

ORDINANCE NUMBER O- 20888 (NEW SERIES)

DATE OF FINAL PASSAGE JAN 18 2018

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 1,
DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY
ADDING SECTION 21.0103, REGARDING DISCLOSURE OF
BUSINESS INTERESTS.

WHEREAS, section 225 was added to the San Diego Charter in 1992 by the passage of Proposition E to require disclosure of certain information by those proposing to do business with the City of San Diego (City); and

WHEREAS, according to the ballot argument in favor of Proposition E, the purpose of Charter section 225 is to give the Mayor and San Diego City Council (City Council) the right to know the identities and backgrounds of persons wanting to do business with the City and to prevent anonymous limited partners from potentially receiving millions of taxpayer dollars; and

WHEREAS, the City Council desires to clarify what information must be provided under Charter section 225 and the consequences of failing to provide such information to the City;

NOW, THEREFORE,

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

Section 1. That Chapter 2, Article 1, Division 1, of the San Diego Municipal Code is amended by adding section 21.0103 to read as follows:

§ 21.0103 Mandatory Disclosure of Business Interests

- (a) Terms defined in this section are indicated by italics. For purposes of this section:

- (1) *Directly or indirectly involved* means pursuing the proposed *transaction* or transfer by communicating or negotiating with City officers or employees, submitting or preparing applications, bids, proposals, or other documents for purposes of contracting with the City, or directing or supervising the actions of *persons* engaged in such activity.
 - (2) *Person* means every natural person, joint venture, joint-stock company, partnership, association, firm, club, company, corporation, business trust, organization or other entity.
 - (3) *Transaction* means any right, title, or interest in the City's real or personal property, any contract or lease with the City, or any franchise, right, or privilege pursuant to San Diego Charter sections 103 or 103.1.
- (b) Prior to entering into a *transaction* with the City, every *person* who will be a party to the *transaction* shall provide the City with the name, identity, and the precise nature of the interest of all *persons* who are *directly or indirectly involved* in the *transaction*.
 - (c) Prior to transferring any right, title, or interest in a *transaction* with the City, every *person* who will be a party to the transfer shall provide the City with the name, identity, and the precise nature of the interest of all *persons* who are *directly or indirectly involved* in the transfer.
 - (d) For purposes of this section, the identity of a natural person shall be established by providing the city and state of residence of the natural

person, or the country of residence if located outside the United States.

The City Manager may require additional information regarding a natural person's identity if necessary to distinguish between *persons* with the same name.

- (e) The precise nature of the interest to be disclosed shall include:
 - (1) the percentage of any ownership interest in a *person* that is a party to the *transaction* and any ownership interest in a *person* that will receive funds from the *transaction*,
 - (2) the value of any financial interest in the *transaction*,
 - (3) a description of any contingent interest in the *transaction*, including the value of the interest should the contingency be satisfied, and
 - (4) a description of any philanthropic, scientific, artistic, or property interest in the *transaction*.

- (f) All the information required to be disclosed to the City by this section shall be provided in writing to the City Manager, include a written statement confirming that it is a full and complete disclosure of the required information, and signed by the *person* who is a party to the *transaction*. If more than one *person* is a party to the *transaction* with the City, the *persons* may jointly submit the information to the City provided each *person* signs and confirms it is a full and complete disclosure.

- (g) The City Manager shall provide the information to the City Council for any *transactions* submitted to the City Council for approval and include it with the backup material, before the City Council or Committee meeting where the *transaction* will be considered.
- (h) This section does not require disclosure of information protected by the attorney-client privilege or where disclosure is prohibited by California or federal law.
- (i) The City Manager may reject a bid or proposal, refuse to enter into a proposed *transaction*, or reject the transfer of a *transaction*, if any *person* who will be a party to the *transaction* or transfer knowingly submits false information or knowingly omits information required to be disclosed by this section. A *transaction* or transfer is voidable by the City Manager if a party to the *transaction* or transfer knowingly submitted false information or knowingly omitted information required to be disclosed by this section.
- (j) If a bid or proposal is rejected by reason of a violation of this section, the person submitting the bid or proposal may protest the rejection of the bid or proposal pursuant to section 22.3017 of this Code.
- (k) If a *transaction* is voided or a transfer of a *transaction* denied by the City Manager by reason of a violation of this section, a person who is a party to the *transaction* may appeal the decision to a hearing officer pursuant to Chapter 1, Article 2, Division 4 of this Code by providing written notice of appeal to the City Manager. Written notice of appeal must be received

by the City within ten days, excluding weekends and City holidays, after the City mailed notice that the *transaction* was voided or the transfer of the *transaction* was denied.

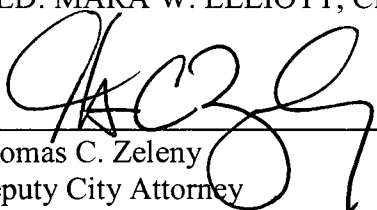
- (l) This section shall be automatically repealed on the date any material amendment to Charter section 225 is chaptered by the California Secretary of State.

