



**TOWN OF RIVER BEND**

**45 Shoreline Drive  
River Bend, NC 28562**

T 252.638.3870  
F 252.638.2580

[www.riverbendnc.org](http://www.riverbendnc.org)

## **RIVER BEND TOWN COUNCIL PROPOSED AGENDA**

Work Session Meeting

December 7, 2023

River Bend Town Hall – 45 Shoreline Drive

7:00 p.m.

1. **VOTE** – Agenda: Additions / Deletions / Adoption
2. **VOTE** – 2024 Employee Holiday & Council Meeting Schedule - Jackson
3. **VOTE** – ARP Policies Adoption – Jackson
  - A. Eligible Use Policy
  - B. Conflicts of Interest Policy
  - C. Allowable Cost & Cost Principles Policy
  - D. Procurement Policy
4. Discussion – Eastern Carolina Council Representative Appointment – Jackson
5. Discussion – FY 22-23 Audit Presentation (next week) - Gilbert
6. Discussion – Plantation / Anchor Way Median Assessment - Maurer
7. Discussion – Future Use of Vacated Public Works Building - Maurer
8. REVIEW AGENDA – Nobles
9. **CLOSED SESSION** – NCGS § 143-318.11(a)(3)(5)(6) – and To Discuss the Acquisition of Real Property located at 509 Old Pollocksville Road, Owned by Weldon Brown, Jr. and Naqueldon Brown for the Location of a New Water Treatment Facility.

Pledge: Benton



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MEETINGS OF THE TOWN COUNCIL OF  
THE TOWN OF RIVER BEND

2024

Work Sessions ( 2<sup>nd</sup> Thursday)

7:00 p.m.

January 11  
February 8  
March 14  
April 11  
May 9  
June 13  
July 11  
August 8  
September 12  
October 10  
November 14  
\*\*\*December 5

Regular Meetings (3<sup>rd</sup> Thursday)

7:00 p.m.

January 18  
February 15  
March 21  
April 18  
May 16  
June 20  
July 18  
August 15  
September 19  
October 17  
November 21  
\*\*\*December 12

All Council Work & Regular Sessions will be held in the River Bend Town Hall beginning at 7:00 p.m.

\*\*\* Changed due to holiday.

Meeting date, time and location are subject to change due to unforeseen circumstances. In such event, proper public notice will be given prior to the meeting.

The public is invited and encouraged to attend all Council meetings.

The Town's Rules of Procedure, Agenda Policy, Public Comment Policy and Public Hearing Policy will be enforced at all Council Meetings.

Kristie Nobles  
Town Clerk



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TOWN OF RIVER BEND  
EMPLOYEE HOLIDAY SCHEDULE  
**2024**

<u>HOLIDAY</u>	<u>DATE</u>
New Year's Day	Monday, January 1
Martin Luther King Day	Monday, January 15
Good Friday	Friday, March 29
Memorial Day	Monday, May 27
Independence Day	Friday, July 5
Labor Day	Monday, September 2
Veterans' Day	Monday, November 11
Thanksgiving Holiday	Thursday, November 28 Friday, November 29
Christmas Holiday	Tuesday, December 24 Wednesday, December 25 Thursday, December 26

**ELIGIBLE USE POLICY FOR THE EXPENDITURE OF AMERICAN RESCUE PLAN ACT  
OF 2021 CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS BY TOWN  
OF RIVER BEND**

**WHEREAS** the Town of River Bend, 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** 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 state law.

1. Support COVID-19 public health expenditures, by funding COVID-19 mitigation and prevention efforts, medical expenses, behavioral healthcare, preventing and responding to violence, and certain public health and safety staff;
2. Address negative economic impacts caused by the public health emergency, including economic harms to households, small businesses, non-profits, impacted industries, and the public sector;
3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,
5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet; and

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

**WHEREAS** US Treasury has issued a Compliance and Reporting Guidance v.3.0 (February 28, 2022) 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 Town of River Bend hereby adopts and enacts the following Eligibility Determination Policy for ARP/CSLFRF funds.

# 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 the Town of River Bend will spend its ARP/CSLFRF funds.

## I. PERMISSIBLE USES OF ARP/CSLFRF FUNDING

US Treasury issued its **Final Rule** regarding use of ARP 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. 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 ARP funds.

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

1. Support COVID-19 public health expenditures, by funding COVID-19 mitigation and prevention efforts, medical expenses, behavioral healthcare, preventing and responding to violence, and certain public health and safety staff;
2. Address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, non-profits, impacted industries, and the public sector;
3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and
5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet; and

## II. PROHIBITED USES OF ARP 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 projects within the following categories of expenditures:

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

2. To borrow money or make debt service payments;
3. To replenish rainy day funds or fund other financial reserves;
4. To satisfy an obligation arising from a settlement agreement, judgment, consent decree, or judicially confirmed debt restricting in a judicial, administrative, or regulatory proceeding (There is an exception to this prohibition if the settlement or judgment requires the Town of River Bend to provide services to respond to the COVID-19 public health emergency or its negative economic impacts or to provide government services, then the costs of those otherwise ARP/CSLFRF-eligible projects are allowed.);
5. For a project that includes a term or condition that undermines efforts to stop the spread of COVID-19 or discourages compliance with recommendations and guidelines in CDC guidance for stopping the spread of COVID-19;
6. In violation of the conflict-of-interest requirements imposed by the award terms and 2 CFR 200.318(c).
7. For any expenditure that would violate other applicable federal, state, and local laws and regulations.

The Town of River Bend, and any of its contractors or subrecipients, may not expend any ARP/CSLFRF funds for these purposes.

### III. PROCEDURES FOR PROJECT APPROVAL

The following are procedures for ARP/CSLFRF project approvals. All Town of River Bend employees and officials must comply with these requirements.

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 in 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 ARP 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 Town of River Bend's Allowable Cost 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.)
2. Requests for funding must be submitted to Delane Jackson for approval. All requests will be reviewed by Delane Jackson for ARP/CSLFRF compliance and by Amanda Gilbert for allowable costs and other financial review.
3. No ARP/CSLFRF may be obligated or expended before final written approval by Delane Jackson. BOARD APPROVAL AND BUDGET AMENDMENTS WILL BE REQUIRED BEFORE APPROVAL
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 Delane Jackson and may require a budget amendment before proceeding. Any delay in the projected project completion date shall be communicated to Delane Jackson immediately.
6. Delane Jackson must collect and document required information for each EC, for purposes of completing the required Project and Expenditure reports.
7. Delane Jackson must maintain written project requests and approvals, all supporting documentation, and financial information at least until December 31, 2031.

Adopted this 7th day of December, 2023

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John R. Kirkland, Mayor

ATTEST:

\_\_\_\_\_  
Kristie J. Nobles, Town Clerk

ITEM 3

## CONFLICT OF INTEREST POLICY

### APPLICABLE TO CONTRACTS AND SUBAWARDS OF TOWN OF RIVER BEND SUPPORTED BY FEDERAL FINANCIAL ASSISTANCE

#### I. Scope of Policy

- a. Purpose of Policy. This Conflict of Interest Policy (“*Policy*”) establishes conflict of interest standards that (1) apply when Town of River Bend (“*Unit*”) enters into a Contract (as defined in Section II hereof) or makes a Subaward (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 Unit (1) enters into a Contract to be funded, in part or in whole, by Federal Financial Assistance to which 2 C.F.R. § 200.318(c) applies, or (2) makes any Subaward to be funded by Federal Financial Assistance to which 2 C.F.R. § 200.318(c) applies. If a federal statute, regulation, or the terms of a financial assistance agreement applicable to a particular form of Federal Financial Assistance conflicts with any provision of this Policy, such federal statute, regulation, or terms of the financial assistance agreement shall govern.

#### 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 Unit 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 Unit.
- 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 any political subdivision of the State (including the Unit).
- f. “*Direct Benefit*” means, with respect to a Public Officer or employee of the Unit, or the spouse of any such Public Officer or employee, (i) having a ten percent (10%) ownership interest or other interest in a Contract or Subaward; (ii) deriving any income or commission



directly from a Contract or Subaward; or (iii) acquiring property under a Contract or Subaward.

- g. “*Federal Financial Assistance*” means Federal financial assistance that the Unit 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 Town Council of the Unit.
- 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 Subaward or having authority to make decisions regarding a Contract or Subaward or to interpret a Contract or Subaward, or (b) participating in the development of specifications or terms or in the preparation or award of a Contract or Subaward, (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 or Subaward, whether or not the Public Official actually participates in that action.
- k. “*Pass-Through Entity*” means a non-Federal entity that provides a Subaward to a Subrecipient to carry out part of a Federal program.
- l. “*Public Officer*” means an individual who is elected or appointed to serve or represent the Unit (including, without limitation, any member of the Governing Board), other than an employee or independent contractor of the Unit.
- m. “*Recipient*” means an entity, usually but not limited to a non-Federal entity, that receives a Federal award directly from a Federal awarding agency. The term does not include Subrecipients or individuals that are beneficiaries of the award.
- n. “*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 Unit) of a Covered Individual, of a partner of a Covered Individual, or of an Immediate Family Member of a Covered Individual.
- o. “*Subaward*” means an award provided by a Pass-Through Entity to carry out part of a Federal award received by the Pass-Through Entity. It does not include payments to a contractor or payments to a contractor or payments to an individual that is a beneficiary of a Federal program.

