

## CHAPTER 24

### ORDINANCE ESTABLISHING A CODE OF ETHICS

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The Town of Theresa, Dodge County, WI hereby ordains as follows:

#### 24.1 SCOPE OF POLICY

- a. Purpose of Ordinance. This Conflict of Interest Ordinance establishes ethical standards for Town of Theresa (“Town”) officials, and also governs ethical standards relating to Town contracts that must comply with federal law.
- b. 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 ordinance, such federal statute, regulation, or terms of the financial assistance agreement shall govern.

#### 24.2 CONFLICTS OF INTEREST

- a. Conflicts of Interest Generally.
  - i. Definitions. Except as otherwise specified, the terms used in this section shall have the same meaning as those defined by Wis. Stat. § 19.42.
  - ii. No public official shall do any of the following:
    1. Use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. This paragraph does not prohibit a local public official from using the title or prestige of his or her office to obtain campaign contributions that are permitted and reported as required by chapter 11 of the Wisconsin Statutes.
    2. Solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the person’s vote, official actions or judgment, or could reasonably be considered as a reward for any official action or inaction. This paragraph does not prohibit a local public official from engaging in outside employment.
    3. Directly or by means of an agent, give, or offer or promise to give, or withhold, or offer or promise to withhold, his or her vote or influence, or promise to take or refrain from taking official action with respect to any proposed or pending matter in consideration of, or upon condition that, any other person

make or refrain from making a political contribution, or provide or refrain from providing any service or other thing of value, to or for the benefit of a candidate, a political party, any committee registered under chapter 11 of the Wisconsin Statutes, or any person making a communication that contains a reference to a clearly identified local public official holding an elective office or to a candidate for local public office.

4. Take any official action substantially affecting a matter in which the public official or a member of his or her immediate family or an organization with which the person is associated has a substantial financial interest.
  5. Use his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the person, one or more members of the person's immediate family either separately or together, or an organization with which the person is associated.
- b. Conflicts of Interest when Federal Law Applies. In contracts that require the Town to comply with federal procurement requirements, the following restrictions apply.
- i. Definitions. For purposes of this subsection, the following definitions shall apply.
    1. “*Direct Benefit*” means, with respect to a Public Official or employee of the Town, or the spouse of any such Public Official 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.
    2. “*Federal Financial Assistance*” means Federal financial assistance that the Town 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).
    3. “*Immediate Family Member*” means: (i) a spouse; (ii) a child or spouse of a child; (iii) a parent or spouse of a parent; (iv) a sibling or spouse of a sibling; (v) a grandparent or grandchild, or their spouse; (vi) domestic partners or their parents, 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 person is the equivalent of a family relationship.

4. “*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 that is taking action on the Contract or Subaward, whether or not the Public Official actually participates in that action.
5. “*Pass-Through Entity*” means a non-Federal entity that provides a Subaward to a Subrecipient to carry out part of a Federal program.
6. “*Public Official*” means an individual who is elected or appointed to serve or represent the Town (including, without limitation, any member of the Town Board), other than an employee or independent contractor of the Town.
7. “*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.
8. “*Related Party*” means (i) an Immediate Family Member of a Public Official or employee, (ii) a partner of a Public official or employee, or (iii) a current or potential employer (other than the Town) of a Public official or employee, of a partner of a Public Official or employee, or of an Immediate Family Member of a Public Official or employee.
9. “*Subaward*” means an award provided by a Pass-Through Entity to carry out part of a Federal award received by the Pass-Through Entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
10. “*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.
11. “*Subcontractor*” means an entity that receives a Subcontract.
12. “*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.

- ii. Prohibited Conflicts of Interest in Federal Contracts. Without limiting any specific prohibition set forth in Section II(a), elected officials, appointed officials, or employees shall not participate in the selection, award, or administration of a contract if the person has a real or apparent conflict of interest.
  1. Real Conflict of Interest. A real conflict of interest shall exist when the Public Official or employee 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.
  2. Apparent Conflict of Interest. An apparent conflict of interest exists where a real conflict of interest may not exist, but where a reasonable person with knowledge of the relevant facts would find that an existing situation or relationship creates the appearance that an elected official, appointed official, or employee, 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.
  3. Gift Standards. No elected official, appointed official, or employee shall solicit or accept gratuities, favors, or anything of monetary value from a Contractor or a Subcontractor.

### **24.3 VIOLATIONS OF POLICY**

- a. Disciplinary Actions for Public Official or Employees. Any elected official, appointed official, or employee that fails to disclose a real, apparent, or potential real or apparent conflict of interest arising with respect to the person or the person's 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, prosecution under this Ordinance, or termination of the contract with the Town.
- b. Penalties. Any violation of this Ordinance shall be punishable by a forfeiture not to exceed \$500.
- c. Disciplinary Actions for Contractors and Subcontractors. The Town shall terminate any Contract with a Contractor or Subcontractor that violates any provision of this Ordinance.
- d. Protections for Whistleblowers. In accordance with 41 U.S.C. § 4712, the Town shall not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing information to a member of Congress or a representative of a committee of Congress; an Inspector General; the Government Accountability Office; a Treasury or other federal agency employee responsible for grant

oversight or management; an authorized official of the Department of Justice or other law enforcement agency; a court or grand jury; a management official or other employee of the Town; or a Contractor or Subcontractor who has the responsibility to investigate, discover, or address misconduct 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.

Adopted this 6<sup>th</sup> day of September, 2022  
Town of Theresa, Dodge County, Wisconsin

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Lloyd Hilgendorf, Town Chairperson

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Dale Dyer, Supervisor #1

Attest: \_\_\_\_\_  
Diane Steger, Town Clerk

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Neil Burns, Supervisor #2

(signed copy on file)