary equipment, software, firmware, and similar procedures, services (including support services), and related resources. See also the definitions of computing devices and equipment in this section.

INTANGIBLE PROPERTY: property having no physical existence, such as trademarks, copyrights, patents and patent applications and property, such as loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership (whether the property is tangible or intangible).

PERSONAL PROPERTY: property other than real property; property that may be tangible, having physical existence, or intangible.

PROPERTY: real property or personal property.

REAL PROPERTY: land, including land improvements, structures and appurtenances thereto, but excludes moveable machinery and equipment.

SUPPLIES: all tangible personal property other than those described in the definition of equipment in this section. A computing device shall be considered a *supply* if the acquisition cost is less than \$5,000.00, regardless of the length of its useful life. See also the definitions of computing devices and equipment in this section.

III. REAL PROPERTY

TITLE TO REAL PROPERTY: Title to real property acquired or improved with ARP/CSLFRF funds shall vest in the name of the County pursuant to 2 CFR 200.311(a).

USE OF REAL PROPERTY: Real property acquired or improved with ARP/CSLFRF funds must be used for the originally authorized purpose as long as needed for that purpose, during which time the County may not dispose of or encumber the title, or other interest, in the real property or other interests pursuant to 2 CFR 200.311(b).

INSURANCE OF REAL PROPERTY: THE COUNTY MUST PROVIDE THE EQUIVALENT INSURANCE COVERAGE FOR REAL PROPERTY ACQUIRED OR IMPROVED WITH ARP/CSLFRF FUNDS AS PROVIDED TO OTHER PROPERTY OWNED BY THE COUNTY/CITY/TOWN/VILLAGE PURSUANT TO 2 CFR 200.310.

DISPOSITION OF REAL PROPERTY: When the County no longer needs real property purchased with ARP/CSLFRF for ARP/CSLFRF purposes, the County must obtain disposition instructions from US Treasury. The instructions must provide for one of the following alternatives:

1. The County retains title after compensating US Treasury. The amount paid to US Treasury will be computed by applying US Treasury's percentage of participation in the cost of the original purchase (and costs of any improvements) to the fair market value of the property. However, in those situations where the County is disposing of real property acquired or improved with ARP/CSLFRF funds and acquiring replacement real property under the ARP/CSLFRF, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.
2. The County sells the property and compensates US Treasury. The amount due to US Treasury will be calculated by applying US Treasury's percentage of participation in the cost of the original purchase (and cost of any improvements) to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the ARP/CSLFRF award has not been closed out, the net proceeds from sale may be offset against the original cost of the property. When the County is directed to sell property, sales procedures must be followed that provide for competition to the extent practicable and result in the highest possible return.
3. The County transfers title to US Treasury or to a third party designated/approved by US Treasury. The County is entitled to be paid an amount calculated by applying the County's percentage of participation in the purchase of the real property (and cost of any improvements) to the current fair market value of the property pursuant to 2 CFR 200.311(c).

IV. EQUIPMENT

TITLE TO EQUIPMENT: Title to equipment acquired or improved with ARP/CSLFRF funds vests with the County pursuant to 2 CFR 200.313(a).

USE OF EQUIPMENT: The County must use equipment acquired with ARP/CSLFRF funds for the project for which it was acquired as long as needed, whether or not the project continues to be supported by the ARP/CSLFRF award, and the County must not encumber the property without prior approval of US Treasury pursuant to 2 CFR 200.313(a)(1)-(2).

Pursuant to 2 CFR 200.313(c)(1), when no longer needed for the original project, the equipment may be used in other activities supported by a Federal awarding agency, in the following order of priority:

1. Activities under a Federal award from the Federal awarding agency which funded the original project, then
2. Activities under Federal awards from other Federal awarding agencies. This includes consolidated equipment for information technology systems.

During the time that equipment is used on the project for which it was acquired, the County must also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, provided that such use will not interfere with the work on the project for which it was originally acquired. First preference for other use must be given to other programs or projects supported by US Treasury and second preference must be given to programs or projects under Federal awards from other Federal awarding agencies. Use for non-federally-funded programs or projects is also permissible. User fees should be considered if appropriate. 2 CFR 200.313(c)(2).

NONCOMPETITION: The County must not use equipment acquired with the ARP/CSLFRF funds to provide services for a fee that is less than private companies charge for equivalent services unless specifically authorized by Federal statute for as long as the Federal Government retains an interest in the equipment pursuant to 2 CFR 200.313(c)(3).

REPLACEMENT EQUIPMENT: When acquiring replacement equipment, the County may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property pursuant to 2 CFR 200.313(c)(4).