- p. “*Subcontract*” means mean 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.
- q. “*Subcontractor*” means an entity that receives a Subcontract.
- r. “*Subrecipient*” means an entity, usually but not limited to a non-Federal entity, that receives a subaward from a Pass-Through Entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.
- s. “*Unit*” has the meaning specified in Section I hereof.

### **III. COI Point of Contact.**

- a. Appointment of COI Point of Contact. The Town Manager, an employee of the Unit, 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 Town Manager is unable to serve in such capacity, the Finance Director shall assume responsibility for managing the disclosure and resolution of conflicts of interest arising under this Policy. The individual with responsibility for managing the disclosure and resolution of potential or actual conflicts of interest under this 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 Unit involved in contracting on behalf of the Unit. The Unit shall conduct the selection, award, and administration of Contracts and Subawards in accordance with the prohibitions imposed by the North Carolina General Statutes and restated in this Section III.
  - i. G.S. § 14-234(a)(1). A Public Officer or employee of the Unit Involved in Making or Administering a Contract or Subaward on behalf of the Unit shall not derive a Direct Benefit from such a Contract or Subaward.
  - ii. G.S. § 14-234(a)(3). No Public Officer or employee of the Unit may solicit or receive any gift, favor, reward, service, or promise of reward, including but not limited to a promise of future employment, in exchange for recommending, influencing, or attempting to influence the award of a Contract or Subaward by the Unit.

- iii. G.S. § 14-234.3. If a member of the Governing Board of the Unit serves as a director, officer, or governing board member of a Covered Nonprofit Organization, such member shall not (1) deliberate or vote on a Contract or Subaward between the Unit and the Covered Nonprofit Corporation, (2) attempt to influence any other person who deliberates or votes on a Contract or Subaward between the Unit and the Covered Nonprofit Corporation, or (3) solicit or receive any gift, favor, reward, service, or promise of future employment, in exchange for recommending or attempting to influence the award of a Contract or Subaward to the Covered Nonprofit Organization.
  - iv. G.S. § 14-234.1. A Public Officer or employee of the Unit 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 or Subaward 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 or Subaward. Exhibit A attached hereto provides a non-exhaustive list of examples of (i) financial or other interests in a firm considered for a Contract or Subaward, and (ii) tangible personal benefits from a firm considered for a Contract or Subaward.
    - 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 or Subaward.
  - ii. Identification and Management of Conflicts of Interest.
    - 1. Duty to Disclose and Disclosure Forms
      - a. Each Covered Individual expected to be or actually involved in the selection, award, or administration of a Contract or Subaward

has an ongoing duty to disclose to the COI Point of Contact potential real or apparent conflicts of interest arising under this Policy.

- b. Prior to the Unit's award of a Contract or Subaward, the COI Point of Contact shall advise Covered Individuals expected to be involved in the selection, award, or administration of the Contract or Subaward of such duty.
- c. If the value of a proposed Contract or Subaward exceeds \$250,000, the COI Point of Contact shall collect a Conflict of Interest Disclosure Form contained in Exhibit C (for Contracts) and Exhibit E (for Subawards) from each Covered Individual and file such Conflict of Interest Disclosure Form in records of the Unit.

2. Identification Prior to Award of Contract or Subaward.

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

3. Management Prior to Award of Contract or Subaward

- 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 or Subaward, the COI Point of Contact shall disclose such finding in writing to the Finance Officer and to each member of the Governing Board. If the Governing Board desires to enter into the proposed Contract or Subaward despite the identification by the COI Point of Contact of a potential real or apparent conflict of interest, it may either:
  - i. accept the finding of the COI Point of Contact and direct the COI Point of Contact to obtain authorization to enter into the Contract or Subaward from (a) if Unit is a Recipient of Federal Financial Assistance, the Federal awarding agency with appropriate mitigation measures, or (b) if Unit is a Subrecipient of Federal Financial Assistance, from the Pass-Through Entity that provided a Subaward to Unit; or
  - ii. reject the finding of the COI Point of Contact and enter into the Contract or Subaward. In rejecting any finding of the COI Point of Contact, the Governing Board shall in

writing document a justification supporting such rejection.

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

4. Identification After Award of Contract or Subaward.

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

5. Management After Award of Contract or Subaward.

- 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. if Unit is a Recipient of Federal Financial Assistance funding the Contract or Subaward, disclose the conflict to the Federal awarding agency providing such Federal Financial Assistance in accordance with 2 C.F.R. § 200.112 and/or applicable regulations of the agency, or
- ii. if Unit is a Subrecipient of Federal Financial Assistance, disclose the conflict to the Pass-Through Entity providing a Subaward to Unit in accordance with 2 C.F.R. § 200.112 and applicable regulations of the Federal awarding agency and the Pass-Through Entity.

V. Oversight of Subrecipient's Conflict of Interest Standards

- a. Subrecipients of Unit Must Adopt Conflict of Interest Policy. Prior to the Unit's execution of any Subaward for which the Unit serves as a Pass-Through Entity, the COI Point of Contact shall ensure that the proposed Subrecipient of Federal Financial Assistance has

adopted a conflict of interest policy that satisfies the requirements of 2 C.F.R. § 200.318(c)(1), 2 C.F.R. § 200.318(c)(2), and all other applicable federal regulations.

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

## VI. Gift Standards

- a. Federal Standard. Subject to the exceptions set forth in Section VI(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 VI(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 or less per source per occasion, provided that the aggregate market value of all gifts received by the Covered Individual pursuant to this Section VI(b) does not exceed \$50 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 VI(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 or a Pass-Through Entity for which the Unit is a Subrecipient.

## VII. Violations of Policy

- a. Disciplinary Actions for Covered Individuals. Any Covered Individual that fails to disclose a real, apparent, or potential real or apparent conflict of interest arising with respect to the Covered Individual or Related Party may be subject to disciplinary action, including, but not limited to, an employee's termination or suspension of employment with or without pay, the consideration or adoption of a resolution of censure of a Public Official by the Governing Board, or termination of an agent's contract with the Unit.
- b. Disciplinary Actions for Contractors and Subcontractors. The Unit 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 Unit 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; or (vii) a management official or other employee of the Unit, a Contractor, or Subcontractor who has the responsibility to investigate, discover, or address misconduct.

Adopted this 7th day of December, 2023

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John R. Kirkland, Mayor

ATTEST:

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Kristie J. Nobles, Town Clerk

**EXHIBIT A**

Examples

<b><i>Potential Examples of a “Financial or Other Interest” in a Firm or Organization Considered for a Contract or Subaward</i></b>	<b><i>Potential Examples of a “Tangible Personal Benefit” From a Firm or Organization Considered for a Contract or Subaward</i></b>
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"><li>- Stock in a corporation.</li><li>- Membership interest in a limited liability company.</li><li>- Partnership interest in a general or limited partnership.</li><li>- 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.</li><li>- Option to purchase any equity interest in a firm or organization.</li></ul>	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"><li>- Secured debt (e.g., debt backed by an asset of the firm (like a firm’s building or equipment))</li><li>- Unsecured debt (e.g., a promissory note evidencing a promise to repay a loan).<ul style="list-style-type: none"><li>o Holder of a judgment against the firm.</li></ul></li></ul>	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**

The Town of River Bend (“*Unit*”) has adopted a Conflict of Interest Policy (“*Policy*”) that governs the Unit’s expenditure of Federal Financial Assistance (as defined in Section II of the Policy). The Policy designates the Town Manager 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 Unit.

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], 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 Finance Officer 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 Unit) of a Covered Individual, of a partner of a Covered Individual, or of an Immediate Family Member of a Covered Individual.

<p><b>Step 1</b></p>	<p>Identify the proposed Contract, counterparty, and the subject of the Contract.</p>	<p><u>Name of Contract:</u></p> <hr/> <p><u>Name of Counterparty</u></p> <hr/> <p><u>Subject of Contract:</u></p> <hr/>
<p><b>2</b></p>	<p>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.</p> <p><u>Public Officials</u></p>	<p><u>Employees</u></p> <p><u>Agents</u></p>
<p><b>3</b></p> <p>Any identified interest in Step 3 is a potential "real" conflict of interest.</p>	<p>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, ensure that each Covered Individual files a Conflict of Interest Disclosure Form with the COI Point of Contact.]</p> <p><u>Public Officials</u></p>	<p><u>Employees</u></p> <p><u>Agents</u></p>
<p><b>4</b></p> <p>Any identified interest in Step 4 is a potential "real" conflict of interest.</p>	<p>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, ensure that each Covered Individual files a Conflict of Interest Disclosure Form with the COI Point of Contact.</p> <p><u>Public Officials – Related Party</u></p>	<p><u>Employees – Related Party</u></p> <p><u>Agents – Related Party</u></p>

5 Identify whether 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? If yes, explain.

Public Officials

Employees

Agents

Any identified interest in Step 5 is a potential “apparent” conflict of interest.

