



AGENDA

Monday, July 25, 2022: 3:00 PM

Town Council Work Session

**C. Michael Haney Community Room: Southern Pines Police Department
450 W. Pennsylvania Ave**

1. CALL TO ORDER

2. TOWN MANAGER'S COMMENTS

3. ACTION ITEMS

a. Consider Written Decision for PD-07-22 Morganton Park South Phase 2 Apartments PDP

Staff has prepared a formal Written Decision document for the application PD-07-22 Morganton Park South Phase 2 Apartments PDP that was approved by the Town Council at the July 12th meeting.

b. Consider upsizing option for Water Transmission Line relocation as part of NCDOT US1 Improvements.

4. COUNCIL UPDATES AND DISCUSSION

a. Library Facility Projects

Staff requested funds to replace the library front desk in the FY 22-23 budget. Council decided to postpone this project for consideration after July 1 and asked staff to provide further details on the proposed work. Staff will discuss the needs and suggested approach.

b. Follow-up Regarding Building Height Regulations

At the June 2022 Work Session, the Town Council asked the Planning Director for additional information on the potential effects of amendments to building height regulations in the Unified Development Ordinance that were adopted in January of 2022. Staff will provide additional information as a follow-up to the June discussion.

c. Knoll Road Multi-Use Trail

Discussion of project budget, potential alternatives, and path forward for the construction of a multi-use path along Knoll Road.

d. System Development Fees for Residential Fire Sprinkler Systems

The Town has received a request to consider modifying the system development fee schedule for residential projects utilizing fire sprinkler systems. Staff will share details.

e. Required ARPA Policies Overview

Staff will discuss the next steps toward reviewing potential ARPA projects, which will include Council's adoption of various policies, budget amendments, and reporting requirements.

f. Update on Whitehall Master Plan

The Town is working with CPL and Creech & Associates to prepare a master plan for the Whitehall property. Staff will share next steps, including the initial opportunities for public input.

g. Update on Comprehensive Long Range Plan (CLRP)

The Planning team is working to finalize a contract for consulting services with City Explained, Inc. for work on a Comprehensive Long Range Plan (CLRP). The long range planning process will involve extensive research, stakeholder engagement and visioning to prepare a plan for the future of Southern Pines. The Planning Director will provide a brief update and answer questions from Town Council.

5. ADJOURNMENT

Meetings/work sessions of the Southern Pines Town Council are now available on the Town's [YouTube channel](#). Video of the Town Council meetings will be live streamed on the channel for viewing either during the meetings or after they have concluded. Please note, the video is provided only for the purposes of viewing the meetings; public comments or questions are not accepted via the live stream. To receive notifications when new content is published, please "subscribe" to the Town's channel at <https://bit.ly/3hXx2Qk>

Work Session Agenda Item

To: Reagan Parsons, Town Manager

From: Pamela Graham, Principal Planner

Subject: Written Decision of the Board for PD-07-22: Planned Development - Preliminary Development Plan for Morganton Park South Phase 2 also known as Morganton Park South Apartments.

Date: July 25, 2022

I. PURPOSE:

Per UDO §2.14.6(F)(11), “A written decision must be approved for every quasi-judicial application, either by entering the decision at the end of the hearing or at a subsequent meeting of the hearing body, which shall generally be the next scheduled meeting. As part of the written decision, the hearing body must make findings of fact and conclusions as to applicable standards and any conditions. The chair may direct the planning director or town attorney to draft a written decision for approval by the hearing body at its next regularly scheduled meeting, which approval may be on a consent agenda.”

Staff has prepared a draft of the written decision of the board document for the application PD-07-22 that was heard by the Town Council at the regular meeting on June 14, 2022, continued to the July 12, 2022 regular meeting, and that the Town Council may now wish to adopt. If the Town Council approves the written decision of the board document, the Mayor will sign the document. The original signed version will be delivered to the petitioner, with staff maintaining a copy of the signed document in the file.

II. SUMMARY OF APPLICATION REQUEST:

Mr. Bob Koontz, of Koontz Jones Design on behalf of Zimmer Development Company has submitted an application for a Planned Development - Preliminary Development Plan in association with the Morganton Park South mixed-use development proposal approved in September of 2021. The application for this second phase of the Morganton Park South CDP proposes 269 multi-family residential units on a 13.18 acre portion of two parcels. The project constitutes Phase 2 of the approved CDP. The subject property is located near the center of the CDP total project area, immediately adjacent to the Phase 1 retail portion of the plan approved in October of 2021. Portions of two parcels constitute the project area, as depicted on the CDP’s Exhibit VII (Land Use Plan) and Exhibit VIII (Conceptual Master Plan & Phasing); those parcels are identified as PIN: 857100562348 (PARID 00049222) and PIN 857100575720 (PARID 98000749). Property owners as listed in the Moore County Tax Registry are Hyperactive Commercial Investments, LLC and Morganton Road Enterprises, LLC, respectively.

III. TOWN COUNCIL PUBLIC HEARING AND ACTION:

A public hearing for this request was held at the June 14, 2022 regular business meeting and continued to the July 12, 2022 regular business meeting of the Town Council. All public notice requirements were met for the June 14, 2022 hearing date and the hearing was properly continued to the July 12, 2022 date. The Town Council had five (5) members present. The Town Council opened the quasi-judicial public hearing on the June 14, 2022 date and received evidence from those in attendance regarding preliminary development plan application PD-07-22. Mr. BJ Grieve, Planning Director, entered the staff report into the record as Exhibit A and the staff PowerPoint presentation as Exhibit B. Ms. Pamela Graham, Principal Planner, provided an overview of the project and applicable criteria for review.

Mr. Tom Johnson, Attorney with Williams Mullen and Mr. Bob Koontz with Koontz Jones Design presented the case for the approval of PDP application PD-07-22. Mr. Johnson called Mr. Adam Tucker of Zimmer Development, representing the applicant, was also recognized. A visual presentation describing the proposal in more detail, was entered into the record as Exhibit C. Mr. Johnson addressed the proposed number of units, stating that the Traffic Impact Analysis for the project was based on 260 dwelling units, and was updated to consider 269 units. Mr. Tucker referenced another Zimmer project in Southern Pines, Eagle Landing, stating that it is similar in size to the proposed development. Mr. Bob Koontz of Koontz Jones Design also addressed the Council, using a visual presentation to supplement verbal descriptions. His presentation addressed the impact to the development layout as a result of the steep topography and utility easement on the site. The Town Council asked a variety of questions of the applicants and members of town staff on topics including the requested deviations to the number of dwelling units and parking spaces and the item noted as an inconsistency with the UDO and the CDP regarding the orientation of the buildings.

