

## **RESOLUTION NO. 2024-040**

### **A RESOLUTION ADOPTING AND ESTABLISHING AN ETHICS POLICY FOR CITY OF BANDERA CITY COUNCIL MEMBERS AND EMPLOYEES IN THE CITY PERSONNEL POLICY.**

**WHEREAS**, the City of Bandera, is a Type-A general law municipality governed by a six-member Council consisting of one Mayor and five Council Members elected at large; and

**WHEREAS**, the City of Bandera, is in the process of applying for grant funds from the United States Department of Agriculture ("USDA") in connection with the Bandera Marshal's Office; and

**WHEREAS**, the application for grant funds from the USDA requires that the City of Bandera certify that it has a written policy governing conflicts of interest; and

**WHEREAS**, the City of Bandera currently has a Code of Ethics Ordinance that addresses conflicts of interest but desires to implement a policy in the City's Personnel Policy in order to be eligible to apply for the USDA grant funds; and

**WHEREAS**, the City of Bandera City Council desires to implement this conflict of interest policy as part of a larger ethics policy to govern and guide the conduct of members of the City of Bandera City Council and City employees, as well as vendors and other third-parties who desire to transact business with the City; and

**WHEREAS**, the City of Bandera City Council as a governing body has the authority to establish and implement its own internal policies to govern the conduct of the City of City Council members and City employees, so long as such policies are consistent with applicable state law; and

**WHEREAS**, the City of Bandera City Council desires to adopt these ethics rules and policies to guide the City of Bandera City Council members and City employees in carrying out their respective duties and responsibilities.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BANDERA, TEXAS, THAT;**

SECTION 1: The City of Bandera, Texas Ethics Policy, attached to this Resolution, are hereby adopted and shall guide City Council members, City employees, and vendors or other third parties desiring to transact business with the City in conducting all future meetings of the City of Bandera City Council. Any provisions of the City of Bandera's Personnel Policy in conflict with this Resolution are hereby repealed to the extent they conflict with the attached policy.

SECTION 2: The City of Bandera, Texas Ethics Policy adopted herein is consistent with current state law governing conflicts of interest and disclosure of certain relationships.

SECTION 3: The City of Bandera, Texas Ethics Policy adopted herein is consistent with state

law governing municipal officers.

SECTION 4: The City of Bandera, Texas Ethics Policy adopted herein is intended to provide clarity and guidance to City Council members, City employees, and vendors or other third parties desiring to transact business with the City with respect to their responsibilities and duties and may be subject to change as determined by the City Council or changes to existing law.

SECTION 5: A copy of the City of Bandera, Texas Ethics Policy adopted herein shall be maintained by the City Administrator and shall be made available to the public in accordance with applicable state law.

READ, PASSED, AND APPROVED ON this 10th of December 2024.

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Tony Battle, Mayor Pro Tem

ATTEST:

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Jill Shelton, City Secretary

EXHIBIT A: City of Bandera Ethics Policy

## CITY OF BANDERA ETHICS POLICY

### I. CONFLICTS OF INTEREST

#### A. **Definitions**

- (1) "Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law.
- (2) "City employee" means an individual currently employed by the City of Bandera, Texas whether on a full-time, part-time or temporary basis.
- (3) "City official" means a member of the City of Bandera City Council, or another officer, whether elected, appointed, paid, or unpaid, who exercises responsibilities beyond those that are advisory in nature.
- (4) "Family Member" means a person who is related to an individual within a certain degree by consanguinity or affinity.
  - (a) Family members by the first degree of consanguinity include parents and children, including adopted children. Family members by the first degree of affinity include spouses, mothers-in-law, fathers-in-law, sons-in-law, daughters-in-law, stepmothers, stepfathers, stepsons and stepdaughters.
  - (b) Family members by the second degree of consanguinity include siblings, grandchildren, and grandparents. Family members by the second degree of affinity include brothers-in-law, sisters-in-law, spouse's grandparent, spouse's grandchild, grandparent's spouse, or grandchild's spouse.
  - (c) Family members by the third degree of consanguinity include great-grandchildren, nephews, nieces, great-grandparents, and aunts or uncles who are the sibling of the person's parent.
- (5) "Substantial business interest" means a person who:
  - (a) owns 10 percent or more of the voting stock or shares of a business entity or owns either 10 percent or more or \$15,000 or more of the fair market value of a business entity; or
  - (b) receives funds from a business entity that exceed 10 percent of the person's gross income for the previous year.
- (6) "Substantial real property interest" means a person who owns an equitable or legal interest in real property with a fair market value of \$2,500 or more.

#### B. **Prohibited Actions**

- (1) City officials and employees cannot take part in any matter as a representative of the City where action by the City might affect the financial interests of themselves and their family members or household members.