COI Point of Contact:

Signature of COI Point of Contact:

Date of Completion:

ITEM 3

**EXHIBIT C**

**CONTRACT CONFLICT OF INTEREST DISCLOSURE FORM  
FOR OFFICIALS, EMPLOYEES, AND AGENTS**

The Town of River Bend ("*Unit*") has adopted a Conflict of Interest Policy ("*Policy*") that governs the Unit's expenditure of Federal Financial Assistance (as defined in Section II of the Policy). The Policy designates the Town Manager as the "COI Point of Contact."

The COI Point of Contact has identified you as an official, employee, or agent of the Unit that may be involved in the selection, award, or administration of the following contract: \_\_\_\_\_ (the "*Contract*"). To safeguard the Unit'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 Unit) 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 Unit) 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 Unit) 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 Unit) 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 Unit) 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 Unit) 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 Unit) 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 Unit) 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:

\_\_\_\_\_

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EXHIBIT D

**COMPLIANCE CHECKLIST FOR SUBAWARD OVERSIGHT**

The Town of River Bend (“Unit”) has adopted a Conflict of Interest Policy (“Policy”) that governs the Unit’s expenditure of Federal Financial Assistance (as defined in Section II of the Policy). The Policy designates the Town Manager 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 Subawards (as defined in Section II) and file the Checklist in the records of the Unit.

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 Subaward exceeds \$[250,000], 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 Finance Officer 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 Unit) of a Covered Individual, of a partner of a Covered Individual, or of an Immediate Family Member of a Covered Individual.

21



Step 1	<p>Identify the proposed Subaward, Subrecipient, and the subject of the Subaward.</p> <p><u>Name of Contract:</u></p> <p>_____</p> <p><u>Name of Counterparty</u></p> <p>_____</p> <p><u>Subject of Subaward:</u></p> <p>_____</p>
2	<p>Identify all individuals involved in the selection, award, or administration of the Subaward. These individuals are “Covered Individuals”. Ensure that each Covered Individual has been provided with a copy of the Conflict of Interest Policy.</p> <p><b><u>Public Officials</u></b></p> <p>_____</p> <p><b><u>Employees</u></b></p> <p>_____</p> <p><b><u>Agents</u></b></p> <p>_____</p>
3	<p>Identify whether any Covered Individual has a (i) financial or other interest in, or (ii) tangible personal benefit from the firm considered for a Subaward. [If the estimated Subaward amount exceeds \$[250,000], ensure that each Covered Individual files a Conflict of Interest Disclosure Form with the COI Point of Contact.]</p> <p><b><u>Public Officials</u></b></p> <p>_____</p> <p><b><u>Employees</u></b></p> <p>_____</p> <p><b><u>Agents</u></b></p> <p>_____</p>
4	<p>Identify whether any Related Party has a (i) financial or other interest in or (ii) tangible personal benefit from the firm considered from a Subaward. If the estimated Subaward amount exceeds \$[250,000], ensure that each Covered Individual files a Conflict of Interest Disclosure Form with the COI Point of Contact.]</p> <p><b><u>Public Officials – Related Party</u></b></p> <p>_____</p> <p><b><u>Employees – Related Party</u></b></p> <p>_____</p> <p><b><u>Agents – Related Party</u></b></p> <p>_____</p>
Any identified interest in Step 3 is a potential “real” conflict of interest.	<p>_____</p>
Any identified interest in Step 4 is a potential “real” conflict of interest.	<p>_____</p>

5

Identify whether 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 Subaward? If yes, explain.

**Any identified interest in Step 5 is a potential "apparent" conflict of interest.**

*Public Officials*

*Employees*

*Agents*

COI Point of Contact: \_\_\_\_\_

Signature of COI Point of Contact: \_\_\_\_\_

Date of Completion: \_\_\_\_\_

ITEM 3

23

**EXHIBIT E**

**SUBAWARD CONFLICT OF INTEREST DISCLOSURE FORM  
FOR OFFICIALS, EMPLOYEES, AND AGENTS**

The Town of River Bend (“Unit”) has adopted a Conflict of Interest Policy (“Policy”) that governs the Unit’s expenditure of Federal Financial Assistance (as defined in Section II of the Policy). The Policy designates the Town Manager as the COI Point of Contact.

The COI Point of Contact has identified you as an official, employee, or agent of the Unit that may be involved in the selection, award, or administration of the following subaward: \_\_\_\_\_ (the “Subaward”). To safeguard the Unit’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 Subaward. 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 Subaward?

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 Subaward?

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 Subaward?

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 Subaward?

Yes \_\_\_\_\_ No \_\_\_\_\_ Unsure: \_\_\_\_\_

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

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 Subaward?

Yes \_\_\_\_\_ No \_\_\_\_\_ Unsure: \_\_\_\_\_

If the answer is Yes or Unsure, please explain:

\_\_\_\_\_

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

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 Unit) of any of your Immediate Family Members have a financial or other interest in a firm considered for this Subaward?

Yes \_\_\_\_\_ No \_\_\_\_\_ Unsure: \_\_\_\_\_

If the answer is Yes or Unsure, please explain:

\_\_\_\_\_

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

Yes \_\_\_\_\_ No \_\_\_\_\_ Unsure: \_\_\_\_\_

If the answer is Yes or Unsure, please explain:

\_\_\_\_\_

---

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

Yes \_\_\_\_\_ No \_\_\_\_\_ Unsure: \_\_\_\_\_

If the answer is Yes or Unsure, please explain:

---

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

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 Subaward or will receive a tangible personal benefit from a firm considered for this Subaward?

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 Subaward or will receive a tangible personal benefit from a firm considered for this Subaward?

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 Unit) has a financial or other interest in a firm considered for this Subaward or will receive a tangible personal benefit from a firm considered for this Subaward?

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 Unit) of any of your Immediate Family Members has a financial or other

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

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 Unit) of any other partner has a financial or other interest in a firm considered for this Subaward or will receive a tangible personal benefit from a firm considered for this Subaward?

Yes \_\_\_\_\_ No \_\_\_\_\_ Unsure: \_\_\_\_\_

If the answer is Yes or Unsure, please explain:

\_\_\_\_\_

\*\*\*\*\*

Sign Name: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Name of Employer \_\_\_\_\_  
Job Title: \_\_\_\_\_  
Date of Completion: \_\_\_\_\_

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ITEM 3

**RESOLUTION FOR ALLOWABLE COSTS AND COST PRINCIPLES FOR  
EXPENDITURE OF AMERICAN RESCUE PLAN ACT CORONAVIRUS STATE AND  
LOCAL FISCAL RECOVERY FUNDS BY NORTH CAROLINA LOCAL GOVERNMENTS**

**WHEREAS** the Town of River Bend, 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 (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. Note that [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, per 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. Please see 2 CFR Part 200, Subpart E regarding the Cost Principles for more information.

- 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;

**BE IT RESOLVED** that the governing board of the Town of River Bend hereby adopts and enacts the following US Cost Principles Policy for the expenditure of ARP/CSLFRF funds.

**Adopted this 7th day of December, 2023**

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**John R. Kirkland, Mayor**

**ATTEST:**

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**Kristie J. Nobles, Town Clerk, CMC**

# TOWN OF RIVER BEND 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).

The Town of River Bend 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 Town Manager and the Finance Director, who are charged with the administration and financial oversight of the ARP/CSLFRF. Further, all local government 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 the Town Manager. As questions on allowability of certain costs may require interpretation and judgment, local government personnel are encouraged to ask for assistance in making those determinations.

## 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.

32

- 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 the Town of River Bend 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 Town of River Bend, its employees, the public at large, and the federal government.
- Whether the Town of River Bend 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. *For example, if 50 percent of a local government program officer's salary is paid with grant funds, then the local government must document that the program officer spent at least 50 percent of his/her time on the grant program.*

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 Town of River Bend.**
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 UGG.**
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 local government 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.**

#### **SELECTED ITEMS OF COST**

The UGG examines the allowability of fifty-five (55) specific cost items (commonly referred to as Selected Items of Cost) at 2 CFR § 200.420-.475.

DEPARTMENT OR POSITION(S) responsible for determining cost allowability must be familiar with the Selected Items of Cost. The Town of River Bend must follow the applicable regulations when charging these specific expenditures to the ARP/CSLFRF grant. The Finance Department will check costs against the selected items of cost requirements to ensure the cost is allowable and that all process and documentation requirements are followed. In addition, State laws, Town of River Bend regulations, and program-specific rules may deem a cost as unallowable, and Finance Department personnel must follow those non-federal rules as well.

