

Item 54  
Tues: 4/21/15  
(O-2015-92)

ORDINANCE NUMBER O- 20480 (NEW SERIES)

DATE OF FINAL PASSAGE MAY 05 2015

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 2, DIVISION 35 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 22.3501, 22.3502, 22.3504, AND 22.3512, TO INCLUDE GENDER IDENTITY AND GENDER EXPRESSION IN THE DEFINITION OF DISCRIMINATION IN THE CITY'S NONDISCRIMINATION IN CONTRACTING ORDINANCE.

WHEREAS, the Nondiscrimination in Contracting Ordinance (Ordinance) was adopted by unanimous vote of the City Council in April 2000; and

WHEREAS, the purpose and intent of the Ordinance is to further the City's policy to not engage in business, or accept bids or proposals from firms that discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability; and

WHEREAS, the Ordinance provides a procedure to receive, investigate, and resolve complaints of discrimination filed against firms doing business with the City; and

WHEREAS, it is in the best interests of the City to enhance competition on City projects by promoting equal opportunity and the full participation of all segments of the community in a marketplace environment free from discrimination; and

WHEREAS, consistent with California Government Code sections 12920, 12921, and 12940, amended in 2011, the Purchasing and Contracting Department wishes to amend sections of the Ordinance to include "gender identity" and "gender expression" as a basis for discrimination; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 2, Article 2, Division 35 of the San Diego Municipal Code is amended by amending sections 22.3501, 22.3502, 22.3504, and 22.3512, to read as follows:

**§22.3501 Purpose and Intent**

This Division is intended to further the *City's* policy not to engage in business with *business firms* that discriminate in the solicitation, selection, hiring, or treatment of subcontractors, vendors, or suppliers on the basis of race, gender, gender expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, or disability by providing a procedure for receiving, investigating, and resolving complaints of *discrimination* filed against *business firms* that have submitted a bid or proposal for, have been selected to engage in, or are engaged in doing business with the *City*.

**§22.3502 Definitions**

All terms defined in this Division appear in italics. For purposes of this Division:

*Appeals Officer* through *Director* [No change in text.]

*Discrimination* means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or treatment of a *business firm* because of the race, gender, gender expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, disability, or any other form of unlawful discrimination regarding the characteristics of its employees or owners.

*Financial institution* through *Subcontract* [No change in text.]

**§22.3504 Nondiscrimination Policy**

It is the policy of the City of San Diego not to accept bids or proposals from, nor to engage in business with, any *business firm* that has discriminated on the basis of race, gender, gender expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, disability, or any other form of unlawful

discrimination in its solicitation, selection, hiring, or treatment of another business.

**§22.3512 Mandatory Nondiscrimination Contract Clause**

Every *contract* and *subcontract* shall contain a nondiscrimination clause that reads as follows:

Contractor shall not discriminate on the basis of race, gender, gender expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors, or suppliers. Contractor shall provide equal opportunity for subcontractors to participate in subcontracting opportunities. Contractor understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, or other sanctions.

Section 2. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

## STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~  
NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

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### §22.3501 Purpose and Intent

This Division is intended to further the *City's* policy not to engage in business with *business firms* that discriminate in the solicitation, selection, hiring, or treatment of subcontractors, vendors, or suppliers on the basis of race, gender, gender expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, or disability by providing a procedure for receiving, investigating, and resolving complaints of *discrimination* filed against *business firms* that have submitted a bid or proposal for, have been selected to engage in, or are engaged in doing business with the *City*.

### §22.3502 Definitions

All terms defined in this Division appear in italics. For purposes of this Division: *Appeals Officer* through *Director* [No change in text.]  
*Discrimination* means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or treatment of a *business firm* because of the race, gender, gender expression, gender identity, religion, national origin,

ethnicity, sexual orientation, age, disability, or any other form of unlawful discrimination regarding the characteristics of its employees or owners.

*Financial institution through Subcontract* [No change in text.]

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LEE:cw:cfq  
02/09/15  
Or.Dept: P&C  
CC No.: N/A  
Doc. No.: 948087

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

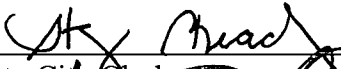
APPROVED: JAN I. GOLDSMITH, City Attorney

By   
Lara E. Easton  
Deputy City Attorney

LEE:cw:cfq  
02/09/15  
Or.Dept: P&C  
CC No.: N/A  
Doc. No.: 948082

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of APR 21 2015.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 4/29/15  
(date)

  
KEVIN L. FAULCONER, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on APR 21 2015, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherr Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAY 05 2015.

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By Atty Brady, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

APR 07 2015, and on MAY 05 2015.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By Atty Brady, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 20480