Following a break in the meeting, Mr. Tucker addressed Council with a request to continue the hearing until the July 12, 2022 regular business meeting. The request was approved by Council by unanimous vote.

On July 12, 2022, the hearing was reconvened, with Mr. Tom Johnson addressing the Council on the topic of the density of the proposed apartment project. He called up Mr. John Silverman with Midland Atlantic Development Company who provided Council with details regarding the developer's request for a maximum of 650 dwelling units for the overall project. Mr. Silverman explained that the requested number of units predated his firm's involvement in the project, and was proposed in the 1990s when the area was identified as the Morganton Road Overlay District. He added that the traffic impact analysis was based on 260 units for this portion of the development and that this area was appropriate for that level of density due to the proximity of the retail phase of development. Mr. Silverman then addressed the MSD that has been created to fund the construction of the +/- 1 mile long parkway, as a joint effort between his organization and the Town. He added that the financial models that were created to support the MSD made assumptions about the development that would occur in the first two phases of the development, and that if the density in either of the phases were to be reduced, it would cause the project to start in a hole, placing additional risk on both parties. Mr. Silverman stated that he recognizes that an error was made regarding the number of units in the

overall plan, and that by increasing the density in this phase, they may be adversely impacted in future phases; however, it was incredibly important that the project start out on the right foot. Mr. Silverman and Mr. Johnson responded to questions from Council members and addressed concerns that the increased density may also be requested for future phases. He also distributed a Parking Demand Analysis document produced by Kimley Horn that was entered into the record as Exhibit D.

The Council opened the meeting to public comment. There was no testimony from the general public and the Council closed the public hearing and voted on Preliminary Development Plan application PD-07-22.

The Town Council voted 5-0 to adopt Attachment A to staff report PD-07-22 as findings of fact. Attachment A included findings of fact that the application is complete, the facts submitted were relevant to the case, and that the application complies with Section 2.18.5(H) criteria for a Preliminary Development Plan, criteria 1-4.

The Town Council then voted 5-0 to adopt the proposal known as PD-07-22 with an additional stated condition that the approval is on the basis that the maximum number of dwelling units in the development be capped at 483 units

IV. ATTACHMENTS:

1. Written Decision for PD-07-22 (DRAFT)

V. TOWN COUNCIL ACTION:

The Town Council may wish to take one of the following actions:

1. No action;
2. Accept the Written Decision for PD-07-22 as prepared by the Town staff;
3. An action listed above with the following conditions...
4. Action not listed above...

TOWN OF SOUTHERN PINES

REGULAR BUSINESS MEETING OF THE TOWN COUCIL

June 14, 2022 and July 12, 2022

6:00 pm

The Douglas Community Center

1185 West Pennsylvania Avenue, Southern Pines, NC 28387

DECISION OF THE BOARD

Case Number: PD-07-22

A public hearing regarding a proposed Planned Development - Preliminary Development Plan for Morganton Park South Phase 2, known as PD-07-22, was called to order with five (5) members present on June 14, 2022, and continued to July 12, 2022. The Mayor administered the oath to all witnesses choosing to speak. Ms. Pamela Graham, Principal Planner, presented the staff report. Messrs. Tom Johnson of Williams Mullen Law Firm, Bob Koontz of KoontzJones Design, and Adam Tucker of Zimmer Development presented as the petitioner. During the July 12, 2022 meeting, they were joined by Mr. John Silverman of Midland Atlantic Properties.

Matter at Issue:

PD-022: Written Decision of the Board for PD-07-22: Planned Development - Preliminary Development Plan for Morganton Park South Phase 2.

Mr. Bob Koontz, on behalf of Zimmer Development Company, has submitted a Planned Development District – Preliminary Development Plan (PDP) application pursuant to §2.18.5 of the Town of Southern Pines Unified Development Ordinance (UDO) for Morganton Park South – Phase 2. The project constitutes Phase 2 of the Morganton Park South Conceptual Development Plan (CDP), and proposes 269 multi-family residential units on a 13.18 acre site, constituting portions of two parcels. The subject parcels were zoned PD (Planned Development), with an approved Conceptual Development Plan (CDP) entitled Morganton Park South on September 14, 2021.

Mr. BJ Grieve, Planning Director, entered the staff report into the record as Exhibit A, and staff's Powerpoint presentation as Exhibit B. Ms. Pamela Graham, Principal Planner, provided an overview of the project and applicable criteria for review.

Mr. Tom Johnson, Attorney with Williams Mullen, addressed Town Council regarding the proposal, and introduced other parties as noted below.

Mr. Bob Koontz of Koontz Jones Design presented a Powerpoint slide deck that was entered into the record as Exhibit C.

Mr. Adam Tucker, with Zimmer Development, addressed the Council regarding the proposal, including the requested density.

In addition to the parties named above, **Mr. John Silverman** of Midland Atlantic Development Company addressed the Council during the July 12, 2022 hearing continuation, providing testimony regarding the development's history and expectation of density in the first two phases.

After presenting details of the development, Messrs. Silverman, Johnson, Koontz, and Grieve answered questions from members of the Town Council.

No additional testimony was provided by the applicant or members of the public.

Town Council Action:

Having heard all evidence submitted by those wishing to speak, the Town Council then closed the public hearing. After closing the public hearing and discussing the application and information presented at the hearing, the Town Council made the following findings of fact on the application:

The Council voted on the following Findings of Fact and Conclusions of Law as required by UDO Section 2.18.5(H) and as presented in Attachment A in staff report PD-07-22:

Finding of Fact #1: By a vote of 5-0 the Town Council finds that the application is complete and that the facts submitted are relevant to the case because the request for Preliminary Development Plan approval has met the specified submittal requirements as required in the Town of Southern Pines UDO Appendices, the applicants have submitted adequate evidence addressing criteria for a Preliminary Development Plan, and the evidence submitted was sworn testimony by qualified experts or provided through substantiated documentation.

Finding of Fact #2: By a vote of 5-0, the Town Council finds that the application complies with Section 2.18.5(H) Criteria for a Preliminary Development Plan, Criteria 1-4, in that:

1. The application demonstrates that it will achieve the purposes of the PDD and this section;

The Town Council finds that the Preliminary Development Plan (PDP) for Morganton Park South Phase 1 implements the purposes of the Planned Development District because the proposed mix of land uses is supported by the stated purpose of the district as being to accommodate mixed land uses, such as office, residential, service, commercial, public or private recreational Development, and where consistent with the future land use map, light manufacturing and assembly uses that comply with the

employment center Development Patterns in section 6.5 of the UDO. Furthermore, the design of the PDP is consistent with the majority of the fourteen stated intentions of the Planned Development District regulations as set forth in Chapter 3 of the UDO.

