

CITY OF HENDERSONVILLE PROPERTY MANAGEMENT POLICY FOR REAL AND PERSONAL PROPERTY PURCHASED IN WHOLE OR IN PART WITH FEDERAL FUNDS

Recitals:

1. The CITY OF HENDERSONVILLE, receives funding in the form of grants, awards, subawards, and loans from the Federal Government; and
2. Federal funding requires compliance with the National Objective, established for the Federal funding, and alignment with the Federal Goals for the funding; and
3. Federal funding requires compliance with the provisions of the Federal Uniform Grant Guidance, 2 CFR Sect. 200 (UG), except as modified by the Federal funding agency; and
4. Subpart D of the UG dictates title, use, management, and disposal of real property, personal property, equipment and supplies purchased in whole or in part with Federal funding, except as modified by the Federal funding agency.

POLICY OVERVIEW

The purpose of this policy is to comply with the requirements of 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 D, which details post award requirements related to property management of property acquired or updated, in whole or in part, with Federal Funds. It should be noted that North Carolina law also applies to the acquisition, management and disposition of City property. Therefore, to the extent that the provisions of North Carolina law conflict with the UG, the most restrictive shall control. Lastly, the UG applies to the extent that requirements are not modified by the Federal funding agency; therefore funding agency regulations shall preempt the UG with regards to the acquisition, management and disposition of real or personal property acquired in whole or in part with Federal funds.

DEFINITIONS

The definitions in 2 CFR 200.1 apply to this policy, a few of which are restated in this policy below:

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

“Equipment” means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or

exceeds the lesser of the capitalization level established by the City for financial statement purposes, or \$5,000.

“Information technology systems” means computing devices, ancillary equipment, software, firmware, and similar procedures, services (including support services), and related resources. See also the definitions of computing devices and equipment in this section.

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

Personal property: property other than real property. It may be tangible, having physical existence, or intangible.

“Property” means real property or personal property.

“Real property” means land, including land improvements, structures and appurtenances thereto, but excludes moveable machinery and equipment.

“Supplies” means all tangible personal property other than those described in the definition of equipment in this section. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the local government for financial statement purposes or \$5,000, regardless of the length of its useful life. See also the definitions of computing devices and equipment in this section.

REAL PROPERTY

1. Title to Real Property: Title to real property acquired or improved with Federal funds vests with the City. 2 CFR 200.311(a).
2. Use of Real Property: Real property acquired or improved with Federal funds must be used for the originally authorized purpose as long as needed for that purpose, during which time the City must not dispose of or encumber its title or other interests. 2 CFR 200.311(b).
3. Insurance of Real Property: The City must provide the equivalent insurance coverage for real property acquired or improved with Federal funds as provided to property owned by the City. 2 CFR 200.310.
4. Disposition of Real Property: When the City no longer needs real property purchased with Federal for Federal purposes, the City must obtain disposition instructions from the Federal Agency. The instructions must provide for one of the following alternatives:
 - a. The City retains title after compensating the Federal Agency. The amount paid to the Federal Agency will be computed by applying the Federal Agency’s percentage of participation in the cost of the original purchase (and costs of any improvements) to the fair market value of the property. However, in those situations where the City is

disposing of real property acquired or improved with Federal funds and acquiring replacement real property under the Federal, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.

- b. The City sells the property and compensates the Federal Agency. The amount due to the Federal Agency will be calculated by applying the Federal Agency's percentage of participation in the cost of the original purchase (and cost of any improvements) to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the Federal award has not been closed out, the net proceeds from sale may be offset against the original cost of the property. When the City is directed to sell property, sales procedures must be followed that provide for competition to the extent practicable and result in the highest possible return.
- c. The City transfers title to the Federal Agency or to a third party designated or approved by the Federal Agency. The City is entitled to be paid an amount calculated by applying the City's percentage of participation in the purchase of the real property (and cost of any improvements) to the current fair market value of the property. 2 CFR 200.311(c).

EQUIPMENT

- 5. Title to Equipment: Title to equipment acquired or improved with Federal funds vests with the City. 2 CFR 200.313(a).
- 6. Use of Equipment: The City must use equipment acquired with Federal funds for the project for which it was acquired as long as needed, whether or not the project continues to be supported by the Federal award, and the City must not encumber the property without prior approval of the Federal Agency. 2 CFR 200.313(a)(1)-(2).
- 7. When no longer needed for the original project, the equipment may be used in other activities supported by a Federal awarding agency, in the following order of priority:
 - a. Activities under a Federal award from the Federal awarding agency which funded the original project, then
 - b. Activities under Federal awards from other Federal awarding agencies. This includes consolidated equipment for information technology systems. 2 CFR 200.313(c)(1).
- 8. During the time that equipment is used on the project for which it was acquired, the City must also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, provided that such use will not interfere with the work on the project for which it was originally acquired. First preference for other use must be given to other programs or projects supported by the Federal Agency and second preference must be given to programs or projects under Federal awards from other Federal

awarding agencies. Use for non-Federally-funded programs or projects is also permissible. User fees should be considered if appropriate. 2 CFR 200.313(c)(2).

