

CITY OF SAN DIEGO  
OFFICE OF THE CITY CLERK  
MEMORANDUM  
(619) 533-4000

DATE: June 28, 2010

TO: Honorable Mayor, City Council President and Councilmembers

FROM: Elizabeth Maland, City Clerk

SUBJECT: VERIFICATION OF CHARTER AMENDMENT PETITION  
RELATED TO COMPETITION AND TRANSPARANCY RELATED  
TO CITY CONTRACTS

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On June 14, 2010, the proponents of Competition and Transparency in City Contracts filed with my office a petition to amend the City Charter.

**The petition has been verified and found insufficient in signatures and form to qualify to be placed on the ballot before the voters.**

The petition was examined by the Registrar of Voters and found to contain a total of 134,441 signatures. A random sampling of three (3) percent, or 4,033 signatures, was selected. The sample contained the signatures of 3,212 qualified electors in the City of San Diego. Applying that rate to the total number of signatures submitted, we can project the total number of valid signatures as 74,732.

California Election Code 9255(a)(3) provides that the number of valid signatures necessary to qualify a Charter Amendment Initiative for direct submission to the voters shall be fifteen (15) percent of the registered voters of the City for the report on file with the Secretary of State when the Notice of Intent is published. For this charter amendment initiative, the number of valid signatures needed is 96,834.

For qualification of a petition by random sampling, the projected number of valid signatures must be at least 110 percent of the basic requirement. Should the projected number of valid signatures fall beneath 95 percent of the basic requirement, the petition is considered to be insufficient. For this petition, the 95% qualification criterion is 91,993 signatures. **Since the projected number of valid signatures does not meet the qualification criterion, the petition is found to be insufficient.**

Municipal Code Section 27.2617 provides, in part, that any voter of the City of San Diego may challenge the determination of the sufficiency or insufficiency of the signatures determined by the random sampling method. Any challenge must be made

OFFICE OF THE CITY CLERK  
SAN DIEGO, CALIFORNIA

CERTIFICATE OF CITY CLERK

I, ELIZABETH MALAND, City Clerk of The City of San Diego, California, DO  
HEREBY CERTIFY the following results of the examination of the petition filed by the  
Reforming City Hall with Carl DeMaio committee on June 14, 2010, EXHIBIT A, attached.

- (a) That the petition contained 134,441 signatures.
- (b) That three (3) percent or 4,033 signatures in a random sampling were examined and 3,212 signatures of qualified electors of the City of San Diego were found to be contained in the sample.
- (c) That the projected number of valid signatures for the petition was 74,732.
- (d) That for qualification, a Charter amendment petition shall be signed by at least fifteen (15) percent of the registered electors in the City as disclosed in the current Registrar of Voters registration report to the Secretary of State, which is the report that is on file at the time the Notice of Intent is published. The basic qualification criterion for this petition is 96,834 signatures.
- (e) That for disqualification of a petition by random sampling the projected number of valid signatures must fall below 95 percent of the basic qualification criterion, or  $95\% \times 96,834 = 91,993$ .
- (f) That since the 74,732 projected number of valid signatures on the petition is less than the 96,834 basic qualification criterion, the petition does not qualify for submission to the voters of the City.

  
ELIZABETH MALAND, City Clerk

(SEAL)

Dated at San Diego California  
this 28th day of June, 2010

#### 4. Disclosure of Campaign Contributions by Contractors

The Mayor and City Council would be required to disclose campaign contributions from contract bidders before awarding contracts.

The City of San Diego faces a severe budget crisis. We need to improve efficiency and reduce wasteful spending in city departments by using competitive bidding on city services.

The City of San Diego awards some contracts without fair and open competitive bidding. We need this measure to ensure that all city contracts are subject to open and fair competitive bidding.

The only way to achieve these goals is to amend the City Charter to provide for fair and open competitions in the review of city services and in the awarding of city contracts.

Signed:



Carl DeMaio



Bob Glaser

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### PETITION FOR SUBMISSION TO VOTERS OF PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF SAN DIEGO:

To the City Council of the City of San Diego:

We, the undersigned, registered and qualified voters of the State of California, residents of the City of San Diego, pursuant to Section 3 of Article XI of the California Constitution and Chapter 2 (commencing with Section 34450) of Part 1 of Division 2 of Title 4 of the Government Code, present to the City Council of the City of San Diego this petition and request that the following proposed amendment to the Charter of the City of San Diego be submitted to the registered and qualified voters of the City for their adoption or rejection at an election on a date to be determined by the City Council.

The proposed Charter Amendment reads as follows:

#### Competition and Transparency in City Contracts

The people of the City of San Diego hereby declare and ordain as follows:

#### SECTION 1. Statement of the People's Intent

- (a) The People of the City of San Diego [the People] desire open and fair competition for services and public works projects that are paid for, in whole or in part, with the funds of the City of San Diego or its Redevelopment Agency.
- (b) The People believe that open and fair competition enables government to maximize efficiency and save public funds by lowering the cost of services and public works projects to taxpayers.
- (c) The People oppose the City's imposition of requirements in contract evaluations, solicitations and awards that will have the effect of limiting potential bidders, limiting classes of individuals eligible to apply for jobs under city contracts, or increasing labor costs in city contracts for services and public works by mandating salary and benefit packages in excess of federal and state requirements.
- (d) The People believe that the City should provide the public with maximum transparency on what contracts are available, which individuals and entities are receiving contracts, whether multiple bids were received for contracts, and whether recipients of city contracts have made campaign contributions to city officials.
- (e) The People recognize that local jobs are best created and efficiencies in the use of taxpayer funds are achieved when contracts for city services and public works projects offer equal opportunity to all bidders and to all workers.
- (f) The People intend the following Proposition to amend the Charter of the City of San Diego, as follows:

