

O R D I N A N C E N O . 2 3 1 2

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
WEST COVINA, CALIFORNIA, AMENDING CHAPTER 2,
ARTICLE VIII OF THE WEST COVINA MUNICIPAL CODE
RELATING TO CAMPAIGN CONTRIBUTIONS BY
CONTRACTORS, SUBCONTRACTORS, VENDORS AND
APPLICANTS FOR ENTITLEMENT**

WHEREAS, the City of West Covina has previously adopted campaign finance regulations, which are codified in Chapter 2, Article VIII of the West Covina Municipal Code; and

WHEREAS, the existing municipal code provisions impose campaign contribution caps on all donors, but do not specifically prohibit, limit or regulate donations by persons or entities which contract with the City of West Covina, their subcontractors, city vendors, or applicants for land use or other entitlements from the City; and

WHEREAS, the City Council finds and declares as follows:

- (1) Monetary contributions to political campaigns from individuals or entities who contract or subcontract with the City, are City vendors or are applicants for discretionary entitlements requiring approval from the City Council, or related parties, can create the appearance of impropriety and have a corrupting influence in a local election of candidates.
- (2) Contributions from persons who do business with the City or seek entitlements from the City, or persons related to them, create a public perception that votes may be improperly influenced by monetary contributions.
- (3) Maintaining public confidence in local officials and local agencies is of critical importance to good government and is furthered by eliminating any suggestion that public officials will be influenced to contract with or approve entitlements for campaign donors because of their donations.

WHEREAS, the City Council wishes to enact this ordinance for the following purposes:

- (1) To prevent parties with a specific financial interest in the City's decisions, and related parties, from exerting undue influence over those decisions by means of large campaign contributions.
- (2) To restore public trust in governmental electoral institutions.

NOW, THEREFORE, the City Council of the City of West Covina does ordain as follows:

SECTION NO. 1: Section 2-403 of Chapter 2, Article VIII of the West Covina Municipal Code is hereby amended to read as follows:

Section 2-403. Definitions.

(a) The definitions set forth in Sections 82000, *et seq.* of the California Government Code shall be applicable to the provisions and terms of this article.

(b) For purposes of sections 2-405.50 and 2-405.60 of this article, the following words and phrases shall mean:

"Affected party" shall mean a party to a city contract, a subcontractor under a city contract, an applicant seeking entitlement, a contractor of applicant seeking entitlement, or a subcontractor of applicant seeking entitlement.

"Applicant seeking entitlement" means any person who has filed an application or letter seeking approval of an entitlement with the city, successor agency, or housing authority, or any person who is an owner or lessee of property on whose behalf an application or letter seeking approval of an entitlement is filed.

"Application is pending" means an application or letter which is subject to review, hearing or consideration by the council, successor agency, CDC, and/or housing authority and the application or letter seeking an entitlement has been filed and, either will be set for review, hearing or other consideration by the council, successor agency, or housing authority as a matter of right, or has been formally appealed to the council, successor agency, CDC or housing authority. The three examples set forth below are intended to provide interpretive guidance:

(1) An application for a zone change is filed. Since a zone change can only be effectuated by the council, upon filing the application it would be deemed pending before the council;

(2) An application for a conditional use permit is filed. Only at such time as the grant or denial of a conditional use permit is appealed to the council would it be pending before the council;

(3) Any application for which the council is either the sole determining body or as to which a final decision must be made by the council.

"City contract" means any agreement or contract, including any amendment or modification to an agreement or contract, with the city, successor agency, CDC or housing authority, where such contract or agreement is subject to approval by the council, successor agency, CDC, or housing authority for (a) the rendition of personal services; (b) construction and/or the furnishing of any material, supplies or equipment; (c) the sale, lease, exchange, or transfer of any land or building to or from the city, successor agency, CDC, or housing authority; or (d) a grant, loan, loan guaranty, land write down, or other similar form of financial assistance. "Contract" does not include a contract awarded pursuant to a competitive bidding process under the Public Contracts Code, a transfer or exchange of land to or from one public agency to another public agency, or the transfer of an easement, license, or right-of-way in the ordinary course of a development project.

"Contractor of applicant seeking entitlement" means a person who is, or has been

promised to be, a party to a contract as an architect, design professional, engineer, or general or prime contractor with an applicant seeking entitlement, as defined herein, which contract has, or would have a total anticipated or actual value of thirty thousand dollars (\$30,000.00) or more.

"Council" means the city council of the City of West Covina.

"Design professional" means a person who performs services in the nature of designing structures, buildings, interiors, landscape and/or hardscape but does not have any particular license.

"Entitlement" means permit, license, conditional use permit, variance, site plan, architectural or design review (at any stage), franchise, administrative exception, parking reduction, review of plans, development agreement, disposition and development agreement, exclusive negotiation agreement, owner participation agreement, affordable housing agreement, financial assistance for a proposed project, or any other land use entitlement which is discretionary and not ministerial in nature; provided, however, that Entitlements for residential developments of five units or less or additions to a single family home, duplex, tri-plex or four-plex shall be expressly excluded.

"CDC" means the West Covina Community Development Commission.

"Housing authority" means the housing authority of the City of West Covina.

"Successor agency" means the successor agency to the West Covina Redevelopment Agency.

"Related persons" includes any of the following persons with respect to a party with a city contract, a subcontractor under a city contract, applicant seeking entitlement, contractor of applicant seeking entitlement, and subcontractor of applicant seeking entitlement: a member of its board of directors, its chairperson, its chief executive officer/president, its chief financial officer, its chief operating officer, any person with ownership interest of more than ten (10) percent in such person, and/or any committee, as defined in this chapter, that is owned or controlled by such person.