MANAGEMENT OF EQUIPMENT: The County will manage equipment (including replacement equipment) acquired in whole or in part with ARP/CSLFRF funds according to the following requirements.

1. The County will maintain sufficient records that include
 - a) a description of the property,
 - b) a serial number or other identification number,
 - c) the source of funding for the property (including the Federal Award Identification Number (FAIN)),
 - d) who holds title,
 - e) the acquisition date,
 - f) cost of the property,
 - g) percentage of Federal participation in the project costs for the Federal award under which the property was acquired,
 - h) the location, use and condition of the property, and
 - i) any ultimate disposition data including the date of disposal and sale price of the property.
2. The County will conduct a physical inventory of the property and reconcile results with its property records at least once every two years.
3. The County will develop a control system to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft will be investigated by the County.

4. The County will develop and implement adequate maintenance procedures to keep the property in good condition.
5. If the County is authorized or required to sell the property, it will establish proper sales procedures to ensure the highest possible return, in accordance with state and federal law.

INSURANCE OF EQUIPMENT: THE COUNTY MUST PROVIDE THE EQUIVALENT INSURANCE COVERAGE FOR EQUIPMENT ACQUIRED OR IMPROVED WITH ARP/CSLFRF FUNDS AS PROVIDED TO PROPERTY ALREADY OWNED BY THE COUNTY PURSUANT TO 2 CFR 200.310.

DISPOSITION OF EQUIPMENT: WHEN THE EQUIPMENT IS NO LONGER NEEDED FOR ITS ORIGINAL ARP/CSLFRF PURPOSE, THE COUNTY MAY EITHER MAKE THE EQUIPMENT AVAILABLE FOR USE IN OTHER ACTIVITIES FUNDED BY A FEDERAL AGENCY, WITH PRIORITY GIVEN TO ACTIVITIES FUNDED BY US TREASURY, DISPOSE OF THE EQUIPMENT ACCORDING TO INSTRUCTIONS FROM US TREASURY, OR FOLLOW THE PROCEDURES BELOW PURSUANT TO 2 CFR 200.313(E).

1. Equipment with a per-item fair market value of less than \$5,000 may be retained, sold or transferred by the County, in accordance with state law, with no additional responsibility to US Treasury;
2. If no disposal instructions are received from US Treasury, equipment with a per-item fair market value of greater than \$5,000 may be retained or sold by the County. The County must establish proper sales procedures, in accordance with North Carolina law, to ensure the highest possible return. The County must reimburse US Treasury for its federal share. Specifically, US Treasury is entitled to an amount calculated by multiplying the current market value or proceeds from sale by the ARP/CSLFRF funding percentage of participation in the cost of the original purchase. If the equipment is sold, US Treasury may permit the County to deduct and retain from the Federal share \$500.00 or ten percent (10%) of the proceeds, whichever is less, for its selling and handling expenses.
3. Equipment may be transferred to US Treasury or to a third-party designated by US Treasury in return for compensation to the County for its attributable compensation for its attributable percentage of the current fair market value of the property.

V. SUPPLIES

TITLE TO SUPPLIES. Title to supplies acquired with ARP/CSLFRF funds must vest with the County upon acquisition pursuant to 2 CFR 200.314(a).

USE AND DISPOSITION OF SUPPLIES: If there is a residual inventory of unused supplies exceeding \$5,000.00 in total aggregate value upon termination or completion of the ARP/CSLFRF project and the supplies are not needed for any other Federal award, the County must retain the supplies for use on other activities or sell them, but must, in either case,

compensate the Federal Government for its share. The amount of compensation must be computed in the same manner as for equipment. 2 CFR 200.314(a).

NONCOMPETITION. As long as the Federal Government retains an interest in the supplies, the County must not use supplies acquired under the ARP/CSLFRF to provide services to other organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute pursuant to 2 CFR 200.314(b).

VI. IMPLEMENTATION OF POLICY

The County Facilities Management Director shall adopt procedures to track all real property, equipment, and supplies (collectively, property) acquired or improved in whole or in part with ARP/CLSFRF funds. At a minimum, those procedures must address the following:

- Ensure proper insurance of property
- Document proper use of property
- Working with the County Finance Department, record and maintain required data records for equipment
- Conduct periodic inventories of equipment, at least every two years
- Create processes for replacement and disposition of property
- Establish other internal controls to safeguard and properly maintain property

RESOLUTION TO ADOPT THE RECORD RETENTION POLICY FOR DOCUMENTS CREATED OR MAINTAINED PURSUANT TO THE ARP/CSLFRF AWARD

WHEREAS Lincoln County has received an allocation of funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); and

WHEREAS the funds may be used for projects within these categories, to the extent authorized by state law.