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

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

APPROVED: MARA W. ELLIOTT, City Attorney

By



Thomas C. Zeleny
Deputy City Attorney

TCZ:amc
November 17, 2017
Rev. December 5, 2017
Or.Dept:READ
Doc. No.: 1629012

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JAN 09 2018.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 1/18/18
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Strikeout~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 1,
DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY
ADDING SECTION 21.0103, REGARDING DISCLOSURE OF
BUSINESS INTERESTS.

§21.0101 through §21.0102 [No change in text.]

§21.0103 Mandatory Disclosure of Business Interests

(a) Terms defined in this section are indicated by italics. For purposes of this section:

(1) Directly or indirectly involved means pursuing the proposed transaction or transfer by communicating or negotiating with City officers or employees, submitting or preparing applications, bids, proposals, or other documents for purposes of contracting with the City, or directing or supervising the actions of persons engaged in such activity.

(2) Person means every natural person, joint venture, joint-stock company, partnership, association, firm, club, company, corporation, business trust, organization or other entity.

(3) Transaction means any right, title, or interest in the City's real or personal property, any contract or lease with the City, or any franchise, right, or privilege pursuant to San Diego Charter sections 103 or 103.1.

(b) Prior to entering into a transaction with the City, every person who will be a party to the transaction shall provide the City with the name, identity, and the precise nature of the interest of all persons who are directly or indirectly involved in the transaction.

(c) Prior to transferring any right, title, or interest in a transaction with the City, every person who will be a party to the transfer shall provide the City with the name, identity, and the precise nature of the interest of all persons who are directly or indirectly involved in the transfer.

(d) For purposes of this section, the identity of a natural person shall be established by providing the city and state of residence of the natural person, or the country of residence if located outside the United States. The City Manager may require additional information regarding a natural person's identity if necessary to distinguish between persons with the same name.

(e) The precise nature of the interest to be disclosed shall include:

(1) the percentage of any ownership interest in a person that is a party to the transaction and any ownership interest in a person that will receive funds from the transaction.

(2) the value of any financial interest in the *transaction*.

(3) a description of any contingent interest in the *transaction*,

including the value of the interest should the contingency be satisfied, and

(4) a description of any philanthropic, scientific, artistic, or property interest in the *transaction*.

(f) All the information required to be disclosed to the City by this section shall be provided in writing to the City Manager, include a written statement confirming that it is a full and complete disclosure of the required information, and signed by the *person* who is a party to the *transaction*. If more than one *person* is a party to the *transaction* with the City, the *persons* may jointly submit the information to the City provided each *person* signs and confirms it is a full and complete disclosure.

(g) The City Manager shall provide the information to the City Council for any *transactions* submitted to the City Council for approval and include it with the backup material, before the City Council or Committee meeting where the *transaction* will be considered.

(h) This section does not require disclosure of information protected by the attorney-client privilege or where disclosure is prohibited by California or federal law.

(i) The City Manager may reject a bid or proposal, refuse to enter into a proposed *transaction*, or reject the transfer of a *transaction*, if any *person* who will be a party to the *transaction* or transfer knowingly submits false

information or knowingly omits information required to be disclosed by this section. A *transaction* or transfer is voidable by the City Manager if a party to the *transaction* or transfer knowingly submitted false information or knowingly omitted information required to be disclosed by this section.

(j) If a bid or proposal is rejected by reason of a violation of this section, the person submitting the bid or proposal may protest the rejection of the bid or proposal pursuant to section 22.3017 of this Code.

(k) If a *transaction* is voided or a transfer of a *transaction* denied by the City Manager by reason of a violation of this section, a person who is a party to the *transaction* may appeal the decision to a hearing officer pursuant to Chapter 1, Article 2, Division 4 of this Code by providing written notice of appeal to the City Manager. Written notice of appeal must be received by the City within ten days, excluding weekends and City holidays, after the City mailed notice that the *transaction* was voided or the transfer of the *transaction* was denied.

(l) This section shall be automatically repealed on the date any material amendment to Charter section 225 is chaptered by the California Secretary of State.

§21.0104 [No change in text.]

TCZ:amc
November 17, 2017
Rev. December 5, 2017
Or.Dept:READ
Doc. No.:1629058

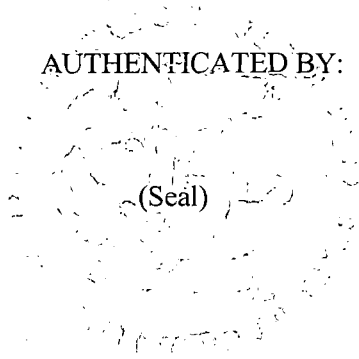
JAN 09 2018

Passed by the Council of The City of San Diego on _____, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<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"/>
Chris Ward	<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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JAN 18 2018

AUTHENTICATED BY:



(Seal)

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

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

By [Signature], Deputy

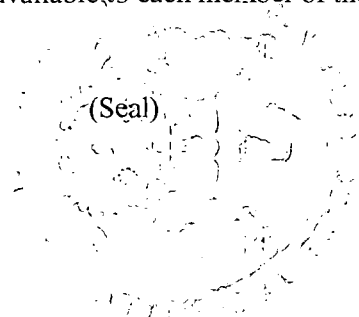
I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

DEC 04 2017

, and on

JAN 18 2018

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 [Signature], Deputy

Office of the City Clerk, San Diego, California

20888

Ordinance Number O-_____