"Subcontract" means a contract subordinate to another contract made between the contracting parties which includes an agreement for a subcontractor to perform all or part of certain work to be performed by an architect, design professional, engineer, general or prime contractor.

"Subcontractor" means a person who has entered into a contract for the performance of all or a portion of the work undertaken under an agreement with an architect, design professional, engineer, or general or prime contract, usually by a general or prime contractor.

"Subcontractor of applicant seeking entitlement" means a person who is, or has been promised to be, a party to a subcontract as an architect, design professional, engineer, or to perform other work with a "contractor of applicant seeking entitlement" as defined herein, which subcontract has, or would have a total anticipated or actual value of thirty thousand dollars (\$30,000.00) or more.

SECTION NO. 2: The following section is hereby added to Chapter 2, Article VIII of the West Covina Municipal Code:

Section 2-405.50 Campaign Contributions from Applicants and Contractors

- (a) No person who is an applicant or proposer to be a party to a city contract, or who is a party to a city contract, as defined in subsection 2-403, other affected party, or related persons, shall make a contribution to an individual holding city elective office where the city contract has a total anticipated or actual value of thirty thousand dollars (\$30,000.00) or more, or a combination or series of such contracts or agreements having a value of thirty thousand dollars (\$30,000.00) or more.
- (b) No member of the council, nor the city clerk or city treasurer shall receive a contribution from a person who is a party to a city contract, or an applicant or proposer to be a party to a city contract, as defined in subsection 2-403, or related persons, where the city contract has a total anticipated or actual value of thirty thousand dollars (\$30,000.00) or more, or a combination or series of such contracts, having a value of thirty thousand dollars (\$30,000.00) or more.
- (c) No person acting as a subcontractor under a subcontract through a city contract, as defined in subsection 2-403, or related persons, shall make a contribution to a council member where an individual subcontract has a total anticipated or actual value of fifteen thousand dollars (\$15,000.00) or more, or a combination or series of such individual subcontracts with the same subcontractor, for the same or different projects with the aggregate value of fifteen thousand dollars (\$15,000.00) or more.
- (d) No member of the council shall receive a contribution from a person who is party to a subcontract under a city contract, as defined in subsection 2-403, or related persons, where the subcontract has a total anticipated or actual value of fifteen thousand dollars (\$15,000.00) or more, or a combination or series of such subcontracts having a value of fifteen thousand dollars (\$15,000.00) or more.
- (e) No applicant seeking entitlement, contractor of an applicant seeking entitlement or a subcontractor of an applicant seeking entitlement, or related persons, shall make a contribution to a council member while such application is pending before the council, successor agency, CDC, or housing authority and for a period of twelve (12) months after the last and final action on that entitlement by the council, successor agency, CDC or housing authority.

SECTION NO. 3: The following section is hereby added to Chapter 2, Article VIII of the West Covina Municipal Code:

Section 2-405.60 Posting of List of Contractors, Subcontractors, Vendors and Applicants for Entitlements

City staff shall prepare a list or lists of: Applicants or proposers for City Contracts in the amount of \$30,000 or more; parties to City Contracts in the amount of \$30,000 or more; subcontractors under city contracts with anticipated or actual value of fifteen thousand dollars (\$15,000.00) or more, individually or in the aggregate; applicants seeking entitlements; contractors of applicants seeking entitlements; and, subcontractors of applicants seeking entitlements, while such application is pending before the council or other legislative body of the city and for twelve months thereafter. Such list or lists shall be posted on the City's website and made available to all elected officials and candidates.

SECTION NO. 4: INCONSISTENCIES. Any provision of the West Covina Municipal Code or appendices thereto inconsistent with the provisions of this ordinance, to the extent of such inconsistencies and or further, is hereby repealed or modified to the extent necessary to affect the provisions of this ordinance.

SECTION NO. 5: SEVERABILITY. If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this ordinance are declared to be severable.

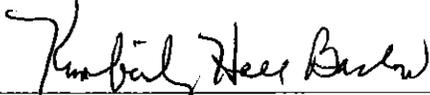
SECTION NO. 6. PUBLICATION. This Ordinance shall take effect and be in full force thirty (30) days from and after the passage thereof, and prior to the expiration of fifteen (15) days from its passage shall be published once in a newspaper of general circulation, printed and published in the City of West Covina or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance together with the names and member of the City Council voting for and against the same.

PASSED, APPROVED AND ADOPTED on this 21st day of March, 2017.



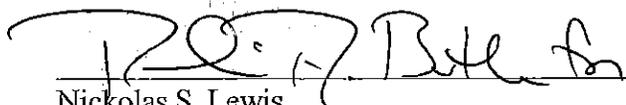
Corey Warshaw
Mayor

APPROVED AS TO FORM:



Kimberly Hall Barlow
City Attorney

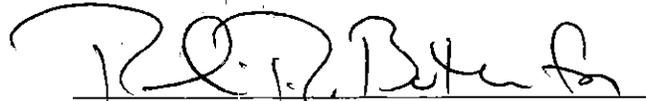
ATTEST:



Nickolas S. Lewis
City Clerk

I, NICKOLAS S. LEWIS, CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Ordinance was regularly introduced and placed upon its first reading at a regular meeting of the City Council on the 7th day of March, 2017. That thereafter said Ordinance was duly adopted and passed at a regular meeting of the City Council on the 21st day of March, 2017, by the following vote:

AYES: Johnson, Toma, Warshaw
NOES: Spence, Wu
ABSENT: None
ABSTAIN: None

A handwritten signature in black ink, appearing to read "Nickolas S. Lewis", written over a horizontal line.

Nickolas S. Lewis
City Clerk