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ORDINANCE NO. 2012- 8

AN ORDINANCE OF THE CITY OF TAMPA, FLORIDA, AMENDING CITY OF TAMPA CODE CHAPTER 2, ARTICLE VIII, CITY OF TAMPA ETHICS CODE, DIVISION 2, SUBDIVISION V, SECTION 2-525, STANDARDS OF CONDUCT AND ACCOUNTABILITY REQUIREMENTS FOR NON-PROFITS PROVIDED FINANCIAL SUPPORT BY THE CITY; AMENDING THE DEFINITION OF FINANCIAL SUPPORT; PROVIDING FOR CERTAIN EXCEPTIONS; PROVIDING FOR A CHANGE IN REPORTING DATE; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to the authority contained in Ordinance No. 2010-153, passed and ordained on October 21, 2010, by the City Council of the City of Tampa, the City of Tampa adopted section 2-525, Standards of Conduct and Accountability Requirements for Non-Profits Provided Financial Support by the City, as part of its comprehensive Ethics Code; and

WHEREAS, since implementation of said section, certain issues have arisen necessitating certain clarifications in definitions, exceptions to provisions of this section, and a change in the annual reporting date to appropriately enforce its provisions.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TAMPA, FLORIDA:

SECTION 1. That City of Tampa Code, Chapter 2, Article VIII, City of Tampa Ethics Code, Division 2, Subdivision V, § 2-525, Standards of Conduct and Accountability Requirements for Non-Profits Provided Financial Support by the City, is hereby amended in its entirety by adding the language shown below as being underlined and by deleting and repealing the language shown below as being stricken as follows:

Sec. 2-525. Standards of conduct and accountability requirements for Non-Profits provided Financial Support by the City.

(1) Purpose:

The purpose of this section is to provide ethical guidance and enforceable requirements for each of the Non-Profits to which the City provides Financial Support. Partnerships with the private Non-Profit sector can be a valuable, cost-effective mechanism for delivering services and providing amenities for the people of the City. For this public-private partnership to be successful the City and the City's Non-Profit partners must recognize that adherence to high levels of transparency and ethics is essential.

1 (2) Scope:
2

3 This section of the Code shall apply to each and every Non-Profit that accepts
4 ~~\$5,000~~ \$25,000 or more in Financial Support from the City. The act of
5 acceptance of this ~~financial support~~ Financial Support by a Non-Profit shall
6 constitute acceptance of the requirements of this section and agreement by the
7 Non-Profit, its Board Members, and its Executive Staff to comply with each of
8 the requirements of this section. Any transaction between the City and a Non-
9 Profit subject to the requirements of this section shall be void if the Non-Profit
10 refuses to accept or fails to substantially comply with the requirements of this
11 section. The requirements of this section may not be waived by contract,
12 resolution, or any act of any City Officer or employee.
13

14 (3) Definitions:
15

16 "Board of Directors" shall mean the governing body of the Non-Profit.
17

18 "Board Member" shall mean any member of the governing body of the Non-
19 Profit.
20

21 "Executive Staff" shall mean the senior tiers of management of the Non-Profit.
22 At a minimum, Executive Staff shall include the chief executive officer plus the
23 individual(s) ultimately responsible for:

- 24 a. Financial accountability and controls,
- 25 b. Facilities management and operations,
- 26 c. Personnel and human resources, and
- 27 d. Development, marketing and/or public relations.
28

29 "Financial Support"

30 a. Financial Support includes, but is not limited to, transactions of ~~\$5,000~~
31 \$25,000 or greater where the following occurs in support of a public purpose:

- 32 1. Transfer or assignment of cash or a cash equivalent from the
33 City to the Non-Profit, including distribution of funds under any
34 state, federal or other governmental program administered by the
35 City,
36
- 37 2. Transfer or assignment of any interest in real property,
- 38 3. Any agreement for use or operation by a Non-Profit of any real
39 property owned or controlled by the City,
- 40 4. Payment of any debt or debt service that is for the benefit of the
41 Non-Profit, and
- 42 5. Any other transaction where an Item of Value is made available
43 to the Non-Profit in support of a public purpose.
44

45 b. Financial Support does not include:

- 46 1. Any transaction in which an Item of Value less than ~~\$5,000~~
47 \$25,000 is transferred or assigned by the City to the Non-Profit.
- 48 2. Payments made by the City pursuant to a contract for goods or
49 services that have been procured through a competitive process.
50 Any contract with a Non-Profit that was a sole source
procurement or otherwise for goods or services not procured