Exhibit A identifies and summarizes the Selected Items of Cost.

#### **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, the Town of River Bend may charge a 10 percent de minimis rate of modified total direct costs (MTDC). According to UGG Section 200.68 MTDC means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each subaward (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.

### **SPECIAL PROVISIONS FOR STATE AND LOCAL**

There are some special provisions of the UG that apply only to states, local governments, and Indian Tribes.

#### **§ 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 § 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 § 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.

#### **§ 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.

35

(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.

#### **§ 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.

### **COST ALLOWABILITY REVIEW PROCESS**

#### **PREAPPROVAL COST ALLOWABILITY REVIEW**

Before an ARP/CSLFRF-funded project is authorized, the Finance Director must review the proposed cost items within an estimated project budget to determine whether they are allowable and allocable and whether cost items will be charged as direct or indirect expenses. This review will occur concurrently with the review of project eligibility and *before* obligating or expending any ARP/CSLFRF funds.

- Local government personnel must submit proposed ARP/CSLFRF projects to the Finance Director for review. In addition to other required information, all proposed project submissions must delineate estimated costs by cost item.
- Along with a general review of project eligibility and conformance with other governing board management directives, if required, the Finance Director 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.
- If a proposed project includes a request for an unallowable cost, the Finance Director will return the proposal to the requesting party for review and, if practicable, resubmission with corrected cost items.

36

- Once a proposed project budget is pre-approved by the Finance Director, the local government 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 local government, the Finance Director must perform a second review to ensure that actual expenditures comprise allowable costs.

- 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 Director will return the invoice to the project manager and/or vendor, contractor, or subrecipient for correction.
- The Finance Director must review the individual cost items listed on the invoice or other demand for payment to determine their allowability and allocability.
- If all cost items are deemed allowable and properly allocable, the Finance Director must proceed through the local government's normal disbursement process.
- If any cost item is deemed unallowable, the Finance Director will notify the project management and/or vendor, contractor, or subrecipient that a portion of the invoice or other demand for payment will not be paid with ARP/CSLFRF funds. The Finance Director 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 local government remains legally obligated by contract or otherwise to pay the disallowed cost item, it must identify other local government funds to cover the disbursement. The Town of River Bend's governing board must approve any allocation of other funds for this purpose.
- The Finance Director must retain appropriate documentation of budgeted cost items per project and actual obligations and expenditures of cost items per project.

#### **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 UGG 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

ITEM 3

## Town of River Bend Procurement Policy for Federally Funded Projects

### **Section 1: Purpose**

**Application of Policy.** The purpose of this policy is to establish guidelines for the procurement of goods, apparatus, supplies, materials, equipment, professional and non-professional services, and construction or repair work that is funded, in whole or in part, with federal financial assistance.

The Town of River Bend shall comply with the standards established in this policy, as well as with state law and any other policies and procedures adopted by town. The requirements of the Policy also apply to any subrecipient of federal financial assistance. In the case of a conflict in governing law or local policy, the town shall follow the most restrictive rule.

**Compliance with Federal Law.** Unless otherwise directed in writing by the federal awarding agency, or by a state agency acting as a passing-through entity, all procurements that involve the expenditure of federal financial assistance (federal awards) shall be conducted in accordance with the federal procurement requirement identified in 2 C.F.R. §§ 200.318–.327, of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (the Uniform Guidance).

### **Section 2: Code of Conduct**

The town has adopted standards of conduct covering conflicts of interest and governing the actions of its employees, officers, and agents who are engaged in the selection, award, and administration of federal award contracts.

### **Section 3: Pre-Solicitation Requirements**

Prior to any procurement transaction, the following pre-solicitation requirements shall be considered.

1. **No Evasion.** No contract may be intentionally divided into two or more separate purchases with the intent to avoid federal or state competitive procurement requirements.
2. **Interlocal Agreements.** The town shall explore the feasibility of entering into state and local intergovernmental agreements or cooperative agreements, where appropriate, for the procurement of common goods and shared services. Competition requirements may be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements.
3. **Surplus Property.** The town shall avoid the acquisition of unnecessary or duplicative items and shall explore the feasibility of purchasing federal surplus property in lieu of purchasing new equipment and property.
4. **Value Engineering.** The town shall consider opportunities to use value engineering in contracts for permanent restorative work projects that are of sufficient size to offer

reasonable opportunities for cost reduction.

5. **Domestic Preferences.** To the greatest extent practicable, the town shall provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States, including but not limited to iron, aluminum, steel, cement, and other manufactured products. No sacrifice or loss in price or quality is required in providing this preference, and no preference shall be given if such preference would violate any trade treaty to which the United States is a signatory.
6. **Geographic Preference.** The town shall conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
7. **Contracting with Minority-Owned, Women-Owned, and Small Business Firms.** For all contracts above the micropurchase threshold, the town shall take all necessary affirmative steps to assure that minority businesses, small businesses, women's business enterprises, historically underutilized businesses, and labor surplus area firms are used when possible. These affirmative steps shall include:
  - a. placing qualified small and minority businesses and women's business enterprises on solicitation lists and soliciting these businesses whenever they are potential sources;
  - b. dividing, when economically feasible, project requirements into smaller tasks or quantities and establishing delivery schedules that encourage maximum participation;
  - c. identifying firms through the U.S. Small Business Administration (SBA) and the U.S. Department of Commerce's Minority Business Development Agency of the North Carolina Department of Commerce; and
  - d. requiring the prime contractor, if subcontracts are to be awarded, to take the affirmative steps included in this section in an effort to make reasonable efforts to contract with disadvantaged business enterprises.
8. **Cost or Price Analysis.** Prior to awarding a contract, the town shall perform a cost or price analysis in connection with every procurement above the Simplified Acquisition Threshold, including contract modifications. See Section 6.4 for additional requirements of the cost/price analysis.
9. **Procurement of Recovered Materials.** The town shall comply with Section 6002 of the

Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the U.S. Environmental Protection Agency (EPA) at 40 C.F.R. part 247 containing the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. For federally funded solicitations, the requesting department shall include in the specifications the use of fully or partially recovered (recycled) materials to the greatest extent consistent with reasonable performance standards in accordance with federal regulations.

#### **Section 4: Solicitation Requirements**

1. **Full and Open Competition.** Procurements shall be conducted in a manner that provides full and open competition to ensure objective supplier performance and eliminate unfair competitive advantage. The town shall remain alert to organizational conflicts which would jeopardize the negotiation process and limit competition. The town may not:
  - a. place unreasonable requirements on firms in order for them to qualify to do business;
  - b. require unnecessary experience and excessive bonding or encourage or participate in non-competitive practices among firms or affiliated companies;
  - c. award non-competitive consultant retainer contracts except as expressly provided by funding-source regulations;
  - d. specify (1) that only a "brand name" product be used instead of allowing an "equivalent product" to be offered, though a "brand name or equivalent" description may be used to define the performance or other salient requirements of procurement or (2) the specific features, performance, or other relevant requirements of the named brand that must be met by offerors; or
  - e. take any arbitrary actions that limit or restrict competition.
2. **Contractors Excluded from Bidding.** To ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals are excluded from competing for the underlying procurement contract.
3. **Prequalification.** The town ensures that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. The prequalified list

shall be routinely updated. Potential bidders shall not be precluded from qualifying during the solicitation period.

4. **Product Descriptions.** All solicitations shall incorporate a clear and accurate description of the technical requirements for the material, service, or product to be procured. In competitive procurements, these descriptions shall not contain features which unduly limit competition. The description may include a statement of the qualitative nature of the material, product, or service and, when necessary, the minimum essential characteristics and standards to which it shall conform if it is to satisfy its intended use. Detailed product specifications shall be avoided whenever possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used to define the performance or other salient requirements of procurement. The solicitation shall identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

### **Section 5: Bidding Requirements**

The town shall comply with the procurement methods set forth in the Uniform Guidance at 2 CFR § 200.320 when entering into purchase, service, and construction contracts and repair contracts that will be funded, in whole or in part, with a federal award. The method of procurement will depend on the anticipated expenditure amounts and the type of service or materials being procured. The town shall also comply with state law and local policy when soliciting bids and awarding contracts.

1. **Informal Procurement Methods:** When the value of the procurement will not exceed the simplified acquisition threshold (SAT) of \$250,000, the town may conduct the procurement using one of the informal procurement methods: micropurchases and small purchase procedures.
  - a. **Micropurchases:** (contracts costing less than \$10,000)

The micropurchase procurement method may be used when the aggregate amount of the purchase/contract is below the micropurchase threshold (\$10,000). Micropurchases may be awarded without competition provided the price term is considered to be fair and reasonable based on market conditions. When making a micropurchase, the town shall:

- i. Obtain price or rate quote from at least one qualified vendor or contractor;
- ii. Document in writing that the price or rate quote is fair and reasonable; and
- iii. To the extent practical, distribute micropurchases equitably among qualified suppliers.