2. The Preliminary Development Plan is consistent with the Conceptual Development Plan and conforms to all applicable provisions of this UDO;

The Town Council finds that the PDP is consistent with the Morganton Park South Conceptual Development Plan (CDP) with the exception of the deviations specifically requested by the applicant as part of the PDP application. Furthermore, deviations that vary from standards that are contained in the UDO are allowed, to provide for the application of unique conditions and standards during the process of rezoning to a Planned Development District, and that the Town Council deems the requested deviations to satisfy the following provisions for the PD District found in UDO §3.5.14(F)(3):

- meets or exceeds the general intent of the UDO standards for the base district;
- is appropriate given the specific mix of uses and character of the development; and
- achieves a more efficient, safe, or economical land use without detracting from the quality of the development or the community as a whole.

3. The proposed Development is located in an area of the Town that is appropriate;

Town Council finds that the proposed PDP is located in an appropriate area of town because the proposed multi-phased, mixed-use development may be served by existing public utilities and is providing a desirable connection between two significant roadways (West Morganton Road and US Highway 15-501). Additionally, the project is located in an area of town with existing access to necessary utility infrastructure and where the street system is adequate, or can be improved to be adequate, to accommodate the projected traffic volumes.

4. The proposed Development will not cause the need for inefficient extensions and expansions of public facilities, utilities and services.

Town Council finds that the proposed PDP includes efficient extensions of public facilities, utilities and services because sewer and water facilities exist near the proposed development and the Town Engineer has determined that the systems have the capacity to serve the proposed development. Furthermore, the development will be accessed by a new town roadway that creates a connection between existing roadways, providing options to drivers that is likely to assist with the dispersal of traffic.

Decision of the Council:

By a vote of 5-0, the Town Council voted to approve the Preliminary Development Plan Application PD-07-22, with the following conditions:

1. That the request for 269 total dwelling units in Phase 2 is approved, on the basis that the maximum number of dwelling units in the overall CDP for Morganton Park South be capped at 483.

2. That the request for a reduction in required parking spaces to a ratio of 1.61 spaces per unit, or 434 total spaces, is approved.
3. That the buildings in Phase 2 of the development may be oriented to the private street that serves this phase.

This is the 25th day of July, 2022.

FOR THE TOWN COUNCIL:

Carol Haney, Mayor

cc: Adam Tucker, Zimmer Development Company
John Silverman, Midland Atlantic Properties
Bob Koontz, KoontzJones Design
Tom Johnson, Williams Mullen Law Firm



To: Reagan Parsons, Town Manager

From: James Michel, PE, MBA, Town Engineer/Assistant Public Works Director

Re: Relocation of the 18" Water Transmission Main along US1 Betterment to 24" Main

Date: July 22, 2022

BACKGROUND

As part of NCDOT's US1 Median project, Council Approved a 3 Party Municipal Agreement with NCDOT and the Town of Aberdeen for the relocation of the Southern Pines 18" Water Transmission Main in November of 2021. Southern Pines was to be responsible for 25% of the cost of the relocation. Staff worked with NCDOT to include an option to upsize the 18" line to a 24" line to account for future growth. 100% of the cost to upsize the line would be Southern Pines' responsibility. Council then approved a Utility Relocation Agreement (URA) in March of 2022 which provided the final engineering estimates for the cost of the relocation work including an option for the 18" line and one for the 24" betterment. NCDOT agreed to bid the project with the quantities of both the 18" and 24" line so that Council could see the actual cost of the betterment before making the final decision. Below is summary of the cost for each option per the URA and per the actual bid numbers.

	25% of 18" Relocation Cost	24" Betterment Cost	Total with Betterment
Utility Relocation Agreement	\$522,461.50	\$1,378,215.00	\$1,900,676.50
Actual Bid	\$1,255,842.00	\$672,760.00	\$1,928,602.00

The overall NCDOT bid was significantly more than estimated which drove up the cost of the Town's 25% share. This essentially had the opposite effect on the betterment portion as the relative difference between the 18" unit cost and the 24" unit cost was significantly less than the estimated difference. The net result is that the total cost with betterment is very close to the original estimate while the non-betterment portion is more than twice the original estimate.

NCDOT typically bills for the Town's portion of the cost at the completion of the project which is anticipated to be in FY23/24. The rate study performed for the FY22/23 budget included \$1,910,000 in FY23/24 to account for the cost of the project. This project would also be an eligible use of Town ARPA funds.

NEXT STEPS

Staff is seeking a decision from Council on whether to proceed with the non-betterment 18" project, or the 24" betterment project. Staff will provide this direction to NCDOT who will modify the construction contract accordingly.

MEMORANDUM
— TOWN OF —
SOUTHERN PINES
— NORTH CAROLINA —

To: Reagan Parsons, Town Manager

From: Jessica Roth, Assistant Town Manager
Amanda Brown, Library Director

Re: Proposed Library Projects

Date: July 22, 2022

BACKGROUND

The Southern Pines Public Library, built in 1995, was beautifully conceived and actually featured on the cover of American Libraries as an example of exceptional Library architecture, a notable achievement. Overall, the building has functioned well in its nearly three decades of use, with residents and visitors frequently complimenting the building. With an average of approximately 90,000 visitors to the Library each year, the building has hosted nearly 2.5 million people since it opened, making it one of the Town's most widely used public facilities.

Over the years, and due to this heavy public use, the Town has completed repairs and updates to nearly every part of the building. Some examples include:

- Painting - The building has been painted multiple times, with the highest priority areas completed in 2021/2022.
- Carpet - The original carpet in the public areas has been replaced with carpet tiles and in some of those high traffic areas, the tiles have been replaced multiple times.
- Lighting - Most of the lighting in the public areas has been updated to LED, which has achieved greater cost savings and staff efficiencies since the previous light bulbs required frequent replacement by Town staff. Staff is working to replace the remaining original lighting, since some of can no longer be repaired due to its age.
- Ceiling Tiles – The original ceiling tiles were replaced in FY 20/21 as they had yellowed with age and accumulated 25 years of dust and dirt. Additionally, numerous repairs have been required over the years to reinforce the ceiling planks, repair damage to the walls and windows from roof leaks.
- Furniture – The furniture in the computer, children's, and young adults' areas has all been replaced in addition all soft seating. Almost all of the original wooden furniture has been refinished due to wear and tear, but it is becoming increasingly harder to find vendors willing or able to perform this work.
- Work rooms - Courtesy of the Friends of the Library, the study/work rooms were recently updated and offer modern amenities to suit patron needs.

