

MEMORANDUM OF LAW

DATE: July 16, 1992

TO: Jim Spotts, Director, Property Department

FROM: City Attorney

SUBJECT: Section 225 of the City Charter - Mandatory
Disclosure of Business Interests

By memorandum dated June 17, 1992, copy attached as Attachment 1, you asked several questions regarding interpretation and application of Section 225 of the Charter to Property Department transactions. A copy of Charter Section 225 as it appeared on the ballot for the recent election is attached to your memorandum.

My understanding is that the ballot language for the new Charter section arose out of certain concerns on the part of the Mayor and members of the City Council that they should be given certain information with regard to persons proposing to transact business with the City.

The new Charter section basically requires that the City Council be given "the name and identity of . . . all persons . . . involved in the . . . proposed transaction and the precise nature of all such interests"

The Charter section further specifies that failure to fully disclose the required information "shall be grounds for denial of any . . . proposed transaction . . . and may result in forfeiture of any and all rights and privileges that have been granted heretofore."

The section proceeds to define "persons" as "any natural person, joint venture, joint stock company, partnership, association, firm, club, company, corporation, business trust, organization or entity."

The above language taken literally would require the disclosure of the "name and identity" of all the stockholders of General Motors together with "the precise nature of all interests" of such stockholders in any proposed contracts General Motors may desire to enter into with the City. Obviously, it is neither practical nor desirable to interpret the Charter section to require such information.

It is clear from the argument on the ballot in favor of the

proposition (there was no argument against the proposition) that the Charter section was enacted for the sole benefit of the Mayor and the City Council and that the purpose of the Charter section is to "give the Mayor and City Council the right to know the identities and backgrounds of persons wanting to do business with the City."

Rather than address the particular questions raised by your memorandum, it seems more efficient in light of the above discussion to propose language for a potential Council Policy which will provide guidelines to the City Manager as well as the non-managerial departments as to what information must actually be provided in connection with any transaction which must be approved by the Mayor and Council.

Therefore, I have attached a first draft of a potential Council Policy. Please review the policy and make any suggested modifications and we can begin the process of clearing the policy through the various City departments and then take it to the City Council for review, any revisions the Council may desire, and approval.

With regard to the effective date of the Charter amendment, the amendment becomes effective after the City Council certifies the results of the election and the certification is transmitted to the California Secretary of State. The City Council certified the results on July 13th. While the exact date of filing by the Secretary of State is unknown, you should assume that the filing will occur during the week of July 20th.

JOHN W. WITT, City Attorney

By

Harold O. Valderhaug

Deputy City Attorney

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Attachments 2

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