- 1 through a competitive process shall be presumed to be Financial
2 Support.
- 3 3. Goodwill, advertising, sponsorship (including City services),
4 promotional consideration, and in-kind support not otherwise
5 specified herein as an Item of Value.
- 6 4. Any one-time transaction in which an Item of Value other than
7 cash is transferred or assigned by the City to a Non-Profit, and
8 that follows the City's existing policy for making such transfer or
9 assignment.
- 10 5. Funding in the form of an award made by the City pursuant to a
11 state or federal grant program that is subject to other reporting,
12 monitoring, or audit requirements.
- 13 6. Payments made as a result of a special assessment services
14 agreement, municipal services or other service agreement, where
15 specific services are provided and invoices are submitted to the
16 City by the Non-Profit on a reimbursement basis subject to review
17 and approval by the City.
- 18 7. Funding provided to any governmental or quasi-governmental
19 agency or entity, whether or not said agency or entity is
20 designated as a section 501 entity under the Internal Revenue
21 Code.

22
23
24
25 "Item of Value" shall include payment of any debt, any interest in real property,
26 stocks, intellectual property rights, royalties, bonds, insurance or insurance
27 coverage, cash, and other valuable personal property.

28
29 "Non-Profit" shall include all entities designated as non-profit by the U.S.
30 Internal Revenue Service under section 501 of the Internal Revenue Code, or any
31 not-for-profit corporation incorporated under the laws of the State of Florida or
32 other state law.

33
34 (4) Obligations of the Non-Profit, Board of Directors, and Executive Staff:

35
36 a. The Board of Directors shall adopt a conflict of interest policy applicable
37 to all Board Members and Executive Staff that shall prohibit the following:

- 38 1. Any transactions between the ~~Non-Profit~~ Non-Profit and a Board
39 Member or Executive Staff which may inure to the personal
40 financial benefit of a Board Member, Executive Staff, or the
41 immediate family of a Board Member or Executive Staff, except:
42 i. After an open and competitive process and full disclosure
43 of the transaction and the relationship to the Board Member
44 or Executive Staff,
45 ii. When any personal financial benefit would be de minimus
46 or limited solely to good will or other speculative benefits,
47 or
48 iii. Executive Staff compensation for employment by the Non-
49 Profit.
50

1 2. Employment by Executive Staff with an entity directly or
2 indirectly competing with the Non-Profit.
3

4 b. The Board of Directors shall adopt a policy prohibiting transactions with
5 any for-profit entity affiliated with, owned by, or employing a Board Member or
6 Executive Staff or the immediate family of a Board Member or Executive Staff,
7 except:
8

- 9 1. After an open and competitive process and full disclosure of the
10 transaction and the relationship to the Board Member or
11 Executive Staff, and
12 2. When any financial benefit to the for-profit entity would be de
13 minimus or limited solely to good will or other speculative
14 benefits.
15

16 c. The Non-Profit Board of Directors shall adopt an anti-nepotism policy,
17 except in the case where the Non-Profit is a family trust or foundation.
18

19 d. The Non-Profit Board of Directors shall adopt a whistleblower policy
20 that, at a minimum, shall include a method to allow any employee to bring to the
21 attention of the Non-Profit's designated ethics officer any actions that violate
22 federal, state, or local laws or established Non-Profit policies regarding
23 personnel, finance, ethics, and asset management.
24

25 e. The Non-Profit Board of Directors shall endeavor to have a diverse board
26 and shall not discriminate in the recruitment or selection of board members,
27 except in the case where the Non-Profit is a family trust or foundation.
28

29 f. The Board of Directors, Board Members, and Executive Staff shall not
30 enter into any arrangement involving any form of kickbacks.
31

32
33 (5) Reporting and Recordkeeping Requirements:
34

- 35 a. Each Non-Profit shall annually file with the City Finance Director:
36 1. A statement, in substantially the form provided in the attached
37 Certification, approved by the Board of Directors certifying on
38 behalf of the Non-Profit compliance with this section and
39 compliance with any leases, operating agreements or other
40 contracts or agreements between the Non-Profit and the City,
41 2. Total compensation provided by the Non-Profit, and any of its
42 affiliated entities, to each Executive Staff member,
43 3. Total amount of City Financial Support,
44

45 b. Each of the items in paragraphs (5)a. shall be filed annually ~~for the~~
46 ~~Non-Profit's last fiscal year within ninety (90) days of the last day of the~~
47 ~~Non-Profit's fiscal year~~ on or before April 1 for the prior calendar year.
48

49 c. The Board of Directors of the Non-Profit shall keep accurate written
50

1 minutes of all meetings of the Board of Directors, all meetings of the
2 executive committee and any meetings of committees designated to
3 address ethics, finances, or compensation of Executive Staff. These
4 minutes must include recordation of all votes of each individual Board
5 Member on all actions of the Board of Directors where the action of the
6 Board of Directors is not unanimous, and shall be made available to the
7 City upon receipt of written request.
8