- b. **Small Purchase Procedures:** (Contracts costing between \$10,000 - \$250,000)

The small purchase method may be used for procurements in which the aggregate dollar amount is higher than the micropurchase threshold but does not exceed the SAT (\$250,000). This method does not require formal advertisement; the method of advertising the procurement shall be established by the Town Manager. Price or rate quotes may be received in a variety of format, including email, fax, phone, or any other method.

When conducting procurements using the small purchase procedures method, the Town Manager shall:

- i. Obtain an adequate number of price or rate quotations from vendors or contractors;
- ii. Maintain documentation of price/rate quotes; and
- iii. Award the contract to the lowest cost responsible bidder.

2. **Formal Procurement Methods:** For procurements that cost \$251,000 or more, the town shall conduct the procurement in accordance with one of the formal procurement methods: sealed bids or proposals.

a. **Sealed Bids:** (Contracts costing \$251,000 or more)

The sealed bid method shall be the town's preferred method for procuring construction and repair contracts, provided the following conditions are present: (1) a complete, adequate, and realistic specification or purchase description is available; (2) two or more responsible bidders are willing and able to compete effectively for the business; and (3) the procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

When the sealed bid method is used, the town shall satisfy the following conditions:

- i. Solicit sealed bids from an adequate number of qualified sources and provide bidders with sufficient time to prepare a response prior to the date set for bid opening.
- ii. Publicly advertise the Invitation for Bid (IFB).
- iii. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
- iv. Include in the IFB any specifications and pertinent attachments, and clearly define the items or services in order to allow the bidder to properly respond.
- v. Publicly open bids at the time and place prescribed in the IFB.
- vi. Award a firm, fixed-price contract in writing to the lowest responsive and responsible bidder.
- vii. Reject any or all bids only for sound documented reasons.

b. **Competitive Proposals:** (Contracts costing \$251,000 or more for which the sealed bid method is not appropriate)

45



The town shall use the competitive proposal method when the cost of the contract is above \$250,000 and when the sealed bids method is not appropriate. Proposals are conducted with more than one source submitting an offer, and either a fixed price or cost reimbursement type contract is awarded. The town is required to use the proposals method for qualification-based procurements in the selection of architectural and engineering (A/E) professional services. In the procurement of A/E professional services, the price will be negotiated after the most qualified firm is selected. When the competitive proposals method is used, the town shall satisfy the following conditions:

- i. Publicly advertise the request for proposal (RFP) or request for qualifications (RFQ). Formal advertisement in a newspaper is not required provided the method of advertisement will solicit proposals from an "adequate number" of qualified firms.
- ii. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
- iii. Identify evaluation criteria and relative importance of each criterion (criteria weight) in the RFP or RFQ.
- iv. Consider all responses to the publicized RFP to the maximum extent practical.
- v. Establish a written method for conducting technical evaluations of proposals and selecting the winning firm.
- vi. Award the contract on a fixed-price or cost-reimbursement bases to the most responsible firm with the proposal that is most advantageous to the town, taking into account price and other factors identified in the proposal. Price may not be an evaluation factor for (A/E) service contracts.
- vii. **A/E Service Contracts:** For qualification-based procurement in the selection of architectural and engineering (A/E) professional services, qualifications are evaluated, and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. Price shall not be solicited in the RFQ, or used as an evaluation criterion, in awarding A/E professional service contracts.

3. **Noncompetitive Procurement.** Noncompetitive procurements are allowed only under the following conditions.

- i. **Micropurchases.** The aggregate dollar amount of the procurement does not exceed the micropurchase threshold.
- ii. **Sole source.** A contract may be awarded without competitive bidding when the item is available from only one source. The requesting department shall document the justification for and lack of available competition for the item. A sole source contract must be approved by the governing board.
- iii. **Public Exigency.** A contract may be awarded without competitive bidding when there is a public exigency. A public exigency exists when there is an imminent or actual threat to public health, safety, and

- welfare, and the need for the item will not permit the delay resulting from competitive bidding.
- iv. **Agency Approval.** A contract may be awarded without competitive bidding when competition is determined to be inadequate after attempts to solicit bids/quotes from a number of sources as required under this Policy does not result in a qualified winning bidder.
  - v. **Inadequate Competition.** A contract may be awarded without competitive bidding when competition is determined to be inadequate after a minimum of two attempts to solicit bids from a number of sources as required under this Policy does not result in a qualified winning bidder.

### Section 6: Contract Award

1. **Responsible Contractors.** Contracts shall only be awarded to responsible, responsive contractors/firms possessing the ability to perform successfully under the terms and conditions of the proposed procurement. "Responsible" refers to the character or quality of the bidder, with consideration being given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. "Responsive" refers to the bidder's compliance with all required specifications in the formal solicitation.
2. **Suspension and Debarment.** Prior to awarding a contract, the Town Manager shall verify that a potential contractor is not debarred or suspended using the System for Award Management (SAM.gov). If a contractor has been debarred, suspended, or is otherwise excluded from participation in a federal award program, the contractor may not be awarded the contract. The Town Manager shall maintain documentation of this verification.
3. **Bid Rejections.** Bid submissions and/or proposals may be deemed non-responsive, or contractors may be determined to be non-responsible, for any sound documented reason(s). The documentation will state the reason(s) why each bidder failed to satisfy the responsive, responsible contractor standard for a particular procurement.
4. **Cost and Price Analysis.** Prior to receiving bids or proposals, the town is required to perform a cost or price analysis in connection with every procurement transaction, including contract modifications, falling above the simplified acquisition threshold (\$250,000). To satisfy this requirement, the requesting department shall prepare and submit a memorandum containing the cost/price analysis to the Town Manager.
  - a. A price analysis involves the evaluation of the total proposed price without an evaluation of its separate cost elements and proposed profit. A price analysis is used to verify that the overall price for a specific item is fair and reasonable.
  - b. A cost Analysis involves the evaluation of the separate elements that make up the total cost of a contract (e.g., labor, materials, profit, etc.). The cost analysis is

required for new contracts and contract modifications or change orders, even when the change order results in a lower contract price.

5. **Profit.** For contracts without price competition, or where cost analysis is required in accordance with 2 C.F.R. § 200.323(a), the town must negotiate profit as a separate price element. To establish a fair and reasonable profit, consideration shall be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of the contractor's past performance, and industry profit rates in the surrounding geographical area for similar work.
6. **Estimated Costs.** The town shall use estimated costs in negotiating contract terms only to the extent that the cost estimates included in negotiated prices are allowable under the 2 C.F.R. Part 200, Subpart E, "Cost Principles."
7. **Bonding Requirements.** For construction contracts or subcontracts that exceed the simplified acquisition threshold (\$250,000), the town shall require that contractors meet the minimum bonding requirements listed below.

To be submitted with the bidding documents:

A *bid guarantee* from each bidder equivalent to five percent (5%) of the bid price. The bid guarantee must consist of a firm commitment, such as a bid bond, certified check, or other negotiable instrument accompanying a bid, as assurance that the bidder shall, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

To be submitted at the time of contract award:

A *performance bond* on the part of the contractor that is for 100 percent (100%) of the contract price. A performance bond is a bond executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

A *payment bond* on the part of the contractor that is for 100 percent (100%) of the contract price. A payment bond is a bond executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

### Section 7: Prohibited Contracts

1. **Costs-Plus-a-Percentage-of-Construction-Cost Contracts.** The award of costs plus a percentage of construction cost contracts are prohibited.
2. **Time-and-Materials Contracts Disfavored.** The town shall only enter into time and materials contracts if it has determined in writing that no other contract type is suitable for a given procurement. Time and materials contracts prescribe cost as the sum of (a) actual cost of materials and (b) direct labor hours charges at fixed hourly rates that

reflect wages, general and administrative expenses, and profit. Use of time and materials contracts shall require an established price ceiling to ensure that the agreement does not allow for an open-ended contract price with no profit incentive for the contractor to control costs or labor efficiency. These contracts shall be subject to frequent oversight to ensure that the contractor employs efficient methods and effective cost controls.

