

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIALTO, CALIFORNIA, AMENDING THE CITY'S CONFLICT OF INTEREST ORDINANCE (CITY OF RIALTO CODE OF ORDINANCES SECTION 2.48.140) AND CONFLICT OF INTEREST DISCLOSURE ORDINANCE (CITY OF RIALTO CODE OF ORDINANCES SECTION 2.48.145).

WHEREAS, in June, 2019, a fiscal year-end audit identified conflict of interest concerns related to the City's federal program spending, and specifically with federal CDBG grants; and

WHEREAS, subsequent review of the City's conflict of interest ordinances and internal controls process identified several issues with these ordinances and processes; and

WHEREAS, Subsequent to the resolution of the initial conflict of interest, the federal Department of Housing and Urban Development (HUD) has requested that the City update and strengthen its conflict of interest ordinance and internal controls process, to avoid similar future conflicts of interest; and

WHEREAS, this proposed new conflict of interest ordinance will minimize the potential for future conflicts of interest in the award of City contracts and grants, and in particular, federal CDBG grants; and

WHEREAS, the substantive changes in this proposed new conflict of interest ordinance have been reviewed and approved by HUD.

NOW, THEREFORE, the City Council hereby finds, determines, and ordains as follows:

SECTION 1. The City Council hereby specifically finds that all the facts set forth in the recitals above of this Ordinance are true and correct and incorporated herein.

SECTION 2. Amendment of the City of Rialto's conflict of interest ordinances is necessary to bring the City's conflict of interest rules in line with best practices and would bring the City into compliance with HUD's request for additional conflict of interest regulations and controls.

SECTION 3. The City Council hereby deletes existing City of Rialto Code of Ordinances section 2.48.140 in its entirety, and replaces it with the following:

(a) No covered person shall participate in the making of a grant or contract by the city in which the covered person has a conflicting interest.

(b) For purposes of this prohibition, the following definitions shall apply:

(1) A "covered person" includes any person who holds an elected or appointed City office, a City officer, a City employee, and any person who is a consultant to the City.

(2) A "conflicting interest" includes, but is not limited to, those decisions where:

(A) A covered person holds or has held within the previous twelve months a position with a potential grant or contract recipient;

1 (B) A close relative of a covered person holds or has held within the
2 previous twelve months a position with a grant or contract
recipient;

3 (C) A close relative of the spouse or domestic partner of a covered
4 person holds or has held within the previous twelve months a
position with a grant or contract recipient.

5 (3) "Position" includes the status of a member, employee, owner, paid or
6 unpaid officer of, paid or unpaid leadership position in, or had an
ownership interest in, a grant or contract recipient.

7 (4) A "close relative" includes a spouse, parent, grandparent, child,
8 grandchild, aunt, uncle, or cousin.

9 (5) "Participate in the making of a grant or contract" includes participation
10 in: drafting a solicitation or contract; negotiating, voting on, approving, or
executing a grant or contract; discussion of same with any city officer or
11 employee; or attempts in any way to influence the making of a grant or
contract.

12 (c) This prohibition shall not apply to a contract let by written competitive bid
13 where the contract will be awarded to the person or entity who submits the lowest
responsible and responsive bid.

14 (d) Except for the Mayor or a member of the City Council, a covered person may
15 request a waiver of any potential conflict of interest in writing from the City
Manager. Any request for such a waiver must include full disclosure of the
16 potential conflict of interest and a statement detailing any mitigating factors. The
request and the City Manager's response shall be provided to the City Council
17 prior to any vote to approve the contract or grant, or if City Council approval is not
required, at least five days before the contract or grant is approved. The request
and the City Manager's response shall be considered a public record.

18 (e) The prohibitions in this section are in addition to any applicable federal or state
19 conflict of interest laws, including but not limited to Government Code section
1090, and Government Code section 87100 *et seq.*

20 (f) Any person who violates this section is subject to the following:

21 (1) Public censure;

22 (2) If the conflict of interest was in the making of a contract, a prohibition
23 from participation in the making of a contract by the city for a period of
time up to twelve (12) months from the date of the imposition of the
24 discipline;

25 (3) If the conflict of interest was in the making of a grant, a prohibition
26 from participation in the making of a grant by the city for a period of time
of up to twenty-four (24) months from the date of the imposition of the
discipline;

27 (4) An administrative fine pursuant to Chapter 1.10 of this code.

28 (g) The discipline specified herein may be imposed:

1 (1) By the City Manager in the case of any employee or consultant
2 who violates this section.

3 (2) By the City Council in the case of any person who holds an
4 elected or appointed City office, or any City officer who violates
this section.

5 **SECTION 4.** The City Council hereby deletes existing City of Rialto Code of
6 Ordinances section 2.48.145 in its entirety, and replaces it with the following:

7 (a) All persons or business entities supplying any goods or services to the city, or
8 seeking a loan or grant awarded by the city, whether through an application or
9 proposal, shall disclose in such application or proposal whether any elected or
appointed city official, city officer, employee, or consultant may have a financial
or non-financial interest in the person or business entity, or in any member,
employee, owner, or officer of the business entity.

10 1. For purposes of this prohibition, a financial interest shall mean any
11 interest that is prohibited under state law, including California Government
12 Code Sections 1090 and 87100, and California Code of Regulation Section
18700 *et seq.*

13 2. For purposes of this prohibition, a non-financial interest shall mean any
14 interest that is prohibited by City of Rialto Code of Ordinances Section
2.48.140.

15 (b) In order to facilitate disclosure as required by this section, any such application
16 or proposal to the City shall prominently include the following disclosure in any
RFP or other solicitation document:

17 By submitting [this application/proposal], or supplying any goods or
18 services to the city, the [applicant/vendor/contractor/consultant] hereby
19 attests under penalty of perjury, personally and/or on behalf of the entity
20 [submitting this application/proposal or supplying any goods or services to
the city] that it/they have they no financial or non-financial interests, as
such terms are defined in City of Rialto Code of Ordinances Section
2.48.145, concerning any City of Rialto elected or appointed official or
employee, except as specifically disclosed herein.

21 **SECTION 5.** The Mayor shall sign the passage and adoption of the Ordinance
22 and thereupon the same shall take effect and be in force.
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PASSED, APPROVED, AND ADOPTED this ____ day of ____, 2021.

DEBORAH ROBERTSON, MAYOR

ATTEST:

BARBARA MCGEE, CITY CLERK

APPROVED AS TO FORM:

ERIC S. VAIL, INTERIM CITY ATTORNEY

I, Barbara McGee, City Clerk of the City of Rialto, do hereby certify that the foregoing Ordinance No. _____ was duly passed and adopted at a regular meeting of the City Council of the City of Rialto held on the _____ day of _____, 2021.

Vote on the Motion:

NOES:

IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of
the City of Rialto, this _____ day of _____, 2021.

5