

**CITY OF HENDERSONVILLE CONFLICT OF INTEREST POLICY
APPLICABLE TO CONTRACTS AND SUBAWARDS OF THE CITY OF HENDERSONVILLE
FUNDED IN WHOLE OR IN PART WITH FEDERAL FUNDS**

I. Scope of Policy

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

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 City 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 City.
- 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 City).
- f. “*Direct Benefit*” means, with respect to a Public Officer or employee of the City, 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 City 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. “*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.

- i. *“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.
- j. *“Pass-Through Entity”* means a non-Federal entity that provides a Subaward to a Subrecipient to carry out part of a Federal program.
- k. *“Public Officer”* means an individual who is elected or appointed to serve or represent the City (including, without limitation, any member of the City Council), other than an employee or independent contractor of the City.
- l. *“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.
- m. *“Related Party”* means (i) an Immediate Family Member of a Covered Individual, (ii) a partner of a Covered Individual, or (iii) a current or potential employer (other than the City) of a Covered Individual, of a partner of a Covered Individual, or of an Immediate Family Member of a Covered Individual.
- n. *“State”* means the State of North Carolina.
- o. *“Subaward”* means an award provided by a Pass-Through Entity to carry out part of a Federal or State 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. *“City”* has the meaning specified in Section I hereof.

III. COI Point of Contact.

- a. Appointment of COI Point of Contact. The City Attorney shall have primary responsibility for managing the disclosure and resolution of potential or actual conflicts of interest arising under this Policy. In the event that the City Attorney is unavailable or is unable to serve in such capacity, Staff Attorney shall assume

responsibility for managing the disclosure and resolution of conflicts of interest arising under this Policy. The individual with responsibility for managing the disclosure and resolution of potential or actual conflicts of interest under this Section III(a) shall be known as the “*COI Point of Contact*”.

- b. Distribution of Policy. The COI Point of Contact shall ensure that each Covered Individual receives a copy of this Policy.

IV. **Conflict of Interest Standards in Contracts and Subawards.** A given situation or set of facts may be a conflict of interest under State law, Federal law or both. Therefore when determining whether a conflict or potential conflict of interest is present for a contract that is part of a project funded in whole or in part with federal funds, both State and Federal laws should be consulted. Additionally, exemptions from the conflict of interest statutes present in State law are not automatic exemptions from conflicts of interest under Federal law, and vice versa.

- a. North Carolina Law. North Carolina law restricts the behavior of Public Officials and employees of the City involved in contracting on behalf of the City. The City shall conduct the selection, award, and administration of Contracts and Subawards in accordance with the prohibitions imposed by the State Statutes and restated in this Section IV. Note the State statutes should be consulted, in addition to this policy, when determining whether or not an impermissible conflict of interest or potential conflict of interest exists under State law.
 - i. G.S. § 14-234(a)(1). A Public Officer or employee of the City Involved in Making or Administering a Contract or Subaward on behalf of the City shall not derive a Direct Benefit from such a Contract or Subaward. (Please refer to the definition of “Making or Administering a Contract or Subaward.”)
 - ii. G.S. § 14-234(a)(3). No Public Officer or employee of the City may solicit or receive any gift, favor, reward, service, or promise of reward, including but not limited to a promise of future employment, in exchange for recommending, influencing, or attempting to influence the award of a Contract or Subaward by the City.
 - iii. G.S. § 14-234.3. If a member of the City Council of the City serves as a director, officer, or City Council member of a Covered Nonprofit Organization, such member shall not (1) deliberate or vote on a Contract or Subaward between the City and the Covered Nonprofit Corporation, (2) attempt to influence any other person who deliberates or votes on a Contract or Subaward between the City and the Covered Nonprofit Corporation, or (3) solicit or receive any gift, favor, reward, service, or promise of future employment, in exchange for recommending or attempting to influence the award of a Contract or Subaward to the Covered Nonprofit Organization.
 - iv. G.S. § 14-234.1. A Public Officer or employee of the City shall not, in contemplation of official action by the Public Officer or employee, or in reliance on information which was made known to the public 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.

Note the Federal statutes should be consulted, in addition to this policy, when determining whether or not an impermissible real or apparent conflict of interest or potential real or apparent conflict of interest exists under Federal law.