### **Section 8: Contract Administration**

1. **Contract Oversight.** The Town Manager shall provide proper oversight to ensure that contractors and firms perform the contract requirements in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
2. **Contract Clauses.** All procurement contracts shall contain the applicable provisions described in Appendix II to 2 C.F.R. Part 200, "Contract Provisions for Non-Federal Entity Contracts Under Federal Awards."
3. **Record Retention.** The town shall maintain records sufficient to detail the history of each procurement, including the rationale for the method of procurement and selection of contract type, the basis for the contractor selection or rejection, and the basis for the contract price. These records include, but are not limited to, supporting documentation showing the rationale for the procurement method; written price or rate quotations, such as catalog price, online price, email or written quotes, copies of advertisements, requests for proposals, and bid sheets or bid proposal packets; bid rejection and award letters; purchase orders; executed contracts; and any other supporting documentation or financial records relating to the procurement transaction.
4. **Retention Period.** Unless a federal award prescribes a different record retention period, all financial records, supporting documents, statistical records, and all other records pertinent to a federal award shall be retained for a period of three years from the date of submission of the final expenditure report or, for federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the federal awarding agency or pass-through entity in the case of a subrecipient. An exception to the standard retention period may exist if any of the following circumstances is satisfied:
  - a. If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
  - b. When the town has been notified in writing by the federal awarding agency or pass-through entity that the retention period has been extended.
  - c. Records for real property and equipment shall be retained for three years

after final disposition.

**Section 9: Awarding Agency or Pass-Through Entity Review**

1. **Agency Review.** Upon request of the awarding federal agency, the town shall make available technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for acquisition. The town shall make the pre-procurement and procurement documents available upon request of the federal awarding agency or pass-through entity when any of the circumstances set forth in 2 C.F.R. § 200.325(b) are satisfied.

**Section 10: Compliance with Policy Provisions**

1. **Penalties Imposed by Federal Awarding Agency.** If it has been determined that the town has failed to comply with the U.S. Constitution, federal statutes, regulations, or the terms and conditions of a federal award, the federal awarding agency or pass-through entity may impose additional conditions on the town, as described in 2 C.F.R. § 200.208. In cases in which noncompliance cannot be remedied by the imposition of additional conditions, the federal awarding agency or pass-through entity may take one or more of the following actions: temporarily withhold cash payments, disallow costs, suspend, or terminate the award, initiate suspension, or debarment proceedings, withhold further federal awards for the project or program, or take other remedies legally available.

Adopted this 7th day of December, 2023

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John R. Kirkland, Mayor

ATTEST:

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Kristie J. Nobles, Town Clerk

## Delane Jackson

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**From:** David Bone <executivedirector@eccog.org>  
**Sent:** Tuesday, November 28, 2023 11:51 AM  
**To:** David Bone  
**Subject:** Jurisdiction Appointments to ECC Boards  
**Attachments:** Memo - ECC Members - 23.11.28 - ECC Board Appointments.pdf; yearly municipal appointment - 2023.pdf; ECC Priorities - 2023-24 - 23.06.08.pdf; Highlights of ECC Membership - 23.11.28.pdf

The Eastern Carolina Council of Governments (ECC) has made great strides in recent months, and having strong membership representation on our boards is key to our continued progress and success.

ECC has two boards – the General Membership Board and the Executive Committee. Each member government has the opportunity to appoint a member to the General Membership Board. Members of the Executive Committee include the County Commissioner representative for each county, one representative who represents all of the member municipalities of each county, and the representative for any member municipality with a population over 16,000.

The General Membership Board meets approximately four times per year, and the Executive Committee generally meets six times per year. (Executive Committee members are also on the General Membership Board.) The 2024 meeting schedule is available online at <https://eccog.org/board/>,

**If you are having an organizational meeting with your December Board meeting, this may be an opportune time to re-appoint your ECC Board representative or consider appointing another representative, if needed or desired.**

**If your community does not currently have a representative on the ECC Board, I strongly encourage you to consider an appointment at this time. The General Membership Board and Executive Committee give members a forum to help direct the work of ECC. These meetings also provide our members with a great opportunity to hear more information about ECC services, programs, and initiatives in order to receive the full benefits of ECC membership.**

To communicate your appointment / reappointment, please utilize the attached form.

**Additionally, the January 11, 2024, General Membership Board meeting will be the time when municipal members in each county can caucus to determine who will be their municipal caucus representative on the Executive Committee.** Part of Article V, Section 2 of ECC's bylaws stipulates the following:

*"The member municipalities of each Region P county will appoint a mayor of a municipality within that county, or another elected official serving a municipality within that county. Appointments will be made from those appointed to the General Membership Board by a caucus of the member municipalities in each county of Region P."*

This caucus historically takes place at the January meeting following municipal elections. **If you represent a municipality and your municipality is considering appointing someone new to the ECC General Membership Board, it would be great timing if this could be done prior to the January 11<sup>th</sup> General Membership Board meeting.**

**As background information on ECC's direction, attached are the adopted priorities for the 2023-24 year. Also attached are some highlights of ECC Membership / synopsis of recent accomplishments.**

Thank you for your consideration. Please let me know if you have any questions.



# Eastern Carolina Council

## Yearly Municipal Appointment

Please use this form to appoint or reappoint a representative from your municipality to actively serve on the Eastern Carolina Council General Membership Board. You may submit this form via email ([executivedirector@eccog.org](mailto:executivedirector@eccog.org)), fax (252-638-3187), or mail (P.O. Box 1717, New Bern, NC 28563-1717). For questions or concerns please contact Executive Director David Bone at 252-638-3185 ext. 3005 or [executivedirector@eccog.org](mailto:executivedirector@eccog.org). Please complete this form and convey it to us ASAP so that we may extend an invitation to this individual to attend our next meeting. Thank you!

Municipality: \_\_\_\_\_

We here do appoint \_\_\_\_\_ to serve on the  
(Name of Appointment)  
Eastern Carolina Council General Membership Board.

Contact information:

Title: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City and Zip: \_\_\_\_\_  
Home Phone: \_\_\_\_\_  
Cell Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

\_\_\_\_\_  
Date Signature Title



Thompson, Price, Scott, Adams & Co., P.A.  
4024 Oleander Drive Suite 103  
Wilmington, North Carolina 28403  
Telephone (910) 791-4872  
Fax (910) 239-8294

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**Report On Internal Control Over Financial Reporting And On Compliance and Other  
Matters Based On An Audit Of Financial Statements Performed In Accordance With  
*Government Auditing Standards***

**Independent Auditor's Report**

To the Honorable Mayor and  
Members of the Town Council  
River Bend, North Carolina

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the Town of River Bend, North Carolina, as of and for the year ended June 30, 2023, and the related notes to the financial statements, which collectively comprises the Town of River Bend's basic financial statements, and have issued our report thereon dated September 7, 2023.

**Report on Internal Control Over Financial Reporting**

In planning and performing our audit of the financial statements, we considered the Town of River Bend's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Town of River Bend's internal control. Accordingly, we do not express an opinion on the effectiveness of the Town's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented or detected and corrected on a timely basis. A *significant deficiency* is a deficiency or combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.



Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider material weaknesses. However, material weaknesses may exist that have not been identified.

#### **Report on Compliance and Other Matters**

As part of obtaining reasonable assurance about whether the Town of River Bend's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

#### **Purpose of this Report**

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the result of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

*Thompson, Price, Scott, Adams & Co., PA*

*Wilmington, North Carolina*

*September 7, 2023*

Town of River Bend, North Carolina  
Schedule of Findings and Responses  
For the Fiscal Year Ended June 30, 2023

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**Section I. Summary of Auditor's Results**

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Financial Statements

Type of report auditor issued on whether the financial statements audited were prepared in accordance to GAAP: Unmodified

Internal control over financial reporting:

- Material weakness(es) identified?      \_\_\_yes   Xno
- Significant Deficiency(s) identified?      \_\_\_yes   Xno

Noncompliance material to financial statements noted?      \_\_\_yes   Xno

ITEM 5

Town of River Bend, North Carolina  
Schedule of Findings and Responses  
For the Fiscal Year Ended June 30, 2023

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**Section II - Financial Statement Findings**

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None.

ITEM 5

Joseph R. Mattox  
Certified Arborist SO-6534A  
1469 Wintergreen Rd.  
Cove City, NC 28523  
252-229-5500  
11/10/2023



Town of River Bend  
Attn: Delane Jackson, Town Manager  
45 Shoreline Dr.  
New Bern, NC 28562

Mr. Jackson,

It has been a pleasure to walk Plantation Dr and Anchor Way and evaluate the trees located in the median. I have taken an inventory which will give us a record of the conditions of the trees and any work that may need to be done. Some of the tasks include pruning, training, mulching, cabling, and of course removals. Some of the work is mainly for aesthetics and some are for safety. I will try to elaborate on that in this report.

The good news is there are very few issues that are of immediate safety concern. There is some street lighting conflicts, plenty of deadwood that should be pruned, and areas where pedestrians have no where to go when they encounter vehicles. Most of the mature pine trees have several dead limbs that need to be pruned. Some of these limbs have already fallen and are of a size that could cause injury to people and damage to vehicles. Some of the larger oaks also have dead limbs that should be pruned as well as a large broken limb hanging in Tree #16 that could fall at any point. This should be removed as soon as possible. Root space is definitely an issue as well. Many of the mature trees have little to no room for continued root growth. Some trees have run out of room for their Critical Root Zone. These should be discussed as to their removal. Others have no room for their Root Plate. These should be removed.

