

#S403A
(O-2019-7) 7/30/18

ORDINANCE NUMBER O- 20969 (NEW SERIES)

DATE OF FINAL PASSAGE JUL 30 2018

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO, AT THE MUNICIPAL SPECIAL ELECTION, CONSOLIDATED WITH THE CALIFORNIA STATE GENERAL ELECTION TO BE HELD ON NOVEMBER 6, 2018, ONE MEASURE AMENDING THE CITY CHARTER BY AMENDING ARTICLE XIV, BY AMENDING SECTION 225, RELATING TO MANDATORY DISCLOSURE OF BUSINESS INTERESTS.

WHEREAS, pursuant to California Constitution, article XI, section 3(b), California Elections Code (Elections Code) section 9255(a)(2), and San Diego City Charter (Charter) section 223, the Council of the City of San Diego (Council) has authority to place Charter amendments on the ballot to be considered at a Municipal Election; and

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 Council the right to know the identities and backgrounds of persons wanting to do business with the City; and

WHEREAS, since the passage of Proposition E in 1992, the San Diego City Attorney's Office (City Attorney's Office) has issued four memoranda (in 1992, 2005, 2014, and 2016) explaining the ambiguities with Charter section 225 and recommending a clarifying amendment; and

WHEREAS, the Council desires to clarify Charter section 225 regarding disclosure of information by those proposing to do business with the City; and

WHEREAS, the proposed Charter amendment would require disclosure of the names and identities of all natural persons who own more than 10% of a business contracting with the City, or who will receive more than 10% of the contracted amount, when the City will be spending or receiving more than amounts established by ordinance, or when the Council is required to approve the contract; and

WHEREAS, the proposed Charter amendment is designed to ensure the Council receives the names and identities of such persons before the meeting where the contract will be considered, or, if such persons are not yet known, at least fifteen days prior to awarding the contract; and

WHEREAS, the proposed Charter amendment would exempt public agencies and publicly traded companies from these disclosure requirements; and

WHEREAS, by Ordinance O- 20963 , introduced and adopted on July 17, 2018, the Council has called a Municipal Special Election to be consolidated with the California State General Election to be held November 6, 2018, for the purpose of submitting to the qualified voters of the City one or more ballot measures; and

WHEREAS, the Council now desires to submit the proposed amendments to Charter section 225 to the voters at the Municipal Special Election to be held November 6, 2018; and

WHEREAS, the amendment to Charter section 225 was proposed initially by Council President Pro Tem Barbara Bry and submitted as a proposed ballot measure through the Council Policy 000-21 process; and

WHEREAS, the proposed Charter amendment was heard and reviewed by the City Council's Rules Committee, and the Council, through this Ordinance, now seeks to place the proposed amendment on the November 6, 2018 Municipal Special Election ballot; and

WHEREAS, the Council's proposal, on its own motion, of Charter amendments is governed by California Constitution, article XI, section 3(b), Elections Code section 9255(a)(2), and Government Code section 34458, and is not subject to veto by the Mayor; NOW, THEREFORE,

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

Section 1. One measure amending the City Charter by amending Article XIV, by amending section 225, related to mandatory disclosure of business interests, is hereby submitted to the qualified voters at the Municipal Special Election to be held on November 6, 2018, and consolidated with the California State General Election to be held on the same date, with the measure to read as follows:

MEASURE

ARTICLE XIV

MISCELLANEOUS PROVISIONS

SECTION 225: MANDATORY DISCLOSURE OF BUSINESS INTERESTS

~~No right, title or interest in the City's real or personal property, nor any right, title or interest arising out of a contract, or lease, may be granted or bargained pursuant to the City's general municipal powers or otherwise, nor any franchise, right or privilege may be granted pursuant to Section 103 or 103.1 of this Charter, unless the person applying or bargaining therefor makes a full and complete disclosure of the name and identity of any~~

~~and all persons directly or indirectly involved in the application or proposed transaction and the precise nature of all interests of all persons therein.~~

~~Any transfer of rights, privileges or obligations arising from a franchise, right or privilege granted under Charter Section 103 or 103.1, or any transfer of any right, title or interest in the City's real or personal property, or any right, title or interest arising out of a contract, or lease, which may be granted or bargained pursuant to the City's general municipal powers or otherwise, shall also require a full and complete disclosure as set forth above. Failure to fully disclose all of the information enumerated above shall be grounds for denial of any application or proposed transaction or transfer and may result in forfeiture of any and all rights and privileges that have been granted heretofore.~~

~~For purposes of this Charter section, the term "person" means any natural person, joint venture, joint stock company, partnership, association, firm, club, company, corporation, business trust, organization or entity.~~

Every person or entity contracting with the City shall first disclose to the City the names and identities of all natural persons who will receive more than 10% of the contracted amount or who own more than 10% of the entity contracting with the City, where the City will be expending or receiving more than the amounts established by ordinance of the City Council or where City Council approval is required by this Charter or by ordinance. Contracts subject to this Section include, but are not limited to, contracts awarded pursuant to Section 94 of this Charter, transfers of interests in the City's real or personal property, and grants or renewals of franchises pursuant to Sections 103 or 103.1 of this Charter. The same disclosure shall be made to the City by every person or entity

later receiving or assuming any rights or obligations under such contracts where City approval is required to transfer such rights or obligations.

