



THE CITY OF SAN DIEGO
COUNCIL PRESIDENT MYRTLE COLE

FOURTH DISTRICT

October 6, 2017

Judge Jeffrey B. Barton
Presiding Judge
San Diego Superior Court
220 West Broadway
San Diego, CA 92101

Re: Grand Jury Report: "Stop Kicking the Can Down the Road: San Diego's 1992 Transparency Law Must Be Enforced"

Dear Judge Barton:

Pursuant to California Penal Code Section 933.05(a), (b) and (c), the City of San Diego provides the attached response from the City Council to the applicable findings and recommendations included in the above referenced Grand Jury Report.

If you require additional information or have any questions, please contact Erin Demorest, Director of Legislative Affairs, at 619-533-3920.

Sincerely,

A handwritten signature in black ink that reads "Myrtle Cole".

Myrtle Cole

- Encl: 1. City response to Grand Jury Report: "Stop Kicking the Can Down the Road: San Diego's 1992 Transparency Law Must Be Enforced"
2. City Council Resolution R-2018-105

**City Council Response to
San Diego County Grand Jury Report Titled
“Stop Kicking the Can Down the Road:
San Diego’s 1992 Transparency Law Must Be Enforced”**

Pursuant to California Penal Code section 933(c), the San Diego City Council provides the following responses for the findings and recommendations to the City Council that are included in the above referenced Grand Jury Report:

FINDINGS 01 THROUGH 02

Below are the City Council’s responses to Findings 01 through 02:

Finding 01: *Because of its overly broad language, the transparency law is largely unenforceable.*

Response: The City Council agrees with the Grand Jury’s finding.

Finding 02: *The San Diego City Council has been remiss in not following the advice of successive City Attorneys and correcting the identified deficiencies in San Diego City Charter section 225.*

Response: The City Council partially disagrees with the Grand Jury’s finding.

While the City does not collect all information required under Charter section 225, it does collect some. For example, since December 2008, the City has collected entity ownership information for contracts greater than \$50,000. Further, the City collects similar information with respect to real estate leases.

With the City Attorney’s assistance, the current City Council is working with the executive branch to develop a City ordinance that would endeavor to clarify the broad language identified in Finding 01. The proposed ordinance is expected to be presented to the City Council’s Rules Committee in the Fall of 2017.

A proposed Charter amendment is also anticipated to be developed and subsequently considered by the City Council. If the Council approves placing the proposed Charter amendment on the ballot, the City expects it would then be submitted to the electorate in 2018. The purpose of the proposed Charter amendment would be to clarify the intent of Charter section 225 or to repeal it.

RECOMMENDATIONS 17-20 THROUGH 17-21

Below are the City Council’s responses to Recommendations 17-20 through 17-21:

Recommendation 17-20: *Collaborate with the Mayor, the Independent Budget Analyst, and other appropriate City departments to either amend the municipal code to enforce the transparency law or place a measure on the 2018 ballot to amend charter section 225.*

Response: The recommendation has not yet been implemented, but will be implemented in the future.

See response to Finding 02, second and third paragraphs.

**City Council Response to
San Diego County Grand Jury Report Titled
“Stop Kicking the Can Down the Road:
San Diego’s 1992 Transparency Law Must Be Enforced”**

Recommendation 17-21: *Correct identified deficiencies in San Diego City Charter Section 225 by not ignoring advice and counsel from the Office of the City Attorney.*

Response: The recommendation has not yet been implemented, but will be implemented in the future.

See response to Finding 02, second and third paragraphs.

RESOLUTION NUMBER R- **311330**

DATE OF FINAL PASSAGE **OCT 03 2017**

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING THE CITY COUNCIL'S RESPONSE
TO THE APRIL 13, 2017 SAN DIEGO COUNTY GRAND JURY
REPORT TITLED "STOP KICKING THE CAN DOWN THE
ROAD: SAN DIEGO'S 1992 TRANSPARENCY LAW MUST
BE ENFORCED"

WHEREAS, on April 13, 2017, the 2016-2017 San Diego County Grand Jury
(Grand Jury) filed a report titled "Stop Kicking the Can Down the Road: San Diego's 1992
Transparency Law Must Be Enforced" that requested a response from the San Diego City
Council (Council) and Mayor; and

WHEREAS, the Report discusses issues related to what the Grand Jury describes as
previously identified deficiencies in San Diego City Charter (Charter) section 225; and

WHEREAS, the Report includes two findings and two recommendations directed to the
Council and an additional recommendation directed to the Mayor. The proposed response covers
the findings and recommendations directed to the Council; and

WHEREAS, under California Penal Code section 933(c), within 90 days after the filing
of the report, each public agency which the Grand Jury reviewed, and about which it issued the
Report, must comment to the Presiding Judge of the Superior Court on the findings and
recommendations pertaining to matters under the control of the agency; and

WHEREAS, the comments required from the Council are due to be submitted to the
Presiding Judge of the Superior Court by October 13, 2017, as the City requested and received an
extension of time to respond; and

WHEREAS, the Grand Jury requested that the Council respond to the recommendations
numbered 17-20 through 17-21 in the Report; and

WHEREAS, the Office of the Independent Budget Analyst (IBA) has proposed a Council response to the Report as set forth in IBA Report No. 17-31, dated September 19, 2017, for the Council's consideration; and

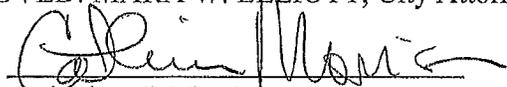
WHEREAS, under Charter section 280(a)(1) this resolution is not subject to veto by the Mayor because this matter is exclusively within the purview of the Council and not affecting the administrative service of the City under the control of the Mayor; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Council approves and adopts as its own the response to the 2016-2017 San Diego County Grand Jury Report titled "Stop Kicking the Can Down the Road: San Diego's 1992 Transparency Law Must Be Enforced" as set forth in IBA Report No. 17-31, dated September 19, 2017.

BE IT FURTHER RESOLVED that the Council President is authorized and directed, on behalf of the San Diego City Council, to execute and deliver the above-described response to the Presiding Judge of the San Diego County Superior Court no later than October 13, 2017.

APPROVED: MARA W. ELLIOTT, City Attorney

By


Catherine C. Morrison
Deputy City Attorney

CCM:jvg
September 19, 2017
Or.Dept: IBA
Doc. No.: 1586819

Passed by the Council of The City of San Diego on OCT 02 2017, 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 OCT 03 2017.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

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

(Seal)

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

By , Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- <u>311330</u>