STAFF RECOMMENDATION

The next high priority project that staff recommends is replacing the front circulation desk, which has not been updated since the Library opened. While well-constructed and designed when the Library opened, the desk has nearly 30 years of wear and tear. The desk is not only the focal point when entering the library, but is also an area used by nearly every patron and all the employees. Over the years, staff has completed cost-efficient repairs and modifications, such as gluing or nailing pieces that have fallen off or using pieces of furniture from

other parts of the Library that have less wear and tear. At this point, the desk is beyond the point of refurbishment and needs to be replaced.

Besides the state of disrepair, the front desk is not conducive to the Library's current operations and customer service. Since the Library opened in 1995, the ways in which patrons and staff both interact and utilize the Library have changed, especially with technology now playing such a prominent role. The current desk was designed for storing paper files, which is now wasted space that can't easily be repurposed.

The Southern Pines Library was designed with a large central desk so there was room for two stations – reference and circulation – and patrons interacted with reference and circulation staff at different points in their visit.

Today, the desk contains self-checkout terminals, which makes a dedicated circulation station obsolete. Similarly, Southern Pines no longer has dedicated reference staff, as many patrons prefer to conduct their own research using guest terminals. Staff has adjusted to these operational shifts and are fully cross-trained to perform all these functions as needed, so that patrons can work with any employee for any need. Therefore, the two separate stations have been abandoned and it would be more advantageous to have staff closer together to allow for improved collaboration and discussion as well as seamless customer service.

Recommendation: Remove and replace the existing desk with a modern desk that accommodates current technology and operations. The proposed desk will have a smaller footprint, which will provide additional space for holds pickup, display, and other needs. By moving staff together, it will be easier for patrons to interact with employees when they need help. The re-design will also improve the traffic flow, which is currently awkward when staff needs to move from behind the desk.

NEXT STEPS

Staff requests Council approval and funding authorization to advance this project. Staff has worked with a local furniture vendor to design the preferred front desk solution; the quote for this purchase and installation is \$45,423.22.

Another high priority project that staff recommends is renovating the public restrooms for the purposes of improved accessibility for patrons with mobility challenges and replacing worn flooring, stalls, and similar fixtures that are beyond the point of being reasonably refurbished. Preliminary cost estimates have indicated that project is likely in the range of \$150,000. Staff will provide more details regarding the need, and proposed plans with cost estimates, for this project as part of discussion of revenue replacement funds associated with the ARPA allocation.

MEMORANDUM

To: Reagan Parsons, Town Manager

From: James Michel, PE, MBA, Town Engineer/Assistant Public Works Director

Re: Multi-Use Path along Knoll Road

Date: July 15, 2022

BACKGROUND

The Town of Southern Pines has a Sidewalk and Greenway Plan that includes improvements to the pedestrian facilities along Knoll Road that would provide a connection between the Southern Pines greenway trail system and the Pinehurst System. The project corridor serves as an important connector between the Sandhills Community College area (and greenway trail system) and the Pinecrest High School/Pinecrest Plaza area, connecting with several large subdivisions in between. The proposed sidewalk and greenway improvements are necessary to fill a major gap in the extensive pedestrian networks to the north and south. The project was submitted to NCDOT in 2014 with assistance from the Triangle Area Regional Planning Organization (TARPO) for Federal Transportation Alternative Program (TAP) funding. The total construction cost for the project at the time was estimated at \$564,100. The project was awarded funding beginning in NCDOT's Fiscal Year 2020 with 80% of the construction cost to be funded with the TAP funds with the Town being responsible for the remaining 20% of construction cost plus engineering cost. The Town's portion would have been approximately \$113,000 plus engineering. Due to the fiscal issues within NCDOT during this time the project was put on hold for about 1 year.

Staff engaged with an engineering consultant in 2021 once the Town was reauthorized to begin work on the project. Several issues came to light during this initial scoping of the engineering work. Due to various site constraints and grading issues the original plan to install a trail along the side of Knoll was going to be more difficult and expensive than the 2014 estimates accounted for. This was further exacerbated by the significant increases in construction costs seen the past few years. Our engineering consultant has estimated that the project as originally scoped would now cost approximately \$1,700,000 including construction and engineering. This means the Town would have to increase the local contribution to \$1,250,000. There is \$113,000 currently allocated in CPF 49 Bike Transportation Project Fund. NCDOT is reviewing a request to increase the match based on the increased estimate, but this has not been approved at this time. Even if NCDOT increases the 80% match to the current estimate the Town's local match would still increase about \$389,000 to a total of \$502,000 which while better than the current shortfall, still represents a significant increase in the project budget.

DIFFERENT APPROACH

With such a significant increase in the cost estimate, staff has worked with the engineering consultant to identify additional alternatives. One option does appear to present less risk of construction changes and some potential design flexibility that could reduce the overall project costs. This option would delete the sidewalks proposed to be adjacent to the existing Knoll Road and would utilize a road diet to decrease the currently 3 lane road to 2 lanes. The third lane would be converted to include a small median with the remaining existing asphalt being converted into a 9' wide multi-use path. This proposed option presents less risk as the construction footprint would remain within the existing footprint of Knoll Road. The engineering consultant prepared an estimate that assumed a 5' wide concrete median separating the road from the pedestrian path at a cost of \$1,620,000. Utilizing a partially landscaped median with a single line of concrete curb could potentially reduce the overall cost. Included with this memo are 4 figures illustrating the existing conditions, a representation of the original project scope with sidewalk, and representation of the alternative scope with a road diet. A 4th figure shows the alternative scope with a different type of median. It should be noted that both



alternatives would come with a request to reduce the posted speed limit along Knoll Road to 30 or 35 MPH depending on the final design.

MOVING FORWARD

This item is being brought before Council to gauge the level of interest in continuing with the project and to determine which alternative is preferred if Council wishes to see the project move forward. There are many different permeations of potentials paths forward and below are a few examples.

1. All scenarios present a significant increase in the project budget and Council does not wish to move forward.
2. Council likes either the original scope or the alternative scope and is willing to make up the full shortfall of \$1.25MM.
3. Council likes either the original scope or the alternative scope, but only wishes to move forward with an increase in funding from NCDOT.
4. There is a cost threshold that Council is comfortable and Staff can continue to work with the engineering consultant to see if there is a viable option that falls within an acceptable budget.
5. Any other options that Council would like Staff to investigate.