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. Covered Individuals should use the Conflict of Interest Disclosure Forms (Exhibit C for Contracts or subcontracts, and Exhibit E for subawards) to disclose the potential real or apparent conflict of interest, and forward to their Department Director or COI Point of Contact.
 - b. All Covered Individuals are required to sign, submit and keep on file with the COI Point of Contact the Policy Awareness Form stating that they have read this Policy and are aware of its contents and understand their duty to disclose potential real or apparent conflicts of interest for contracts entered for project funded in whole or in part by Federal funds (Exhibit F).
 2. Identification Prior to Award of Contract or Subaward.
 - a. Prior to the City's award of a Contract or Subaward, the Contract or Subaward the City Department Director whose department is administering the contract shall complete the appropriate Compliance Checklist contained in Exhibit B (for Contracts or subcontracts) and Exhibit D (for Subawards) attached hereto to determine whether or not any Covered Individuals expected to be or actually involved in the Make or Administering of a Contract have a potential real or apparent conflict of interest. The Department Director must require the completion of a Conflict of Interest Disclosure Form (Exhibit C for Contracts or subcontracts, and Exhibit E for subawards) by all Covered Individuals determined to have a potential real or apparent conflict of interest. The Department Director must file the Compliance Checklist and all Conflict of Interest Disclosure Forms with the COI Point of Contact.

3. Management of Conflicts of Interest.

- a. If, after completing the Compliance Checklist, the Department Director identifies a potential real or apparent conflict of interest relating to a proposed Contract or Subaward, or at any other time a Departmental Director becomes aware of a potential real or apparent conflict of interest relating to a proposed Contract or Subaward, the Department Director shall disclose such finding in writing to the COI Point of Contact. The COI Point of Contact will present the potential real or apparent conflict of interest to the City Manager who will either:
 - i. accept the finding of the COI Point of Contact and direct the Department Director to obtain authorization to enter into (or continue) the Contract or Subaward from (a) if City is a Recipient of Federal Financial Assistance, the Federal awarding agency with appropriate mitigation measures, or (b) if City is a Subrecipient of Federal Financial Assistance, from the Pass-Through Entity that provided a Subaward to City. The City shall follow any instructions received from the Federal awarding agency to resolve the conflict(s); or
 - ii. reject the finding of the COI Point of Contact and present to City Council the option approving the of entering into of the Contract or Subaward if City Council also rejects the finding of the COI Point of Contact. In rejecting any finding of the COI Point of Contact, the City Manager shall in writing document a justification supporting such rejection. Entering into a Contract or Subaward where either the COI Point of Contact or the Department Director have identified a real or apparent conflict of interest shall require approval of City Council after a finding by City Council that there is no real or apparent conflict of interest.
- b. If City Council determines that there is a potential real or apparent conflict of interest, the City Manager shall direct the Department Director to obtain authorization to enter into (or continue) the Contract or Subaward from (a) if City is a Recipient of Federal Financial Assistance, the Federal awarding agency with appropriate mitigation measures, or (b) if City is a Subrecipient of Federal Financial Assistance, from the Pass-Through Entity that provided a Subaward to City. The City shall follow any instructions received from the Federal awarding agency to resolve the conflict(s).
- c. If the Federal agency or Pass-Through Entity that provided a Subaward to the City does not authorize the award or continuance of the Contract or Subaward, then the Contract or Subaward shall be rejected (if not yet awarded) or terminated.
- d. If the Department Director and the COI Point of Contact do not identify a potential real or apparent conflict of interest relating to a proposed Contract or Subaward, the City may enter into the Contract or Subaward in accordance with the City's purchasing or subaward policy.

4. Identification After Award of Contract or Subaward.

- a. If the Department Director or COI Point of Contact discovers that a real or apparent conflict of interest has arisen after the City has entered into a Contract or Subaward, the COI Point of Contact or Department Director shall, as soon as possible, disclose such finding to the City Manager. Upon discovery of such a real or apparent conflict of interest, the City shall cease all payments under the relevant Contract or Subaward and proceed pursuant to paragraph 3 above until the conflict of interest has been resolved or the Contract or Subaward is terminated.