9. Noncompetition: The City must not use equipment acquired with the Federal funds to provide services for a fee that is less than private companies charge for equivalent services unless specifically authorized by Federal statute for as long as the Federal Government retains an interest in the equipment. 2 CFR 200.313(c)(3).
10. Replacement Equipment: When acquiring replacement equipment, the City may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property. 2 CFR 200.313(c)(4).
11. Management of Equipment: The City will manage equipment (including replacement equipment) acquired in whole or in part with Federal funds according to the following requirements.
12. The City will maintain sufficient records that include
 - a description of the property,
 - a serial number or other identification number,
 - the source of funding for the property (including the Federal Award Identification Number (FAIN)),
 - who holds title,
 - the acquisition date,
 - cost of the property,
 - percentage of Federal participation in the project costs for the Federal award under which the property was acquired,
 - the location, use and condition of the property, and
 - any ultimate disposition data including the date of disposal and sale price of the property.
13. The City will conduct a physical inventory of the property and reconcile results with its property records at least once every two years.
14. The City will develop a control system to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft will be investigated by the City.
15. The City will develop and implement adequate maintenance procedures to keep the property in good condition.
16. If the City is authorized or required to sell the property, it will establish proper sales procedures to ensure the highest possible return, in accordance with state and Federal law.

17. Insurance of Equipment: The City must provide the equivalent insurance coverage for equipment acquired or improved with Federal funds as provided to property owned by the City. 2 CFR 200.310.
18. Disposition of Equipment: When the equipment is no longer needed for its original Federal purpose, the City may either make the equipment available for use in other activities funded by a Federal agency, with priority given to activities funded by the Federal Agency, dispose of the equipment according to instructions from the funding agency, or follow the procedures below. 2 CFR 200.313(e).
19. Equipment with a per-item fair market value of less than \$5,000 may be retained, sold or transferred by the City, in accordance with state law, with no additional responsibility to the Federal Agency;
20. If no disposal instructions are received from the Federal Agency, equipment with a per-item fair market value of greater than \$5,000 may be retained or sold by the City. The City must establish proper sales procedures, in accordance with state law, to ensure the highest possible return. The City must reimburse the Federal Agency for its Federal share. Specifically, the Federal Agency is entitled to an amount calculated by multiplying the current market value or proceeds from sale by the Federal funding percentage of participation in the cost of the original purchase. If the equipment is sold, the Federal Agency may permit the City to deduct and retain from the Federal share \$500 or ten percent of the proceeds, whichever is less, for its selling and handling expenses.
21. Equipment may be transferred to the Federal Agency or to a third-party designated by the Federal Agency in return for compensation to the City for its attributable compensation for its attributable percentage of the current fair market value of the property.

SUPPLIES

22. Title to Supplies. Title to supplies acquired with Federal funds vests with the City upon acquisition. 2 CFR 200.314(a).
23. Use and Disposition of Supplies. If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the Federal project and the supplies are not needed for any other Federal award, the City must retain the supplies for use on other activities or sell them, but must, in either case, compensate the Federal Government for its share. The amount of compensation must be computed in the same manner as for equipment. 2 CFR 200.314(a).
24. Noncompetition. As long as the Federal Government retains an interest in the supplies, the City must not use supplies acquired under the Federal to provide services to other organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute. 2 CFR 200.314(b).

PROPERTY TRUST RELATIONSHIP

25. Real property, equipment, and intangible property, that are acquired or improved with Federal funds must be held in trust by the City as trustee for the beneficiaries of the project or program under which the property was acquired or improved. the Federal Agency may require the City to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with a Federal award and that use and disposition conditions apply to the property. 2 CFR 200.316.

IMPLEMENTATION OF POLICY

26. The City Manager or his/her/their designee shall adopt procedures to track all real property, equipment, and supplies (collectively, property) acquired or improved in whole or in part with Federal funds. At a minimum, those procedures must address the following:
- a. Ensure proper insurance of property
 - b. Document proper use of property
 - c. Working with Ashley Williams, record and maintain required data records for equipment
 - d. Conduct periodic inventories of equipment, at least every two years
 - e. Create processes for replacement and disposition of property
 - f. Establish other internal controls to safeguard and properly maintain property

Adopted the _____ day of _____, 2022.