Knoll Road Multi-Use Path

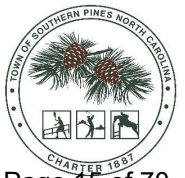


- Existing Trail
- Proposed Trail

*Map Not to Scale

This map was created by the Town of Southern Pines. The Town of Southern Pines, its agents and employees make NO warranty as to the correctness or accuracy of the information set forth on this media. Whether expressed or implied, in fact or in law, including without limitation the implied warranties of merchantability and fitness for a particular use.

Any resale of this data is strictly prohibited in accordance with North Carolina General Statute 132-10. Grid is based on North Carolina State Plane Coordinate System NAD83 (feet). 07/19/2022





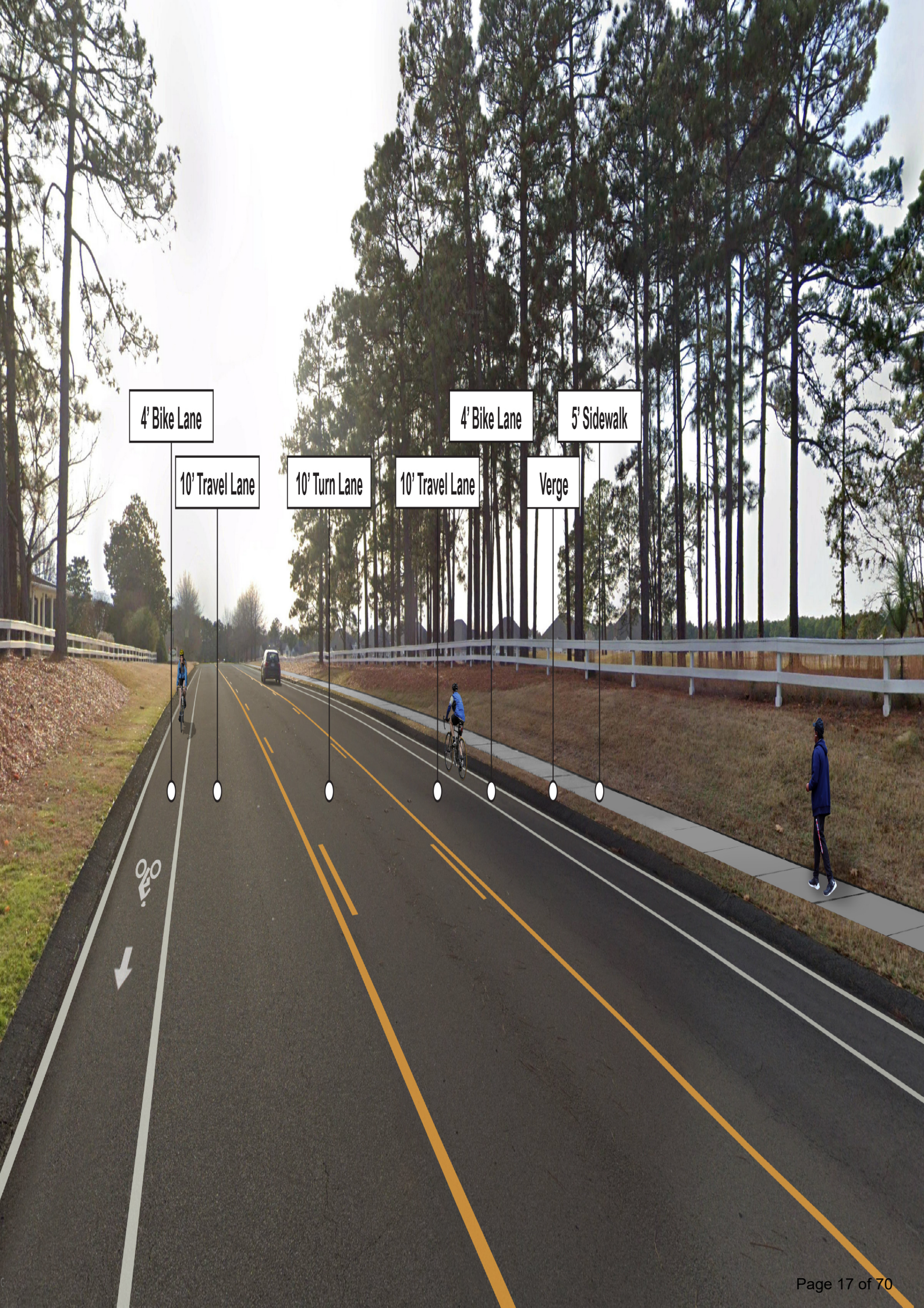
1' Shoulder

11' Travel Lane

14' Turn Lane

11' Travel Lane

1' Shoulder



4' Bike Lane

10' Travel Lane

10' Turn Lane

10' Travel Lane

4' Bike Lane

Verge

5' Sidewalk



12' Travel Lane

12' Travel Lane

5' Buffer

9' Multi-use path



12' Travel Lane

12' Travel Lane

5' Buffer

9' Multi-use path

MEMORANDUM

To: Reagan Parsons, Town Manager
From: James Michel, PE, MBA, Town Engineer/Assistant Public Works Director
Re: System Development Fees for 13-D Residential Fire Sprinkler Systems
Date: July 19, 2022

BACKGROUND

System Development Fees (SDF) are up-front fees charged to new developments connecting to the water and/or sewer system for the first time. They are designed to at least partially recover the cost of infrastructure investments required to provide the system capacity needed to serve the development. Southern Pines assess these fees based on the size of the water meter installed. A typical residential connection utilizes a $\frac{3}{4}$ " meter. The SDF assessed for a $\frac{3}{4}$ " meter totals \$2,566.22 for water and \$1,610.44 for sewer for a total SDF of \$4,176.66.

The Town is beginning to see projects with new residential structures utilizing internal sprinkler systems to provide fire protection. In a typical commercial building, fire sprinklers are fed off a dedicated fire line which is not metered. The commercial building then only pays the SDF on the domestic meter(s). A residential fire sprinkler system is built off of the internal plumbing which requires an increase to a 1" meter from the typical $\frac{3}{4}$ " meter. The SDF for a 1" meter is \$6,928.79 for water and \$4,348.24 for sewer for a total of \$11,277.03.

The question has been posed to Town staff if the increase to the SDF can be waived or reduced in situations where the residential meter is being upsized to accommodate a fire sprinkler system.