#### SECTION 2. Article XIV of the Charter of the City of San Diego is amended by adding Section 227, to read as follows

##### Section 227: Competition and Transparency in City Contracts

- (a) For the purpose of this Section, the following definitions shall apply:
  - "Act" shall mean the National Labor Relations Act, Title 29 USC §§ 151 - 169.
  - "City" shall mean and include both the City of San Diego and the Redevelopment Agency of the City of San Diego.
  - "Campaign contribution" shall have the same meaning as that term is defined in California Government Code section 82015 and is subject to the inclusions and exceptions contained in title 2, section 18215 of the California Code of Regulations. Campaign contributions shall include independent expenditures made in support of a candidate.
  - "Contract" shall mean a contract for services, an agreement between the city and a contracting party in which the city is the purchaser of work on a public works project, or in which the city is a purchaser of goods such as articles, commodities, materials, supplies, equipment or insurance.
  - "Contracting party" shall mean and include an owner, developer, contractor, subcontractor or material supplier, involved in a public works project or in the provision of a service contract to the City of San Diego.

**INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS**

The city attorney has prepared the following title and summary of the chief purpose and points of the proposed measure:

**Ballot Title: City of San Diego Charter Amendment Initiative Measure Relating to Direct Outsourcing and Managed Competition of City Services; Requirements in City Contracts Relating to Labor; Posting of City Contracts on Website; and Disclosure of Campaign Contributions**

**Ballot Summary: This measure would add section 227 to the San Diego City Charter to:**

- **Require the City Manger to regularly determine if City services can be more efficiently and economically achieved through Direct Outsourcing or Managed Competition. Direct Outsourcing is the competitive bidding by private contractors for work currently performed by the City. Managed Competition is the competition between City departments and private contractors under Charter section 117 (c) to provide services. Core public safety services provided by police officers, firefighters, and lifeguards would not be subject to this provision.**
- **Require the completion of either a Direct Outsourcing process or Managed Competition Process by June 30, 2013 for solid waste collection, landfill management, information technology services, print shop and publishing services, auto and fleet maintenance, landscaping, and facilities operation and maintenance.**
- **Prohibit the City and Redevelopment Agency of the City of San Diego from funding or entering into service contracts or public works contracts that require a contracting party (an owner, developer, contractor, subcontractor or material supplier) to: become a party to an agreement between a labor organization, on the one hand, and the City, contracting party, or any third party, on the other; provide the contracting party's employees with compensation or benefits in excess of those required under state or federal law; sign a collective bargaining agreement; make payments on behalf of employees to union benefit plans or trust funds; require the contracting party's employees to be represented by a labor organization; encourage or discourage the contracting party's employees to have representation by a labor organization; hire employees of the City or another contractor; and employ journeymen or use apprenticeship or certification programs beyond those required by state law.**
- **Require the City Manager to post contracts over \$25,000 and related information on the City's website.**
- **Require the Mayor and Council to provide written disclosure of any campaign contributions received in the preceding 12 months from a contracting party, before voting to authorize the party's contract.**
- **Define "City" for purposes of the new Charter section as including both the City of San Diego and the Redevelopment Agency of the City of San Diego.**

<b>VOTER:</b> Please sign Petition 1 time <b>ONLY.</b>	<b>NOTICE TO THE PUBLIC: THIS PETITION MAY BE CIRCULATED BY A PAID SIGNATURE GATHERER OR A VOLUNTEER. YOU HAVE THE RIGHT TO ASK.</b>
<b>All signers of this petition <u>must</u> be registered to vote in the City of San Diego.</b>	
	This column for Clerk's Use Only

New Registration <input type="checkbox"/>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; border-bottom: 1px solid black; padding: 2px;"><i>SIGNATURE</i> as Registered To Vote</td> <td style="width: 50%; border-bottom: 1px solid black; padding: 2px;">Residence Address ONLY:</td> </tr> <tr> <td style="border-bottom: 1px solid black; padding: 2px;"><i>PRINT</i> Your Name</td> <td style="border-bottom: 1px solid black; padding: 2px;">City/Zip: <span style="float: right;">Date:</span> NO PO Boxes, NO routes, NO abbreviations, NO ditto marks</td> </tr> </table>	<i>SIGNATURE</i> as Registered To Vote	Residence Address ONLY:	<i>PRINT</i> Your Name	City/Zip: <span style="float: right;">Date:</span> NO PO Boxes, NO routes, NO abbreviations, NO ditto marks	
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**DECLARATION OF CIRCULATOR**  
(To be handwritten by the circulator after above signatures have been obtained)

I, \_\_\_\_\_, am registered to vote or I am eligible to register to vote in the State of California.  
(Print Name)

I reside at the following address: \_\_\_\_\_  
(Address, City, State, Zip)

I circulated this section of the petition and witnessed each of the appended signatures being written. Each signature on this petition section is, to the best of my information and belief, the genuine signature of the person whose name it purports to be. All signatures on this document were obtained between the dates of \_\_\_\_\_  
(Month, Day, Year)

and \_\_\_\_\_  
(Month, Day, Year)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, California. SIGNATURE: \_\_\_\_\_  
(Sign Full Name - First Name, Middle Name or Initial, Last Name)