V. Oversight of Subrecipient's Conflict of Interest Standards

- a. Subrecipients of City Must Adopt Conflict of Interest Policy. Prior to the City's execution of any Subaward for which the City serves as a Pass-Through Entity, the COI Point of Contact shall ensure that the proposed Subrecipient of Federal Financial Assistance has adopted a conflict of interest policy that satisfies the requirements of 2 C.F.R. § 200.318(c)(1), 2 C.F.R. § 200.318(c)(2), and all other applicable federal regulations.
- b. Obligation to Disclose Subrecipient Conflicts of Interest. The COI Point of Contact shall ensure that the legal agreement under which the City makes a Subaward to a Subrecipient shall require such Subrecipient to disclose to the COI Point of Contact any potential real or apparent conflicts of interest that the Subrecipient identifies. Upon receipt of such disclosure, the COI Point of Contact shall disclose such information to the Federal awarding agency that funded the Subaward in accordance with that agency's disclosure policy.

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 City 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 City Council, or termination of an agent's contract with the City.

- b. Disciplinary Actions for Contractors and Subcontractors. The City shall terminate any Contract with a Contractor or Subcontractor that violates any provision of this Policy.
- c. Protections for Whistleblowers. In accordance with 41 U.S.C. § 4712, the City shall not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant: (i) a member of Congress or a representative of a committee of Congress; (ii) an Inspector General; (iii) the Government Accountability Office; (iv) a Treasury or other federal agency employee responsible for grant oversight or management; (v) an authorized official of the Department of Justice or other law enforcement agency; (vi) a court or grand jury; of (vii) a management official or other employee of the City, a Contractor, or Subcontractor who has the responsibility to investigate, discover, or address misconduct.

Adopted this the [___] day of [____], [_____].

EXHIBIT A

Examples

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

EXHIBIT B

COMPLIANCE CHECKLIST FOR CONTRACT OVERSIGHT

The City of Hendersonville (“*City*”) has adopted a Conflict of Interest Policy (“*Policy*”) that governs the City’s expenditure of Federal Financial Assistance (as defined in Section II of the Policy). The Policy designates the City Attorney as the “COI Point of Contact.” The Policy requires the Department Director administering this contract 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 with the COI Point of Contact.

Instructions for Completion

1. The Department Director shall complete Steps 1 through 5 of the Checklist below.
2. The Department Director shall collect a Conflict of Interest Disclosure Form from each Covered Individual whom the Department Director determines may have a real or apparent conflict of interest.
3. If the Department Director identifies a potential real or apparent conflict of interest after completing this Compliance Checklist, and reviewing all Conflict of Interest Disclosure Forms received, the Department Director shall report such potential conflict of interest to the COI Point of Contact.

Definitions.

1. *Covered Individual*. Each person identified in Section 2 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 City) of a Covered Individual, of a partner of a Covered Individual, or of an Immediate Family Member of a Covered Individual.

Step			
1	Identify the proposed Contract, counterparty, and the subject of the Contract.	<u>Name of Contract:</u> <hr/> <u>Name of Counterparty</u> <hr/> <u>Subject of Contract:</u> <hr/>	
2	Identify all individuals involved in the selection, award, or administration of the Contract. These individuals are “Covered Individuals”. Ensure that each Covered Individual has been provided with a copy of the Conflict of Interest Policy.		
	<u>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. Any Covered Individual identified to have a potential real conflict of interest must complete a Conflict of Interest Disclosure Form (Exhibit C).		
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. Any Covered Individual identified to have a potential real conflict of interest must complete a Conflict of Interest Disclosure Form (Exhibit C).		
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 Covered Individual identified to have a potential apparent conflict of interest must complete a Conflict of Interest Disclosure Form (Exhibit C).		
Any identified interest in Step 5 is a potential “apparent” conflict of interest.	<u>Public Officials</u>	<u>Employees</u>	<u>Agents</u>

Department Director: _____

Signature of Department Director: _____

Date of Completion: _____

Date of Submission to COI Point of Contact: _____

EXHIBIT C

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

The City of Hendersonville (“City”) has adopted a Conflict of Interest Policy (“Policy”) that governs the City’s expenditure of Federal Financial Assistance (as defined in Section II of the Policy). The Policy designates the City Attorney as the COI Point of Contact.