CONSIDERATIONS

1. The installation of a larger meter does mean that the residential user will have access to additional capacity.
2. The additional water capacity would not likely impact the average sewer usage for a given property.
3. In some instances, the residential fire sprinklers are required due to the existing water systems limited capacity to provide current fire flows. Historically, minimum fire flow was 500 GPM which much the Town's water system was designed for. Today the minimum fire flow for a residential area is 1,000GPM. New subdivisions are designed for the current standard, but there are some limited areas of Town where the 1,000GPM cannot be met without system upgrades.
4. The fire department is supportive of the use of residential sprinklers, even in areas where current fire flow standards are met. NFPA 13-D residential fire sprinkler design standard is focused on one-and two family dwellings. The intent is to provide an affordable fire sprinkler system while maintaining a high level of life safety. The standard requires sprinkler heads to be installed in living areas only and are designed to control fires in the early stages, giving resident time to escape. A typical home fire will be controlled and may even be extinguished by the time the fire department arrives.
5. The SDF legislation provides utilities the ability to charge an SDF up to the maximum amount calculated in the SDF report. In other words, Council has the authority to charge a lesser fee than calculated, but cannot charge more.
6. The Town typically sees about 200 new residential units built in a year. There are currently 22 potential units that may install the residential fire sprinkler system and would be impacted by a change in the SDF.
7. Depending on any changes to the policy, there is potential to impact the SDF assessed to Build to Rent products which are also built to the residential building code. There are currently 149 units of Build to Rent being proposed.



MOVING FORWARD

There is no formal action being requested at this time, but Staff is seeking direction from Council on this request. A few options for Council to discuss can be found below.

1. Continue as is with no change in the current SDF fee schedule.
2. Modify the SDF fee schedule to include a new rate for single family residential structures installing a 1" meter for use with a sprinkler system that is based on the typical ¾" meter SDF or \$2,566.22 for water and \$1,610.44 for sewer for a total SDF of \$4,176.66.
3. Modify the SDF fee schedule to include a new rate for single family residential structures installing a 1" meter for use with a sprinkler system based on a combination of a 1" meter for water and ¾" meter for sewer or \$6,928.79 for water and \$1,610.44 for sewer for a total SDF of \$8,539.23.
4. Any other options that Council would like staff to research.

If Council wishes to see any changes to the current SDF fee schedule, Staff will prepare a future Agenda item to make the appropriate revisions to the Code of Ordinances.

MEMO

TO: Mayor and Council members
FROM: Reagan
Date: 07-22-22

RE: ARPA Policies

Monday's final topic for discussion involves introduction of a number of policy documents that the School of Government has advised we have Council adopt as part of the process of ARPA fund expenditure. You will note that most are written very specific to ARP and Coronavirus. Further, if nothing to date has convinced you of the utility of approaching these funds as Revenue Replacement and ultimately utilizing the payroll procedures and data we already maintain for purposes of federal reporting and freeing up the funds, a review of these docs and the administrative nightmare they could generate should drive home the point. Specifically, staff would recommend placing the following policies before Council for adoption in August based on SOG guidance:

1. A Non-discrimination Policy specific to ARP funds
2. A Records Retention Policy specific to the funding (the "covered records" section is a perfect example of why utilizing existing payroll approaches will minimize the administrative time and costs that could be associated with these funds)
3. An Allowable Costs and Cost Principles Policy related to the funds (again a great example)
4. An Eligible Project Policy (note Item 3 which will cover the Revenue Replacement approach.)
5. A Conflict of Interest Policy related to this funding.

Moving forward and following adoption of these policies, Tess will be creating the documentation that will allow Council to "expend" the funds currently located in a Capital Reserve, targeting September or possibly October adoption. In the meantime, staff is also in the process of seeking quotes and estimates on a number of potential projects that will be brought before the Council for consideration. Projects advanced will require budget amendments that move the replaced revenue into appropriate line items/project funds for expenditure. This will be an "ongoing process" for sure, but I am targeting the September Work Session for an initial round of discussions regarding projects, allowing for October budget amendments should we successfully free some funds up in September.

Non-discrimination Policy

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

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

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

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

RESOLVED, That the governing board of the Town of Southern Pines hereby adopts and enacts the following nondiscrimination policy, which shall apply to the operations of any program, activity, or facility that is supported in whole, or in part, by expenditures CSLFRF pursuant to the ARP/CSLFRF award.

Nondiscrimination Policy Statement

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

I. Governing Statutory & Regulatory Authorities

As required by the CSLFRF [Award Terms and Conditions](#), the Town of Southern Pines shall ensure that each "activity," "facility," or "program"¹ that is funded in whole, or in part, with CSLFRF and administered under the ARP/CSLFRF award, will be facilitated, operated, or conducted in compliance with the following federal statutes and federal regulations prohibiting discrimination. These include, but are not limited to, the following:

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

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

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

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

1. Denying to a person any service, financial aid, or other program benefit without good cause;
2. Providing to a person any service, financial aid, or another benefit which is different in quantity or quality, or is provided in a different manner, from that provided to others under the program.
3. Subjecting a person to segregation or separate treatment in any matter related to the receipt of any service, financial aid, or other benefit under the program;
4. Restricting a person in the enjoyment of any advantages, privileges, or other benefits enjoyed by others receiving any service, financial aid, or other benefit under the program;
5. Treating a person differently from others in determining whether that person satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which persons must meet to be provided any service, financial aid, or other benefit provided under the program;
6. Implementing different standards, criteria, or other requirements for admission, enrollment, or participation in planning, advisory, contractual, or other integral activities to the program;
7. Adopting methods of administration which, directly or through contractual relationships, would defeat or substantially impair the accomplishment of effective nondiscrimination;
8. Selecting a site or location of facilities with the purpose or effect of excluding persons from, denying them the benefits of, subjecting them to discrimination, or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of Title VI or related acts and regulations;
9. Discriminating against any person, either directly or through a contractual agreement, in any employment resulting from the program, a primary objective of which is to provide employment;
10. Committing acts of intimidation or retaliation, including threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by any pertinent nondiscrimination law, or because an individual made a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing.

III. Reporting & Enforcement

1. The Town of Southern Pines shall cooperate in any enforcement or compliance review activities by the Department of the Treasury. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Town of Southern Pines shall comply with information requests, on-site compliance reviews, and reporting requirements.
2. The Town of Southern Pines shall maintain a complaint log and inform the Treasury of any complaints of discrimination on the grounds of race, color, or national origin (including limited English proficiency covered by Title VI of the Civil Rights Act of 1964) and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, whether pending or completed, including the outcome. The Town of Southern Pines shall inform the Treasury if it has received no complaints under Title VI.
3. Any person who believes they have been aggrieved by a discriminatory practice under Title VI has a right to file a formal complaint with the Treasury. Any such complaint must be in writing and filed with the Treasury's Title VI Coordinator within one hundred eighty (180) days following the date of the alleged discriminatory occurrence.
4. Any person who believes that because of that person's race, color, national origin, limited English proficiency, familial status, sex, age, religion, or disability that he/she/they have been discriminated against or unfairly treated by the Town of Southern Pines in violation of this policy should contact the following office within 180 days from the date of the alleged discriminatory occurrence:

Bruce Rosenberger
Administrative Services Director
125 SE Broad Street, Southern Pines 28387
910-692-7021

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

Retention of Records: The Coronavirus Local Fiscal Recovery Funds (“CSLFRF”) Award [Terms and Conditions](#) and the [Compliance and Reporting Guidance](#) set forth the U.S. Department of Treasury’s (“Treasury”) record retention requirements for the ARP/CSLFRF award.