- (2) If a City official, or a family member by the first degree of consanguinity or affinity, has a substantial business interest in a business entity with a matter before the City Council where the City Council's action will have a special economic effect on the business entity that is distinguishable from the effect on the public, the City official shall file, before a vote or decision on any matter involving the business entity an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter.
  - (a) The affidavit must be filed with the City Administrator.
  - (b) If a City official is required to file and does file an affidavit under this section, the City official is not required to abstain from further participation in the matter requiring the affidavit if a majority of the members of the City Council is composed of persons who are likewise required to file and who do file affidavits of similar interests on the same official action.
- (3) If a City official, or a family member by the first degree of consanguinity or affinity, has a substantial real property interest in a real property matter before the City Council and it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public, the City official shall file, before a vote or decision on any matter involving the business entity an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter.
  - (a) The affidavit must be filed with the City Administrator.
  - (b) If a City official is required to file and does file an affidavit under this section, the City official is not required to abstain from further participation in the matter requiring the affidavit if a majority of the members of the City Council is composed of persons who are likewise required to file and who do file affidavits of similar interests on the same official action.
- (4) A City official shall not knowingly act as surety for a business entity that has work, business, or a contract with the City of Bandera, or act as surety on any official bond required of an officer of the City of Bandera.

**C. Voting on Budget Items**

- (1) The City Council shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a City official, or family member by the first degree of consanguinity or affinity, has a substantial interest. The interested City official may not participate in the separate vote unless a majority of the members of the City Council is composed of persons who likewise have a substantial interest in the business entity and all persons have filed affidavits of their interests in the budget item.
- (2) A City official may vote on a final budget if the City official has complied with this policy, and the separate budget item in which the City official has an interest

has been resolved.

**D. Nepotism**

- (1) A City official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position that is to be directly or indirectly compensated from public funds or fees of office if the individual is a family member related to the City official within the third degree by consanguinity or second degree by affinity. In such instances, the City official must recuse himself/herself and abstain from further participation in the matter.
- 2) The ending of a marriage by divorce or the death of a spouse ends relationships by affinity created by that marriage unless a child of that marriage is living, in which case the marriage is considered to continue as long as a child of that marriage lives.

**E. Service on Boards of Corporations / Organizations**

A City official may serve as a member of the board of directors of private, nonprofit corporations when the City official receives no compensation or other remuneration from the nonprofit corporation or other nonprofit entity.

**II. GIFTS**

**A. Definitions**

- (1) "City employee" means an individual currently employed by the City of Bandera whether on a full-time, part-time or temporary basis.
- (2) "City official" means a member of the City of Bandera City Council, or another officer, whether elected, appointed, paid, or unpaid, who exercises responsibilities beyond those that are advisory in nature.

**B. City Employees**

- (1) A City employee cannot ask for or accept a gift which is given for the purpose of influencing the employee to take a certain action in their role as a City employee.
- (2) A city employee cannot ask for or accept gifts from: a person or entity which is doing or seeking to do business with the city; a registered lobbyist; or a person or entity which is seeking action on a zoning or platting matter before the City, except a City employee may accept:
  - (a) Items of nominal value (\$50 or less);
  - (b) A meal up to \$50 (\$500 limit during a calendar year for meals paid for by a single source);
  - (c) A reasonable gift for a personal occasion in keeping with the employee's non-city relationship with the giver;
  - (d) Admission to an event to which the employee's spouse has been invited

because of the spouse's position;

- (e) Gifts received for civic or charitable causes;
- (f) Reasonable awards for meritorious service; or
- (g) Reimbursement or payment of travel costs related to business purpose.

**C. City Officials**

- (1) A City official shall not solicit, accept, or agree to accept any benefit from a person the City official knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of the City official's discretion.
- (2) It shall not be a violation of this section for a City official to accept or agree to accept:
  - (a) a fee prescribed by law to be received by a City official or any other benefit to which the City official is lawfully entitled or for which he/she gives legitimate consideration in a capacity other than as a City official;
  - (b) a gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient;
  - (c) a political contribution as defined by Title 15 of the Texas Election Code;
  - (d) an item with a value of less than \$50, except that cash, checks or gift cards for any amount are not allowed;
  - (e) an item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity; or
  - (f) food, lodging, transportation, or entertainment accepted as a guest and, if the donee is required by law to report those items, reported by the donee in accordance with that law.

**III. DISCLOSURE OF CERTAIN RELATIONSHIPS TO CITY OFFICERS**

**A. Definitions**

- (1) "Agent" means a third party who undertakes to transact some business or manage some affair for another person by the authority or on account of the other person. The term includes an employee.
- (2) "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:
  - (a) a transaction that is subject to rate or fee regulation by a federal, state, or

- local governmental entity or an agency of a federal, state, or local governmental entity;
- (b) a transaction conducted at a price and subject to terms available to the public; or
  - (c) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.
- (3) "Contract" means a written agreement for the sale or purchase of real property, goods, or services.
- (4) "Family member" means a person related to another person within the first degree by consanguinity (e.g. parent, child) or affinity (e.g. spouse, parent/child in-law relationships, and parent/child step-law relationships).
- (5) "Family relationship" means a relationship between a person and another person within the third degree by consanguinity or the second degree by affinity.
- (a) Relationships within the third degree by consanguinity include siblings, grandchildren, grandparents (second degree) and great-grandchildren, nephews, nieces, great-grandparents, and aunts or uncles who are the sibling of the person's parent (third degree).
  - (d) Relationships within the second degree by affinity include brothers-in-law, sisters-in-law, spouse's grandparent, spouse's grandchild, grandparent's spouse, or grandchild's spouse.
- (6) "Gift" means a benefit offered by a person, including food, lodging, transportation, and entertainment accepted as a guest. The term does not include a benefit offered on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient.
- (7) "Goods" means personal property.
- (8) "Investment income" means dividends, capital gains, or interest income generated from:
- (a) a personal or business:
    - (i) checking or savings account;
    - (ii) share draft or share account; or
    - (iii) other similar account;
  - (b) a personal or business investment; or
  - (c) a personal or business loan.