21. Support public health expenditures, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
22. Address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, impacted industries, and the public sector;
23. 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;
24. 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,

25. 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 the ARP/CSLFRF are subject to the provisions of the federal Uniform Grant Guidance, 2 CFR Sect. 200 (the “UG”), as provided in the Assistance Listing; and

WHEREAS the Compliance Guide for the State and Local Fiscal Recovery Funds provides, in relevant part:

Recordkeeping Requirements. Generally, your organization must maintain records and financial documents for five years after all funds have been expended or returned to Treasury, as outlined in paragraph 4.c. of the Award Terms and Conditions. Treasury may request transfer of records of long-term value at the end of such period. Wherever practicable, such records should be collected, transmitted, and stored in open and machine-readable formats.

Your organization must agree to provide or make available such records to Treasury upon request, and to the Government Accountability Office (“GAO”), Treasury’s Office of Inspector General (“OIG”), and their authorized representative in order to conduct audits or other investigations.

WHEREAS, all documentation must be maintained for at least 5 years from the end of the award term;

NOW THEREFORE BE IT RESOLVED that the Lincoln County Board of Commissioners hereby adopts and enacts the following Record Retention Policy for Documents Created or Maintained Pursuant to The ARP/CSLFRF Award.

This the _____ day of April, 2022.

Milton Sigmon, Vice-Chairman
Lincoln County Board of Commissioners

ATTEST:

Amy S. Atkins
Clerk to the Board



LINCOLN COUNTY

Record Retention Policy for Documents Created or Maintained pursuant to the ARP/CSLFRF Award

- I. RETENTION OF RECORDS:** The Coronavirus Local Fiscal Recovery Funds (“CSLFRF”) Award Terms and Conditions and the Compliance and Reporting Guidance set forth the U.S. Department of Treasury’s (“Treasury”) record retention requirements for the ARP/CSLFRF award.

It shall be the policy of Lincoln County (the “County”) to follow Treasury’s record retention requirements as it expends CSLFRF pursuant to the APR/CSLFRF award. Accordingly, the County agrees to the following:

- The County shall retain all financial and programmatic records related to the use and expenditure of CSLFRF pursuant to the ARP/CSLFRF award for a period of five (5) years after all CLFRF funds have been expended or returned to Treasury, whichever is later.
- The County shall retain records for real property and equipment acquired with CSLFRF for five years after final disposition.
- The County shall ensure that the financial and programmatic records retained sufficiently evidence compliance with section 603(c) of the Social Security Act “ARPA,” Treasury’s regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
- The County shall allow the Treasury 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.
- The County acknowledges that if any litigation, claim, or audit is started before the expiration of the 5-year period, the records will be retained until all litigation, claims, or audit findings involving the records have been resolved.

- II. COVERED RECORDS:** For purposes of this policy, records are information, regardless of physical form or characteristics, that are created, received, or retained that evidence the County’s expenditure of CSLFRF funds on eligible projects, programs, or activities pursuant to the ARP/CSLFRF award.

Records that shall be retained pursuant to this policy include, but are not limited to, the following:

- Financial statements and accounting records evidencing expenditures of CSLFRF for eligible projects, programs, or activities.
- Documentation of rationale to support a particular expenditure of CSLFRF (e.g., expenditure constitutes a general government service);
- Documentation of administrative costs charged to the ARP/CSLFRF award;
- Procurement documents evidencing the significant history of a procurement, including, at a minimum, the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for contract cost or price;
- Subaward agreements and documentation of subrecipient monitoring;
- Documentation evidencing compliance with the Uniform Guidance property management standards set forth in 2 C.F.R. §§ 200.310-316 and 200.329;
- Personnel and payroll records for full-time and part-time employees compensated with CSLFRF, including time and effort reports; and
- Indirect cost rate proposals

III. STORAGE: The County's records must 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.

IV. DEPARTMENTAL RESPONSIBILITIES: Any department or unit of the County, and its employees, who are responsible for creating or maintaining the covered documents in this policy shall comply with the terms of this policy. Failure to do so may subject the County to civil and/or criminal liability. Any employee who fails to comply with the record retention requirements set forth herein may be subject to disciplinary sanctions, including suspension or termination.

The Lincoln County Finance Department (the "Finance Department") is responsible for identifying the documents that the County must or should retain and arrange for the proper storage and retrieval of records. The Finance Department shall also ensure that all personnel subject to the terms of this policy are aware of the record retention requirements set forth herein.

V. REPORTING POLICY VIOLATIONS: The County 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 County Manager. The County 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.

VI. QUESTIONS RELATING TO THE POLICY: Any questions relating to this policy should be referred to the Finance Department, who has been charged with administering, enforcing, and updating this policy.