It is the policy of the Town of Southern Pines to follow Treasury’s record retention requirements as it expends CSLFRF pursuant to the APR/CSLFRF award. Accordingly, the Town of Southern Pines agrees to the following:

- Retain all financial and programmatic records related to the use and expenditure of CSLFRF pursuant to the ARP/CSLFRF award for a period of five (5) years after all CLFRF funds have been expended or returned to Treasury, whichever is later.
- Retain records for real property and equipment acquired with CSLFRF for five years after final disposition.
- Ensure that the financial and programmatic records retained sufficiently evidence compliance with section 603(c) of the Social Security Act “ARPA,” Treasury’s regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
- Allow the Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, the right of timely and unrestricted access to any records for the purpose of audits or other investigations.
- If any litigation, claim, or audit is started before the expiration of the 5-year period, the records will be retained until all litigation, claims, or audit findings involving the records have been resolved.

Covered Records: For purposes of this policy, records are information, regardless of physical form or characteristics, that are created, received, or retained that evidence the Town of Southern Pines’ expenditure of CSLFRF funds on eligible projects, programs, or activities pursuant to the ARP/CSLFRF award.

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

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

Storage: The Town of Southern Pines' records must be stored in a safe, secure, and accessible manner. Wherever practicable, such records should be collected, transmitted, and stored in open and machine-readable formats.

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

The Finance Director is responsible for identifying the documents that the Town of Southern Pines must or should retain and arrange for the proper storage and retrieval of records. The Finance Director shall also ensure that all personnel subject to the terms of this policy are aware of the record retention requirements set forth herein.

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

Questions About the Policy: Any questions about this policy should be referred to Tess Brubaker-Speis [(910-692-2971; tspeis@southernpines.net)], who is in charge of administering, enforcing, and updating this policy.

ALLOWABLE COSTS AND COST PRINCIPLES POLICY FOR EXPENDITURE OF AMERICAN RESCUE PLAN ACT OF 2021 CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS BY NORTH CAROLINA LOCAL GOVERNMENTS

WHEREAS the TOWN OF SOUTHERN PINES, 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 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.

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 Southern Pines hereby adopts and enacts the following UG Allowable Costs and Cost Principles Policy for the expenditure of ARP/CSLFRF funds.

TOWN OF SOUTHERN PINES ALLOWABLE COSTS AND COSTS PRINCIPLES POLICY

I. ALLOWABLE COSTS AND COSTS PRINCIPLES POLICY OVERVIEW

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

The Town of Southern Pines 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 Town Manager Reagan Parsons, Director of Finance Tess Brubaker-Speis and staff of the Finance and Administration Departments, 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 to the Southern Pines 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.

II. GENERAL COST ALLOWABILITY CRITERIA

All costs expended using ARP/CSLFRF funds must meet the following general criteria:

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

A cost must be *necessary* to achieve a project object. When determining whether a cost is necessary, consideration may be given to:

- Whether the cost is needed for the proper and efficient performance of the grant project.

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

A cost is *reasonable* if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision to incur the cost was made. For example, reasonable means that sound business practices were followed, and purchases were comparable to market prices. When determining reasonableness of a cost, consideration must be given to:

- Whether the cost is a type generally recognized as ordinary and necessary for the operation of the Town of Southern Pines or the proper and efficient performance of the federal award.
- The restraints or requirements imposed by factors, such as: sound business practices; arm's-length bargaining; federal, state, and other laws and regulations; and terms and conditions of the ARP/CSLFRF award.
- Market prices for comparable goods or services for the geographic area.
- Whether individuals concerned acted with prudence in the circumstances considering their responsibilities to the Town of Southern Pines, its employees, the public at large, and the federal government.
- Whether the Town of Southern Pines 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 Southern Pines.**
- 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. The most current version of the Program Income Policy, currently that which was adopted and is dated March 28, 2022, shall constitute the controlling document relative to available revenues.
- 9. Be adequately documented.**

III. 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.

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

Exhibit A identifies and summarizes the Selected Items of Cost.

IV. SPECIAL PROVISIONS FOR STATE AND LOCAL GOVERNMENTS

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.

(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.

V. COST ALLOWABILITY REVIEW PROCESS

PREAPPROVAL COST ALLOWABILITY REVIEW

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

- Local government personnel must submit proposed ARP/CSLFRF projects to the Town Manager 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, the Director of Finance must review estimated costs for specific allowable cost requirements, budget parameters, indirect rates, fringe benefit rates, and those activities/costs that require pre-approval by the US Treasury. The Eligible Project Policy dated 08-09-2022 will provide reference for the Director of Finance in review of proposed projects.

- If a proposed project includes a request for an unallowable cost, the Town Manager will return the proposal to the requesting party for review and, if practicable, resubmission with corrected cost items.
- Once a proposed project budget is pre-approved by the Director of Finance, 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 Department 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 Department will return the invoice to the project manager and/or vendor, contractor, or subrecipient for correction.
- The Finance Department 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 Department must proceed through the local government's normal disbursement process.
- If any cost item is deemed unallowable, the Finance Department 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 Department may in their discretion, and consistent with this policy, allow an invoice or other demand for payment to be resubmitted with a revised cost allocation. If the 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 Southern Pines governing board must approve any allocation of other funds for this purpose.
- The Finance Department must retain appropriate documentation of budgeted cost items per project and actual obligations and expenditures of cost items per project.

VI. 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

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

WHEREAS the TOWN OF SOUTHERN PINES, 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.2.1 \(November 15, 2021\)](#) dictating implementation of the ARP/CSLFRF award terms and compliance requirements; and

WHEREAS the Compliance and Reporting Guidance states on page 6 that

Per 2 CFR Part 200.303, your organization must develop and implement effective internal controls to ensure that funding decisions under the SLFRF award constitute eligible uses of funds, and document determinations.

BE IT RESOLVED that the Town of Southern Pines 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 Town of Southern Pines will spend its ARP/CSLFRF funds.