- 9
- 10 d. Each Non-Profit shall maintain the following documents and provide
11 any or all of the documents within 7 days of a request by the City Finance
12 Director:
- 13 1. Copies of the policies and procedures demonstrating the Non-
14 Profit's compliance with this section, and
 - 15 2. Copies of records documenting compliance with Non-Profit
16 policies and procedures required by this section, and
 - 17 3. List of all Board Members and Executive Staff and contact
18 information for each, including address and phone number,
19 sufficient for the City to directly contact the each Board Member
20 and Executive Staff member, and
 - 21 4. List of all transactions approved by the Board of Directors
22 pursuant to the policies required by paragraphs (4)a. and b.,
23 including the persons or business entities involved in the
24 transactions, the nature of the transactions, the nature of the
25 relationship(s) that implicated paragraphs (4)a. or b, the dollar
26 amount of the transaction, and the date of the Board of Directors
27 approval of the transaction, and
 - 28 5. Copies of all Form 990 and related schedules filed with the
29 Internal Revenue Service and any additional filings regarding
30 Related Party Transactions as defined by the Internal Revenue
31 Code.
32
- 33
- 34
- 35 e. In the event any violation of this section becomes known to the Non-
36 Profit Board of Directors or Executive Staff, a report shall be filed with
37 the City Finance Director not more than 15 days after the violation
38 becomes known to the Board of Directors or Executive Staff.
39

40 (6) Enforcement:

- 41
- 42 a. The City shall have the right to audit all records and inspect all assets of
43 the Non-Profit as necessary to determine compliance with this section
44 and any other terms or conditions of any grant agreement, contract, lease,
45 deed, or other agreement with the City.
46
 - 47 b. In the event the City becomes aware that a Non-Profit has failed to
48 comply with any aspect of this section, the City shall provide notice in
49 writing to the Non-Profit Board of Directors. If the Non-Profit fails to
50

1 cure a material failure to comply with this section within sixty (60) days
2 of written notice of the material failure, the Non-Profit shall:

- 3 1. Refund all City Financial Support provided in the City's Fiscal
4 Year within which the Non-Profit failed to comply with this
5 section, and
6 2. Be barred from applying for or receiving Financial Support from
7 the City for a period of one year, and
8 3. In no event shall the Non-Profit receive Financial Support from
9 the City until the Non-Profit has demonstrated full compliance
10 with this section.
11

12 The sixty (60) day period for cure of a material failure to comply with this
13 section may be extended for two additional thirty (30) day periods by the City
14 Finance Director.
15

16 (7) Effective Date:
17

18 This section shall be effective upon becoming law. This section shall apply to all
19 transactions on or after the effective date, but shall not be construed to impair
20 contracts effective and in force prior to the effective date.
21

22 **SECTION 2.** That if any part of this Ordinance is declared
23 unconstitutional or invalid by a court of competent jurisdiction, the remaining
24 provisions, at the election of the City of Tampa, shall remain in full force and
25 effect.
26

27 **SECTION 3.** That all Ordinances in conflict herewith are repealed to the
28 extent of any conflict.
29

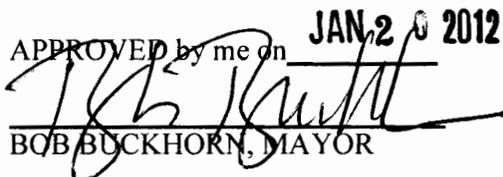
30 **SECTION 4.** That this Ordinance shall take effect immediately upon
31 becoming law.
32

33 PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY
34 OF TAMPA, FLORIDA, ON JAN 19 2012.

35 ATTEST:
36

37 
38 CITY CLERK/DEPUTY CITY CLERK

39 
40 CHAIRMAN/CHAIRMAN PRO TEM
41 CITY COUNCIL

42 APPROVED by me on JAN 20 2012
43 
44 BOB BUCKHORN, MAYOR

45
46 PREPARED BY AND APPROVED
47 AS TO LEGAL SUFFICIENCY:

48
49 E/S
50 MARCELLA T. HAMILTON
ASSISTANT CITY ATTORNEY

Fiscal Year Ending On _____ (Date) Date: _____

**Certificate of Acceptance and Compliance with City of Tampa Code Section 2-525,
Standards of conduct and accountability requirements for
Non-Profits provided Financial Support by the City**

I The Board of Directors of _____ (Non-Profit) hereby accepts that City financial support for is conditional on compliance with the City Ethics Code and certifies that it has reviewed the requirements of City of Tampa Code Section 2-525 and any leases, operating agreements or other contracts or agreements between Non-Profit and the City and determined that the Non-Profit has fully complied with each applicable requirement, including the following requirements in City of Tampa Code Section 2-525:

Required Policy _____ Date of Adoption _____

- A. Conflict of Interest Policy (paragraph 2-525(4)a and b) _____
- B. Anti-nepotism Policy (paragraph 2-525(4)c) _____
- C. Whistleblower Policy (paragraph 2-525(4)d) _____

II The following information is disclosed as required by paragraph 2-525(5)a. 2 & 3:

A. The total salary and benefits of each Executive Staff member provide by the Non-Profit and any affiliated corporate entities:

Position:	Name:	Total Compensation:
1. Chief Executive Officer:	_____	_____
2. Financial accountability and controls:	_____	_____
3. Facilities management and operations:	_____	_____
4. Personnel and human resources:	_____	_____
5. Development, marketing and/or public relations:	_____	_____

B. Total amount of City Financial Support: _____

This certification was approved for transmittal to the City of Tampa by an affirmative vote of the Board of Directors of the Non-Profit on the ___ day of _____.

III

Chair

Legal Name of Entity

Secretary

Mailing Address

Treasurer

Contact Email Address & Telephone Number

The Free Press

(Published Weekly)
Tampa, Hillsborough County, Florida

STATE OF FLORIDA,
COUNTY OF HILLSBOROUGH.

Before the undersigned authority personally appeared JOHN N. HARRISON, IV, who on oath says that he is Publisher of THE FREE PRESS, a weekly newspaper published at Tampa, in Hillsborough County, Florida, that the attached copy of advertising being a true copy in the matter of

NOTICE OF PUBLIC HEARING

ON JANUARY 19, 2012, AT 9:30 A.M. IN THE CITY COUNCIL CHAMBERS, CITY HALL, 315 E. KENNEDY BLVD., THIRD FLOOR, TAMPA, FLORIDA, A PUBLIC HEARING WILL BE HELD BY THE TAMPA CITY COUNCIL TO CONSIDER THE FOLLOWING ORDINANCES FOR ENACTMENT:

File No. E2011-8 CH 5

File No. E2012-8 CH 2

Ord No.
2012 - 8

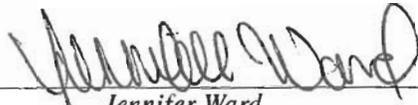
was published in said newspaper in the issues of January 7, 2012.

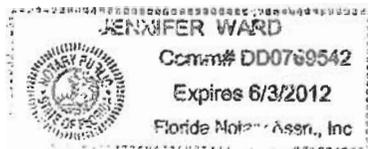
Affiant further says that the said THE FREE PRESS is a newspaper published at Tampa, in said Hillsborough County, and that the said newspaper has heretofore been continuously published in said Hillsborough County, Florida, each week and has been entered as a second-class mail matter at the post office in Tampa, in said Hillsborough County, Florida for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

This 7th of January, 2012.


who is personally known to me
SWORN TO and subscribed before me

This 7th of January, 2012.


Jennifer Ward



NOTICE OF PUBLIC HEARING

ON JANUARY 19, 2012, AT 9:30 A.M. IN THE CITY COUNCIL CHAMBERS, CITY HALL, 315 E. KENNEDY BLVD., THIRD FLOOR, TAMPA, FLORIDA, A PUBLIC HEARING WILL BE HELD BY THE TAMPA CITY COUNCIL TO CONSIDER THE FOLLOWING ORDINANCES FOR ENACTMENT:

File No. E2011-8 CH 5

An ordinance of the City of Tampa, Florida, making revisions to City of Tampa Code of Ordinances, Chapter 5 (Building Code); amending Section 5-116.1, Numbering of buildings; repealing all ordinances or parts of ordinances in conflict therewith; providing for severability; providing an effective date.

File No. E2012-8 CH 2

An ordinance of the City of Tampa, Florida, amending City of Tampa Code Chapter 2, Article VIII, City of Tampa Ethics Code, Division 2, Subdivision V, Section 2-525, standards of conduct and accountability requirements for non-profits provided financial support by the City; amending the definition of financial support; providing for certain exceptions; providing for a change in reporting date; providing for severability; repealing conflicts; providing an effective date.

Said ordinances may be inspected at the Office of the City Clerk, City Hall, 3rd Floor City Hall, 315 E. Kennedy Blvd., Tampa, FL, during regular business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday.

ANY PERSON WHO DECIDES TO APPEAL ANY DECISION OF THE CITY COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE, MAY NEED TO HIRE A COURT REPORTER TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND SECTION 286.26, FLORIDA STATUTES, PERSONS WITH DISABILITIES NEEDING SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS MEETING SHOULD CONTACT THE CITY CLERK'S OFFICE AT LEAST FORTY-EIGHT (48) HOURS PRIOR TO THE DATE OF THE MEETING.

INTERESTED PARTIES MAY APPEAR AND BE HEARD AT SAID HEARING.

SHIRLEY FOX-KNOWLES, CMC
CITY CLERK

1-7