The City may reject a proposed contract, terminate a current contract, or rescind a prior contract, if any person or entity submits false information or omits information required to be disclosed by this Section.

The City shall provide the City Council with the disclosures received from every person or entity contracting with the City where City Council approval is required, prior to the City Council meeting where the contract will be considered. If the person or entity the City will be contracting with has not been determined by the date of the City Council meeting, the City shall provide the City Council with the disclosures at least fifteen days prior to awarding the contract.

This Section does not apply to public agencies, or to entities that are publicly traded companies listed on a stock exchange in the United States.

This Section shall not preclude the City from requiring disclosure of any other information from persons or entities contracting with the City.

END OF MEASURE

Section 2. The measure shall be presented and printed upon the ballot and submitted to the voters in the manner and form set out in Section 3 of this ordinance.

Section 3. On the ballot to be used at this Municipal Special Election, in addition to any other matters required by law, there shall be printed substantially the following:

MEASURE __. CHARTER AMENDMENT REGARDING MANDATORY DISCLOSURE OF BUSINESS INTERESTS. Shall the City Charter be amended to: require, for certain contracts, disclosure of the names and identities of all natural persons owning more than 10% of an entity contracting with the City or receiving more than 10% of the contracted amount; require the disclosures to be provided to the Council for contracts requiring Council approval; and exempt public agencies and publicly traded companies from the requirements?	YES	
	NO	

Section 4. An appropriate mark placed in the voting square after the word "Yes" shall be counted in favor of the adoption of this measure. An appropriate mark placed in the voting square after the word "No" shall be counted against the adoption of the measure.

Section 5. Passage of this measure requires the affirmative vote of a majority of those qualified electors voting on the matter at the Municipal Special Election.

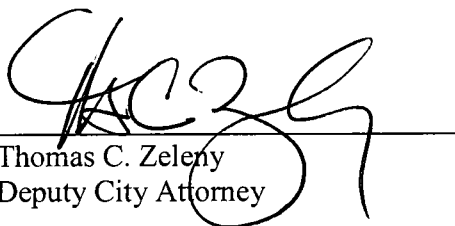
Section 6. The City Clerk shall cause this ordinance or a digest of this ordinance to be published once in the official newspaper following this ordinance's adoption by the City Council.

Section 7. Pursuant to San Diego Municipal Code section 27.0402, this measure will be available for public examination for no fewer than ten calendar days prior to being submitted for printing in the sample ballot. During the examination period, any voter registered in the City may seek a writ of mandate or an injunction requiring any or all of the measure to be amended or deleted. The examination period will end on the day that is 75 days prior to the date set for the election. The Clerk shall post notice of the specific dates that the examination period will run.

Section 8. A full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been available to the City Council and the public prior to the day of its passage.

Section 9. Pursuant to sections 295(b) and 295(d) of the Charter of the City of San Diego, this ordinance shall take effect on the date of passage by the City Council, which is deemed the date of its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
Thomas C. Zeleny
Deputy City Attorney

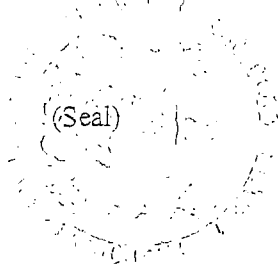
TCZ:SBS:jdf
07/16/18
Or.Dept: CD1, Rules Committee
Doc. No.: 1793367_2

Passed by the Council of The City of San Diego on JUL 30 2018, 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 JUL 30 2018

AUTHENTICATED BY:



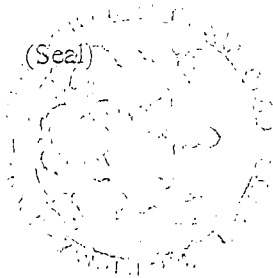
KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

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

By Linda Bruen, Deputy

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on JUL 30 2018, said ordinance being of the kind and character authorized for passage on its introduction by Section 295 of the Charter.

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.



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

By Linda Bruen, Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- <u>20969</u>