I. PERMISSIBLE USES OF ARP/CSLFRF FUNDING

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

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

1. Support 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 ARPA FUNDING

The ARP/CSLFRF and US Treasury's Final Rule prohibit certain uses of ARP/CSLFRF funds. Specifically, ARP/CSLFRF funds may not be used for 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 Southern Pines 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 Southern Pines, 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 Southern Pines employees and officials must comply with these requirements.

1. Requests for ARP/CSLFRF funding, must be made in writing and include all the following: Town of Southern Pines ARPA Eligibility Determination and Documentation Worksheet.
 - 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 ARPA funding should review the [Final Rule](#) and [Final Rule Overview](#) prior to submitting a proposal.
 - d. Proposed budget, broken down by cost item, in accordance with the Town of Southern Pines' 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 Town Manager Reagan Parsons for approval. All requests will be reviewed by Assistant Town Manager Mike Cameron for ARP/CSLFRF compliance and by Director of Finance Tess Brubaker-Speis for allowable costs and other financial review.
3. No ARP/CSLFRF may be obligated or expended before final written approval by Town Manager Reagan Parsons. Final approval will not be granted without Southern Pines Town Council action, including any necessary budget amendments that may be necessary.
4. If a proposal does not meet the required criteria, it will be returned to the requesting party for revision and resubmittal.
5. Following approval, employees responsible for implementing the project must conform actual obligations and expenditures to the pre-approved project budget. Changes in project budgets must be approved by the Town Manager and may require a budget amendment by the governing body before proceeding. Any delay in the projected project completion date shall be communicated to the Town Manager immediately.
6. The Finance Department must collect and document required information for each EC, for purposes of completing the required Project and Expenditure reports.

7. The Finance Department must maintain written project requests and approvals, all supporting documentation, and financial information at least until December 31, 2031.

CONFLICT OF INTEREST POLICY

APPLICABLE TO CONTRACTS AND SUBAWARDS OF THE TOWN OF SOUTHERN PINES 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 the Town of Southern Pines (“*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 Council of the Town of Southern Pines.
- 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. Assistant Town Manager Mike Cameron, 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 ATM Cameron is unable to serve in such capacity, Assistant Town Manger Jessica Roth 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 Town Manager Reagan Parsons 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 Town Manager 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 the 9th day of August, 2022.

EXHIBIT A

Examples

<i>Potential Examples of a “Financial or Other Interest” in a Firm or Organization Considered for a Contract or Subaward</i>	<i>Potential Examples of a “Tangible Personal Benefit” From a Firm or Organization Considered for a Contract or Subaward</i>
Direct or indirect equity interest in a firm or organization considered for a Contract or Subaward, which may include: - Stock in a corporation. - Membership interest in a limited liability company. - Partnership interest in a general or limited partnership. - Any right to control the firm or organization’s affairs. For example, a controlling equity interest in an entity that controls or has the right to control a firm considered for a contract. - Option to purchase any equity interest in a firm or organization.	Opportunity to be employed by the firm considered for a contract, an affiliate of that firm, or any other firm with a relationship with the firm considered for a Contract. A position as a director or officer of the firm or organization, even if uncompensated.
Holder of any debt owed by a firm considered for a Contract or Subaward, which may include: - Secured debt (e.g., debt backed by an asset of the firm (like a firm’s building or equipment)) - Unsecured debt (e.g., a promissory note evidencing a promise to repay a loan). - o Holder of a judgment against the firm.	A referral of business from a firm considered for a Contract or Subaward.
Supplier or contractor to a firm or organization considered for a Contract or Subaward.	Political or social influence (e.g., a promise of appointment to an local office or position on a public board or private board).

EXHIBIT B

COMPLIANCE CHECKLIST FOR OVERSIGHT OF CONTRACT CONFLICTS OF INTEREST

The [_____] (“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 [_____] 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 [_____] 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.

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

5	Identify whether a reasonable person with knowledge of the relevant facts would find that an existing situation or relationship creates the <i>appearance</i> that a Covered Individual or any Related Party has a financial or other interest in or a tangible personal benefit from a firm considered for a Contract? If yes, explain.		
Any identified interest in Step 5 is a potential “apparent” conflict of interest.	<u>Public Officials</u>	<u>Employees</u>	<u>Agents</u>

COI Point of Contact: _____

Signature of COI Point of Contact: _____

Date of Completion: _____

EXHIBIT C

CONTRACT CONFLICT OF INTEREST DISCLOSURE FORM

FOR OFFICIALS, EMPLOYEES, AND AGENTS

The **Town of Southern Pines** (“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 **[REDACTED]** 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: **[REDACTED]** (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: _____

* * * * *

EXHIBIT D

COMPLIANCE CHECKLIST FOR SUBAWARD OVERSIGHT

The [] (“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 [] 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 [] 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.

Step			
1	Identify the proposed Subaward, Subrecipient, and the subject of the Subaward.	<u>Name of Contract:</u> <u>Name of Counterparty</u> <u>Subject of Subaward:</u> 	
2	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.		
	<u>Public Officials</u>	<u>Employees</u>	<u>Agents</u>
3	Identify whether any Covered Individual has a (i) financial or other interest in, or (ii) tangible personal benefit from the firm considered for a Subaward. [If the estimated Subaward amount exceeds \$[100,000], ensure that each Covered Individual files a Conflict of Interest Disclosure Form with the COI Point of Contact.]		
Any identified interest in Step 3 is a potential “real” conflict of interest.	<u>Public Officials</u>	<u>Employees</u>	<u>Agents</u>
4	Identify whether any Related Party has a (i) financial or other interest in or (ii) tangible personal benefit from the firm considered from a Subaward. If the estimated Subaward amount exceeds \$[100,000], ensure that each Covered Individual files a Conflict of Interest Disclosure Form with the COI Point of Contact.]		
Any identified interest in Step 4 is a potential “real” conflict of interest.	<u>Public Officials – Related Party</u>	<u>Employees – Related Party</u>	<u>Agents – Related Party</u>

5	Identify whether a reasonable person with knowledge of the relevant facts would find that an existing situation or relationship creates the <i>appearance</i> that a Covered Individual or any Related Party has a financial or other interest in or a tangible personal benefit from a firm considered for a Subaward? If yes, explain.		
Any identified interest in Step 5 is a potential “apparent” conflict of interest.	<u>Public Officials</u>	<u>Employees</u>	<u>Agents</u>

COI Point of Contact: _____

Signature of COI Point of Contact: _____

Date of Completion: _____

EXHIBIT E

SUBAWARD CONFLICT OF INTEREST DISCLOSURE FORM

FOR OFFICIALS, EMPLOYEES, AND AGENTS

The [_____] (“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 [_____] 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: _____

* * * * *