The Department Director has identified you as an official, employee, or agent of the City that may be involved in the selection, award, or administration of the following contract or subcontract: _____ (the “Contract”) with a potential real or apparent conflict of interest. To safeguard the City’s expenditure of Federal Financial Assistance, the Department Director has requested that you complete this form to 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: _____

1. 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:

2. 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:

3. Does your current or potential employer (other than the City) 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:

4. Benefits to Employers

- a. Does a current or potential employer (other than the City) 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 City) 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 City) 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 City) 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:

5. 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:

6. 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:

7. Does any existing situation or relationship create the appearance that your current or potential employer (other than the City) 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:

8. Does any existing situation or relationship create the appearance that any current or potential employer (other than the City) 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:

9. Does any existing situation or relationship create the appearance that any current or potential employer (other than the City) 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 City of Hendersonville (“City”) has adopted a Conflict of Interest Policy (“Policy”) that governs the City’s expenditure of Federal Financial Assistance (as defined in Section II of the Policy). The Policy designates the City Attorney as the “COI Point of Contact.” The Policy requires the Department Director administering this subaward 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 with the COI Point of Contact.

Instructions for Completion

4. The Department Director shall complete Steps 1 through 5 of the Checklist below.
5. The Department Director shall collect a Conflict of Interest Disclosure Form from each Covered Individual whom the Department Director determines may have a real or apparent conflict of interest.
6. If the Department Director identifies a potential real or apparent conflict of interest after completing this Compliance Checklist, and reviewing all Conflict of Interest Disclosure Forms received, the Department Director shall report such potential conflict of interest to the COI Point of Contact.

Definitions.

1. *Covered Individual.* Each person identified in Section 2 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 City) 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 Subaward:</u> <hr/> <u>Name of Counterparty</u> <hr/> <u>Subject of Subaward:</u> <hr/>	
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. Any Covered Individual identified to have a potential real conflict of interest must complete a Conflict of Interest Disclosure Form (Exhibit E).		
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. Any Covered Individual identified to have a potential real conflict of interest must complete a Conflict of Interest Disclosure Form (Exhibit E).		
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 Covered Individual identified to have a potential apparent conflict of interest must complete a Conflict of Interest Disclosure Form (Exhibit E).		
Any identified interest in Step 5 is a potential “apparent” conflict of interest.	<u>Public Officials</u>	<u>Employees</u>	<u>Agents</u>

Department Director: _____

Signature of Department Director: _____

Date of Completion: _____

Date of Submission to COI Point of Contact: _____

EXHIBIT E

SUBAWARD CONFLICT OF INTEREST DISCLOSURE FORM

FOR OFFICIALS, EMPLOYEES, AND AGENTS

The City of Hendersonville (“City”) has adopted a Conflict of Interest Policy (“Policy”) that governs the City’s expenditure of Federal Financial Assistance (as defined in Section II of the Policy). The Policy designates the City Attorney as the COI Point of Contact.

The Department Director has identified you as an official, employee, or agent of the City that may be involved in the selection, award, or administration of the following subaward: _____ (the “Subaward”) with a potential real or apparent conflict of interest. To safeguard the City’s expenditure of Federal Financial Assistance, the Department Director has requested that you complete this form to 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: _____

If the answer is Yes or Unsure, please explain:

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 City) 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 City) 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 City) 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 City) 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 City) 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 City) 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 City) 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 City) 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: _____

* * * * *

EXHIBIT F

CONFLICT OF INTEREST POLICY AWARENESS FORM

I, _____, have read the CONFLICT OF INTEREST POLICY APPLICABLE TO CONTRACTS, AWARDS AND SUBAWARDS OF THE CITY OF HENDERSONVILLE and I am aware of its contents.

_____ (Initial) I understand that the policy obligates me to be aware of the contractors and subcontractors who are performing any of the work involved in all projects that I am involved with which are funded in whole or in part with federal funds.

_____ (Initial) I understand that if I or my immediate family members as defined in the policy have any potential real or apparent conflicts of interest with any of the contractors or subcontractors, I must disclose this to my Department Director (or if a Department Director to the City Manager) and complete a Contract Conflict of Interest Disclosure Form (Exhibit C).

_____ (Initial) I understand that the policy obligates me to be aware of the subrecipients who are receiving money through a subaward that I am involved with which is funded in whole or in part with federal funds.

_____ (Initial) I understand that if I or my immediate family members as defined in the policy have any potential real or apparent conflicts of interest with any of the subrecipients, I must disclose this to my Department Director (or if a Department Director to the City Manager) and complete a Subaward Conflict of Interest Disclosure Form (Exhibit F).

_____ (Initial) I understand that if I become aware of any Covered Individual having a real or apparent conflict of interest with any contractor, subcontractor, or subrecipient that I am to report this to my Department Director so that the Covered Individual can complete the appropriate Disclosure Form.

Sign Name: _____

Print Name: _____

Name of Employer: _____

Job Title: _____

Date of Completion: _____