- (9) "City officer" means:
- (a) a member of the City of Bandera City Council;
  - (b) the City Administrator; or
  - (c) an agent of the City who exercises discretion in the planning, recommending, selecting, or contracting of a vendor.
- (10) "Records administrator" means the City Secretary, or other person responsible for maintaining the City's records.
- (11) "Services" means skilled or unskilled labor or professional services, as defined by Section 2254.002, Texas Government Code.
- (12) "Vendor" means a person who enters or seeks to enter into a contract with the City. The term includes an agent of a vendor.

**B. Required Disclosure Statements**

- (1) A City officer shall file a conflicts disclosure statement with respect to a vendor if:
- (a) the vendor enters into a contract with the City or the City is considering entering into a contract with the vendor; and
  - (b) the vendor:
    - (i) has an employment or other business relationship with the City officer or a family member of the City officer that results in the City officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the City officer becomes aware that:
      - (A) a contract between the City and vendor has been executed; or
      - (B) the City is considering entering into a contract with the vendor;
    - (ii) has given to the City officer or a family member of the City officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:
      - (A) a contract between the City and vendor has been executed; or
      - (B) the City is considering entering into a contract with the vendor; or



- (iii) has a family relationship with the City officer.
- (2) A City officer shall file the conflicts disclosure statement -with the City's records administrator, not later than 5 p.m. on the seventh business day after the date on which the City officer becomes aware of the facts that require the filing of the statement
- (3) A City officer is not required to file a conflicts disclosure statement in relation to a gift accepted by the City officer or a family member of the City officer if the gift is:
  - (a) a political contribution as defined by Title 15, Texas Election Code; or
  - (b) food accepted as a guest.
- (4) A City officer is not required to file a conflicts disclosure statement if the vendor is an administrative agency created pursuant to the statutory authority for interlocal cooperation contracts.

**C. Vendor Disclosure Requirements**

- (1) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with the City and:
  - (a) has an employment or other business relationship with a City officer, or a family member of the City officer, described by Section III.B.(1)(b)(i) above;
  - (b) has given a City officer, or a family member of the City officer, one or more gifts with the aggregate value specified by Section III.B.(1)(b)(ii) above, excluding any gift not subject to disclosure by the City officer; or
  - (c) has a family relationship with a City officer.
- (2) The vendor must complete and file the conflict of interest questionnaire with the records administrator not later than the seventh business day after the later of:
  - (a) the date that the vendor:
    - (i) begins discussions or negotiations to enter into a contract with the City; or
    - (ii) submits to the City an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the City; or
  - (b) the date the vendor becomes aware:
    - (i) of an employment or other business relationship with a City officer, or a family member of the City officer, described by Subsection III.B.(1)(b)(i) above;

- (ii) that the vendor has given one or more gifts described by Section III.B.(1)(b)(ii) above; or
  - (c) of a family relationship with a City officer.
- (3) A vendor shall file an updated completed questionnaire with the City's records administrator not later than the seventh business day after the date on which the vendor becomes aware of an event that would make a statement in the questionnaire incomplete or inaccurate.
  - (4) A person who is both a City officer and a vendor of the City is required to file the conflict disclosure questionnaire only if the person:
    - (a) enters or seeks to enter into a contract with the City; or
    - (b) is an agent of a person who enters or seeks to enter into a contract with the City.

#### IV. DISCLOSURE OF INTERESTED PARTIES

##### A. **Definitions**

- (1) "Business entity" means any entity recognized by law through which business is conducted, including a sole proprietorship, partnership, or corporation.
- (2) "Contract" means a contract that requires an action or vote by the City of City Council before the contract may be signed; or a contract with a value of at least \$1 million.
  - (a) The term does not include a contract related to health and human services if:
    - (i) the value of the contract cannot be determined at the time the contract is executed; and
    - (ii) any qualified vendor is eligible for the contract.
- (3) "Interested party" means a person who has a controlling interest in a business entity with whom the City of Bandera, Texas contracts or who actively participates in facilitating the contract or negotiating the terms of the contract, including a broker, intermediary, adviser, or attorney for the business entity.

##### B. **Disclosure Required**

- (1) The City may not enter into a contract under this section with a business entity unless the business entity, in accordance with this section, submits a disclosure of interested parties to the City at the time the business entity submits the signed contract to the City.

- (2) Not later than the 30th day after the date the City receives a disclosure of interested parties required under this section, the City shall submit a copy of the disclosure to the Texas Ethics Commission.