

INITIATIVE PETITION

To the Honorable City Council of The City of San Diego:

We, the undersigned registered voters of The City of San Diego, California, by this petition hereby respectfully propose the following legislative act be adopted by the City Council or submitted to the registered voters of The City of San Diego for their adoption or rejection:

NOTICE OF INTENT TO CIRCULATE PETITION

Notice is hereby given of the intention of the person(s) whose name(s) appear(s) hereon to circulate a petition within the City of San Diego for the purpose of enacting the Fair and Open Competition in Construction Ordinance.

The people of the City of San Diego do ordain as follows:

FAIR AND OPEN COMPETITION IN CONSTRUCTION ORDINANCE

SECTION 1: San Diego Municipal Code, Chapter 2, Article 2 is amended by adding Division 44, to read as follows:

Article 2 Administrative Code

Division 44: Fair and Open Competition in Construction Ordinance

§22.4401: Statement of the People's Intent

The People of the City of San Diego support the enactment of this Fair and Open Competition in Construction Ordinance because they believe the City should treat union and non-union Contractors equally and not give special advantages to either. All City Construction Project job opportunities should be open equally to both union and non-union workers. Fair and open competition helps the City maximize government efficiency by getting the best quality work for the best price for the taxpayers. To promote fair and open competition for City Construction Project contracts, the City should not mandate the use of Project Labor Agreements. City Construction Project contracts should be posted online to help citizens evaluate the City's performance in promoting fair and open competition. The People believe these reforms are urgently needed and wish to enact this Ordinance as soon as possible.

§22.4402: Fair and Open Competition - Prohibition on Requiring Project Labor Agreements

Except as required by state or federal law as a contracting or procurement obligation, or as a condition of the receipt of state or federal funds, the City shall not require a Contractor on a Construction Project to execute or otherwise become a party to a Project Labor Agreement as a condition of bidding, negotiating, awarding or the performing of a contract.

§22.4403: Fair and Open Contracts - Posting City Construction Project Contracts Online

To help ensure City compliance with the purposes of this Ordinance, the Mayor shall post on the City's website in a searchable format the text of all Construction Project contracts entered into by the City valued at more than \$25,000 in a given fiscal year. The Mayor shall redact any proprietary, trade secret, or otherwise legally privileged or confidential information from contracts prior to posting. For each contract, the Mayor shall note the number of total bidders who competed for the contract. For any sole source contract, the Mayor shall post a written justification for the sole source determination.

§22.4404: Definitions

For the purpose of this Ordinance, the following definitions shall apply:

"Act" shall mean the National Labor Relations Act, Title 29 U.S.C. §§ 151 - 169.

"City" shall mean and include the City of San Diego, its agencies, corporations, boards, commissions, organizational subdivisions, partnerships, offices, and any other entity that the City of San Diego holds a controlling interest thereof.

"Construction Project" shall mean and include any project paid for in whole or in part out of City funds for the construction, rehabilitation, alteration, conversion, extension, maintenance, repair, replacement, or improvement of any structures or real property.

"Contractor" shall mean and include an owner, developer, contractor, subcontractor, material supplier, carrier, or other person or firm engaged in the completion of a Construction Project.

"Labor Organization" shall have the same meaning ascribed to it in Section 2 of the Act (29 U.S.C. §152).

"Ordinance" means this Fair and Open Competition in Construction Ordinance as codified in the San Diego Municipal Code Chapter 2, Article 2, Division 44.

"Project Labor Agreement" shall mean any pre-hire, collective bargaining or similar type of project specific labor agreement entered into with one or more Labor Organizations, employees or employee representatives that establishes the terms and conditions of employment on a Construction Project.

§22.4405: Applicability

- (a) The construction of this Ordinance shall be applied by the Mayor and City Council and interpreted judicially so as to most fully implement the Statement of the People's Intent.
- (b) Nothing in this Ordinance shall be construed as prohibiting private parties that may perform work on Construction Projects from voluntarily entering into Project Labor Agreements or engaging in activity protected by law.
- (c) Nothing in this Ordinance shall be construed as prohibiting a Contractor from entering into any individual collective bargaining relationship, or otherwise as regulating or interfering with activity protected by applicable state or federal law, including but not limited to, the Act.
- (d) To the extent permitted by law, the provisions of this Ordinance shall be effective 30 days from approval of this proposition by the voters. Contracts awarded before this effective date and subcontracts awarded pursuant to such contracts, whenever awarded, shall not be governed by this Ordinance.