Another issue and quite possibly the biggest issue you'll face is the improper pruning that has been done. This is mostly in the Crape Myrtles and unfortunately may continue if homeowners are allowed to prune the trees; this is assuming homeowners are the ones conducting this improper pruning and not a hired company. Many of the Crape Myrtles have been topped over the years. I'm sure this was in an attempt to keep them small but unfortunately when trees are topped they tend to resprout, with multiple stems, which compete against one another, and you end up with a less desirable specimen with long spindly limbs that are not as strong and weakly attached. It also appears that many of the Crape Myrtles planted were possibly of the dwarf or miniature variety. While this limits their height it doesn't necessarily limit their width. Couple this with the fact that most of them are multi stemmed plants has resulted in many of their limbs extending into or very close to the road. This doesn't leave much room for cars to get around pedestrians. This could possibly be corrected by replacing dwarf multistemmed plants with varieties that will reach a taller height. This may seem like a bad idea but the thought would be to put the canopy above vehicles and pedestrians both limiting contact and creating a much more aesthetically pleasing median. Keep in mind that to accomplish this may require the

purchase and planting of larger plants initially. Proper instruction or possibly rules, assuming there are none, regarding pruning may be needed to ensure the proper growth of any species that gets planted in the median.

This leads to me to speak more to aesthetics. If the goal of this report was to just report on the safety of median trees at River Bend it would be a short report. With the goal being the safety, attractiveness, and sustainability of the median we must speak to the attractiveness. Unfortunately there is a lot of judgement here. What one person likes a neighbor may dislike. My goal is to point out possible changes that may be more aesthetically pleasing. This is by no means a recommendation to make major changes immediately, this is to give CAC some more information to discuss with changes that could be made over time. I'll try to put some priority to these ideas.

The first priority goes to invasive species. Plants like Nandina and Privet are found along the median. While these 2 species are most likely not a huge problem in River Bend I still cannot recommend these as desirable species. They don't necessarily offer much as far as aesthetics and there are certainly more desirable species that could replace them. There are many Nandinas throughout the median.

Next we have plants that at one time were desirable but like the Crape Myrtles have been poorly pruned or not pruned regularly and now are overgrown with little ability to prune to a pleasing shape, they are just too far gone. Several Chinese Holly in this condition. Chinese Holly can be maintained to keep a pleasant shape but this requires routine pruning and they can get out of hand quickly. Euonymus is another. There are only a few of these but again are in poor shape with little chance of being maintained. Keep in mind this includes some of my opinion and judgment as stated previously.

Then we have small species that don't really add any benefit to the median, Gardenia, Yucca, Pampas Grass, and Azalea. Again my opinion on some of this, most of the Gardenias are very small and close to the ground which is nice but as you drive by or even walk you don't really get to enjoy them. These may be dwarf varieties that were planted. Yuccas can be painful if you bump into one. They don't offer aesthetics and can multiply and become a nuisance. Pampas grass is nice to look at when left alone to grown fully but like other species mentioned they get cut leaving a less desirable tuft of grass. Azaleas are lovely and I think many could be left alone to continue growing in the median. There are some Azaleas that are in worse shape than others, some have small trees growing within them that should be removed and some are growing under and close to trees which creates a wall of vegetation along the median. Not only does this leave no where for pedestrians to retreat from oncoming traffic but some homeowners wished they could see through more easily to talk with their neighbors across the street or as they walk by. These are my concerns with aesthetics.

Lastly I want to mention Species Diversity. While there are many different species along the median, there are several places where the same species is planted back to back multiple times. Such is the case with trees 31-44 and again with 50-59 and again along Anchor Way. The good news is these trees are Crape Myrtles which don't normally have major pest or disease problems. However if a disease, fungus, pest or pathogen did come around affecting Crape Myrtles you could have some large areas with no vegetation or seriously declining plants. There are other spots along the median with dogwoods as well. In the future I recommend a little more species diversity. Not only will this be beneficial in the event of a disease/pest outbreak, it also adds greatly to the beauty of the median.

In summary I'd like to make my recommendations. I will use tree numbers at times if it is a specific tree in need of work. I will also put these in priority with the first being my most concerning and lastly listing things for future discussion.

Any dead limbs should be pruned before they fall on someone, especially in tree 16 which has a large dead hanging limb and tree 121 which has large deadwood. There are several Oak Trees (Tree #s 14 and 15) that are conflicting with street lighting and should be removed. This will also allow more room for a large mature Oak to continue to grow. Also tree 72 which is a Crape Myrtle, tree 121 which is a Willow Oak and mentioned previously, and tree 222 which is a Cherry Laurel are all conflicting with street lighting. They should be pruned or removed if necessary to prevent light obstruction. These issues are the most concerning with regard to safety. Also it would be wise to consider opening up space by removing some plants to allow pedestrians to move into the median if necessary to avoid traffic.

Next we need to consider the Root Plate Zone and Critical Root Zone. Any tree with pavement over the Root Plate Zone should be removed. Trees # 48, 197, and 199 have measurements within the Critical Root Zone and very close to the Root Plate Zone. These should be considered for removal at some point. Most other mature trees also have measurements to pavement within the Critical Root Zone. Trees within the Critical Root Zone should be considered for removal but this could be less of a priority and could be spaced out over time. There is no way to guarantee they will stand up in a strong wind event. There is probably ample soil volume to allow for continued growth but the available space for structural roots will be compromised by pavement.

Any invasive species such as Nandina and Privet should be removed and replaced with a more desirable, appropriate, and non-invasive species. Many options are available and I will have a recommendation list later in the report.

Also many of the dwarf Crape Myrtles should be considered for removal. I realize this will be quite an expense so I recommend replacing them over time with more desirable plants. These replacements can be other Crape Myrtles but considerations must be made for immediate, short and long term growth when selecting a plant. Single stem plants should be first choice.

Considering plants that have become overgrown, for example most of the Chinese Hollies, some of the Azaleas, and Euonymus could be pruned to try and regain control and maintain shape but this may not work and will be an eyesore for some time. This is another issue that could be taken care of over time when budgets allow and or other work is being done in the area.

Lastly I would keep in mind species diversity. As old plants are removed and new plants are installed try and mix different species along the median. This makes for better aesthetics as well as preventing total losses in the event of a pest or disease outbreak.

There are various notes in the tree inventory itself for consideration and I highly recommend this type of inventory or at least frequent assessments of all mature trees be conducted routinely.

Let me know if you have any questions or if I can be of further assistance.

