

NOTICE OF INTENT TO CIRCULATE PETITION

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Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City of San Diego for the purpose of amending the City Charter of the City of San Diego. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

SAN DIEGO, CALIF.

Statement of Reasons

The "Competition and Transparency in City Contracting" Charter Amendment would require city government to follow clear rules for conducting fair and open competitions in the review of city services and in the awarding of city contracts.

If approved this measure would hold the city accountable for using competitions to improve the efficiency of city services. It is designed to restore the public's trust in the way the city evaluates and awards contracts funded with taxpayer monies.

We need this measure because city politicians have refused to implement competitive contracting rules – some of which were overwhelmingly approved by voters in 2006 when they passed Proposition C. In other cases, city politicians have awarded sweetheart contracts to political allies by using discriminatory and unfair contract evaluations.

The "Competition and Transparency in City Contracting" Charter Amendment imposes the following reforms:

1. Posting All City Contracts Online

The City would be required to post all of its taxpayer-funded contracts online – and list the number of bids received on the contract as well as any justifications made for any "sole source" contracts.

2. Open and Fair Competition

City contracts would be awarded using clear rules for fair and open competition and would provide equal opportunity for both union and non-union workers to apply for jobs.

3. Accountability for Efficiency Reforms

City leaders would be held accountable for implementing outsourcing reforms the voters have already approved and would be given authority to use direct outsourcing competitions to save taxpayer money on city services.

MISLEADING:

City is doing this; doesn't tell much.

FALSE:

This measure sets NO standards or rules.

FALSE:

Removes or disables accountability provisions

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.

MISLEADING:
Already required

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.


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

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
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(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.

“Direct Outsourcing” shall mean the outsourcing of work currently or potentially performed by the City to private contractors using a competitive bidding process. The core public

safety services provided by police officers, firefighters, and lifeguards who participate in the City’s Safety Retirement System shall not be subject to Direct Outsourcing.

“Labor organization” shall have the same meaning ascribed to it in Section 2 of the Act (29 USC §152)

“Managed Competition” shall mean the competition between city departments and private contractors as defined under Section 117c of the Charter.

“Public works project” shall mean and include all construction projects paid for, in whole or in part, by the funds of the City or the Redevelopment Agency, including but not limited to any building, road, street, park, playground, water system, irrigation system, sewer, storm water conveyance system, reclamation project, redevelopment project, or other public facility.

“Service contract” means an agreement between the City and another party in which the City is the purchaser of work by persons. It does not include contracts for Public Works Projects or goods such as articles, commodities, materials, supplies, equipment or insurance.

(b) The City Manager shall regularly examine city services to determine if city services can be more efficiently and economically achieved through Direct Outsourcing or Managed Competitions.

The City Manager may initiate Direct Outsourcing or Managed Competitions at his discretion. In implementing Direct Outsourcing, the City Manager shall have the sole authority for the development of any necessary policies and procedures, but shall seek City Council approval for any contract valued at \$250,000 or more annually.

To hold the city accountable for implementation of these competitions, the City shall complete either a Direct Outsourcing process or Managed Competition process on each of the following services by June 30,

REDUCES ACCOUNTABILITY:
Creates new outsourcing process with NO requirements for service quality or taxpayer savings

2013: solid waste collection, landfill management, information technology services, print shop and publishing services, auto and fleet maintenance, landscaping, and facilities operation and maintenance.

**FORCES
PRIVATIZATION**
of trash collection
and other public
services

The City Manager may conduct Direct Outsourcing or Managed Competitions on additional services during and after this time. No service may be made exempt from Direct Outsourcing or Managed Competition merely because previous efficiency reforms efforts have been implemented within the service.

In its evaluation of bids received in a Direct Outsourcing process or a Managed Competition process, the City shall not consider or impose any provision or requirement prohibited by subsection (c) of this Section.

(c) The City shall not fund, in whole or in part, or enter into any service contract or contract for the construction, maintenance, repair, improvement or replacement of public works projects which contains a requirement that a contracting party:

**BANS LOCAL
HIRING
REQUIREMENTS**

(1) execute, comply with or become a party to an agreement between a labor organization, on the one hand, and the City, the Contracting Party, or any third party on the other;

**BANS LIVING
WAGES**

(2) provide its employees with compensation or benefits in excess of the levels expressly required of the contracting party as an employer under state and federal laws and regulations;

(3) become a signatory to a collective bargaining agreement;

(4) be required to make payments on behalf of employees to union benefit plans or other trust funds;

**CUTS OFF
STATE & FEDERAL
FUNDS
TO SAN DIEGO**

(5) require its employees to be represented by a labor organization;

(6) encourage or discourage employees of a contracting party to have representation by a labor organization;

(7) be required to hire employees from the City of San Diego or from another contracting party; or

(8) be required to employ journeymen or use apprenticeship or certification programs beyond requirements required under state law, included, but not limited to those required by the State Division of Apprenticeship Standards, the California Apprenticeship Council, California Division of Occupational Health and Safety, and the Workers Compensation Appeals Board.

**KILLS LOCAL
JOBS**

**BANS HEALTH
AND SAFETY
TRAINING
REQUIREMENTS**
for paramedics
and others

The City shall not impose, as a bid specification, contract prerequisite, contract term or otherwise, any requirement prohibited in this Section. Nothing in this Section shall be construed as prohibiting parties covered by this provision from entering into individual collective bargaining relationships, or otherwise as regulating or interfering with activity protected by applicable law, including but not limited to the Act.

Any person aggrieved or injured in any way by a violation of this subsection shall be entitled to injunctive relief in the Superior Court of the State of California, County of San Diego, including by way of an action filed pursuant to California Code of Civil Procedure Section 526a.

d) The City Manager shall post on the City's website in a searchable format all current contracts valued in excess of \$25,000 in a given fiscal year. The City Manager may redact any confidential or proprietary information from contracts prior to posting. For each individual contract, the City Manager shall note the number of total bidders who competed for the contract. For any sole source contract, the City Manager shall post a written justification for the sole source determination.