§22.4406: No Amendment or Repeal except by a Vote of the People

This Ordinance shall not be amended or repealed except by a majority vote of the voters of the City of San Diego.

§22.4407: Judicial Review and Remedy

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

§22.4408: Severability

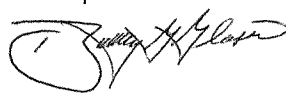
If any provision contained in this Ordinance is held by a court of law of competent jurisdiction to be invalid, or is superseded by a numerically superior vote as provided in Section 2 of the proposition that enacted this Ordinance, the remaining provisions of this Ordinance shall not be affected but shall remain in full force and effect, and to that end the provisions of this Ordinance are severable.

SECTION 2: Conflicting Propositions

If any other proposition, appearing on the same ballot as this proposition, addresses the same subject matter in a way that conflicts with the treatment of the subject matter in this proposition, and if each proposition is approved by a majority vote of those voting on each proposition, then as to the conflicting subject matter the proposition with the highest affirmative vote shall prevail, and the proposition with the lowest affirmative vote shall be deemed disapproved as to the conflicting subject matter.

A statement of the reasons for the proposed action as contemplated in said petition is as follows:

The People of the City of San Diego support the enactment of this Fair and Open Competition in Construction Ordinance because they believe the City should treat union and non-union Contractors equally and not give special advantages to either. All City Construction Project job opportunities should be open equally to both union and non-union workers. Fair and open competition helps the City maximize government efficiency by getting the best quality work for the best price for the taxpayers. To promote fair and open competition for City Construction Project contracts, the City should not mandate the use of Project Labor Agreements. City Construction Project contracts should be posted online to help citizens evaluate the City's performance in promoting fair and open competition. The People believe these reforms are urgently needed and wish to enact this Ordinance as soon as possible.



Printed Name: Bobby G. Glaser
 Address: 8304 Clairemont Mesa Blvd. Suite 213
 San Diego, CA 92111
 Dated: March 16, 2011

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

New Registration <input type="checkbox"/>	1	SIGNATURE _____ as Registered To Vote	Residence _____ Address ONLY:
		PRINT _____ Your Name	City/Zip: _____ Date: _____ NO PO Boxes, NO routes, NO abbreviations, NO ditto marks
New Registration <input type="checkbox"/>	2	SIGNATURE _____ as Registered To Vote	Residence _____ Address ONLY:
		PRINT _____ Your Name	City/Zip: _____ Date: _____ NO PO Boxes, NO routes, NO abbreviations, NO ditto marks
New Registration <input type="checkbox"/>	3	SIGNATURE _____ as Registered To Vote	Residence _____ Address ONLY:
		PRINT _____ Your Name	City/Zip: _____ Date: _____ NO PO Boxes, NO routes, NO abbreviations, NO ditto marks
New Registration <input type="checkbox"/>	4	SIGNATURE _____ as Registered To Vote	Residence _____ Address ONLY:
		PRINT _____ Your Name	City/Zip: _____ Date: _____ NO PO Boxes, NO routes, NO abbreviations, NO ditto marks
New Registration <input type="checkbox"/>	5	SIGNATURE _____ as Registered To Vote	Residence _____ Address ONLY:
		PRINT _____ Your Name	City/Zip: _____ Date: _____ NO PO Boxes, NO routes, NO abbreviations, NO ditto marks

AFFIDAVIT OF AUTHENTICITY

COUNTY OF SAN DIEGO) } ss. _____
 STATE OF CALIFORNIA)

Under penalty of perjury I, _____, declare:
 (Printed name of circulator)

That all of the signatures on the voter signature sheets of this petition section were made in my presence and were observed by me; that all of the sheets constituting this petition section were fastened together at the time such signatures were made; that, to the best of my knowledge and belief, such signatures are the genuine signatures of the individuals who signed the petition; and that the signatures were obtained between _____ AND _____
 (Beginning date of circulation) (Final date of circulation)

I am registered to vote or I am eligible to register to vote in the State of California.

 (Circulator's Printed Name) (Circulator's Signature)

 (Circulator's Residence) (Date Signed by Circulator)