Joseph R. Mattox  
Certified Arborist SO-6534A

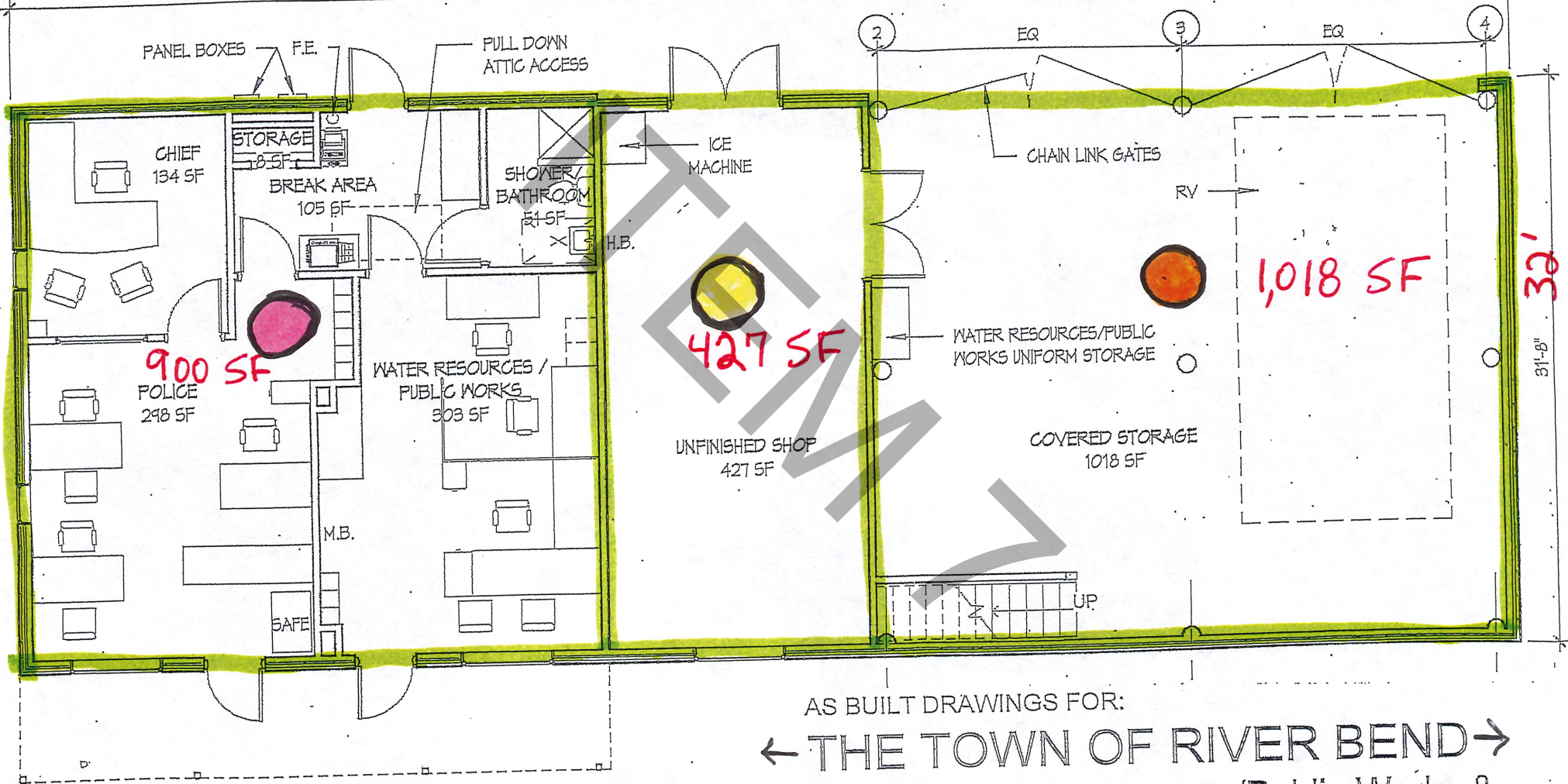
# OAKLEY • COLLIER ARCHITECTS

252-937-2500 Voice 109 Candlewood Road  
252-937-2525 Fax Rocky Mount, NC 27804

Approx 2,345 S.

Date	Project No.
FEB 01 2011	T0021
Drawn By	Sheet No.
BA	A1.0
Checked By	
AWC	

82'-3" 82'



## 1ST FLOOR PLAN

1/8" = 1'-0"

AS BUILT DRAWINGS FOR:  
 ← THE TOWN OF RIVER BEND →  
 Existing Water Resources/Public Works &  
 Police Station Facility  
 River Bend, North Carolina



# Craven County GIS

Craven County does not warrant the information shown on this map and should be used ONLY for tax assessment purposes. Printed on October 6, 2023 at 12:56:49 PM

1 inch = 65 feet







**RIVER BEND TOWN COUNCIL  
DRAFT PROPOSED AGENDA  
Regular Meeting  
December 14, 2023  
River Bend Town Hall – 45 Shoreline Drive  
7:00 p.m.**

Pledge: Benton

1. Call to Order (Mayor Kirkland Presiding)
2. Recognition of New Residents
3. Additions / Deletions / Adoption to Agenda
4. Addresses to the Council
5. Public Hearings – None
6. SPECIAL PRESENTATION – Audit Presentation for Fiscal Year 2022-2023 –  
Thompson, Price, Scott, Adams & Co., P.A.
7. Consent Agenda

*All items listed under this section are considered routine by the Council and will be enacted by one motion in the form listed below. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.*

**A. Approve:**

*Minutes of the November 9, 2023 Work Session Meeting  
Minutes of the November 16, 2023 Regular Council Meeting*

8. Town Manager's Report – Delane Jackson

*Activity Reports*

- A. *Monthly Police Report* by Chief Joll
- B. *Monthly Water Resources Report* by Director of Public Works Mills
- C. *Monthly Work Order Report* by Director of Public Works Mills
- D. *Monthly Zoning Report* by Assistant Zoning Administrator McCollum

**Administrative Reports:**

9. Public Safety – Councilwoman Benton
  - A. Community Watch
10. Parks & Recreation – Councilman Weaver
  - A. Parks and Rec Report
  - B. Organic Garden Report
11. CAC – Councilwoman Maurer
  - A. CAC Report

12. Finance – Councilman Leonard
  - A. Financial Report - Finance Director
13. Environment And Waterways – Councilman Leonard
  - A. EWAB Report
14. Planning Board – Councilman Sheffield
  - A. Planning Board Report
15. Mayor’s Report – Mayor Kirkland
16. Public Comment

*The public comment period is set aside for members of the public to offer comments to the Council. It is the time for the Council to listen to the public. It is not a Question & Answer session between the public and the Council or Staff. All comments will be directed to the Council. Each speaker may speak for up to 3 minutes. A member of staff will serve as timekeeper. A sign-up sheet is posted by the meeting room door and will be collected prior to the start of the Public Comment Period. Speakers will be called on by the Mayor in the order that they signed up. In order to provide for the maintenance of order and decorum, the Council has adopted a policy for this section of the meeting. A copy of the policy is posted by the door for your review. Please follow the policy. If you have a specific question for staff, you are encouraged to contact the Town Manager or the appropriate Department Head at another time.*

17. Adjournment

ITEM 13

North Carolina law allows public bodies, such as the River Bend Town Council, to meet in closed session to discuss certain topics. However, prior to going into closed session, the Council must announce the closed session and the topic for which the closed session is being called and that must be done while the Council is in open session. This requirement allows the public to know in general what the closed session is concerning. The closed session must also be adjourned in open session. For the purpose of this guide, open session simply means in view of the public and closed session simply means it private. The topics that may be discussed in closed session are listed below and are numbered 1 through 10. Most of the time, the Council knows in advance that a closed session is needed and the General Statute citation which identifies the purpose of the closed session is included on the agenda. However, that is not always the case. The need for a closed session may arise without enough warning to publish the citation on the agenda. The law does not require advanced notice of a closed session. In any case, planned or not, the Council will state the appropriate citation. The citation will always begin with 143-318.11(a). The numbers that follow in parenthesis will identify the particular closed session topic. For example: The citation 143-318.11(a)(3)(5) will allow the Council to consult with an attorney (#3) and to discuss the acquisition of real property (#5).

**§ 143-318.11. Closed sessions.**

(a) Permitted Purposes. – It is the policy of this State that closed sessions shall be held only when required to permit a public body to act in the public interest as permitted in this section. A public body may hold a closed session and exclude the public only when a closed session is required:

- (1) To prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes.
- (2) To prevent the premature disclosure of an honorary degree, scholarship, prize, or similar award.
- (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. General policy matters may not be discussed in a closed session and nothing herein shall be construed to permit a public body to close a meeting that otherwise would be open merely because an attorney employed or retained by the public body is a participant. The public body may consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, mediation, arbitration, or administrative procedure. If the public body has approved or considered a settlement, other than a malpractice settlement by or on behalf of a hospital, in closed session, the terms of that settlement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time after the settlement is concluded.
- (4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations, or to discuss matters relating to military installation closure or realignment. Any action approving the signing of an economic development contract or commitment, or the action authorizing the payment of economic development expenditures, shall be taken in an open session.
- (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. General personnel policy issues may not be considered in a closed session. A public body may not consider the qualifications, competence, performance, character, fitness, appointment, or removal of a member of the public body or another body and may not consider or fill a vacancy among its own membership except in an open meeting. Final action making an appointment or discharge or removal by a public body having final authority for the appointment or discharge or removal shall be taken in an open meeting.
- (7) To plan, conduct, or hear reports concerning investigations of alleged criminal misconduct.
- (8) To formulate plans by a local board of education relating to emergency response to incidents of school violence or to formulate and adopt the school safety components of school improvement plans by a local board of education or a school improvement team.
- (9) To discuss and take action regarding plans to protect public safety as it relates to existing or potential terrorist activity and to receive briefings by staff members, legal counsel, or law enforcement or emergency service officials concerning actions taken or to be taken to respond to such activity.
- (10) To view a recording released pursuant to G.S. 132-1.4A.

(b) Repealed by Session Laws 1991, c. 694, s. 4.

(c) Calling a Closed Session. – A public body may hold a closed session only upon a motion duly made and adopted at an open meeting. Every motion to close a meeting shall cite one or more of the permissible purposes listed in subsection (a) of this section. A motion based on subdivision (a)(1) of this section shall also state the name or citation of the law that renders the information to be discussed privileged or confidential. A motion based on subdivision (a)(3) of this section shall identify the parties in each existing lawsuit concerning which the public body expects to receive advice during the closed session.

(d) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 570, s. 2. (1979, c. 655, s. 1; 1981, c. 831; 1985 (Reg. Sess., 1986), c. 932, s. 5; 1991, c. 694, ss. 3, 4; 1993 (Reg. Sess., 1994), c. 570, s. 2; 1995, c. 509, s. 84; 1997-222, s. 2; 1997-290, s. 2; 2001-500, s. 2; 2003-180, s. 2; 2013-360, s. 8.41(b); 2014-79, s. 9(a); 2016-88, s. 3.)