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

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  
26           e.    The Non-Profit Board of Directors shall endeavor to have a diverse board  
27           and shall not discriminate in the recruitment or selection of board members,  
28           except in the case where the Non-Profit is a family trust or foundation.  
29

30           f.    The Board of Directors, Board Members, and Executive Staff shall not  
31           enter into any arrangement involving any form of kickbacks.  
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  
46           b.    Each of the items in paragraphs (5)a. shall be filed annually ~~for the~~  
47           ~~Non-Profit's last fiscal year within ninety (90) days of the last day of the~~  
48           ~~Non-Profit's fiscal year~~ on or before April 1 for the prior calendar year.  
49

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

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 (7) Effective Date:

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

20  
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.

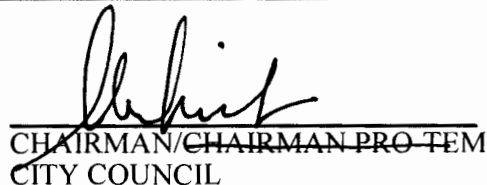
26  
27 **SECTION 3.** That all Ordinances in conflict herewith are repealed to the  
28 extent of any conflict.

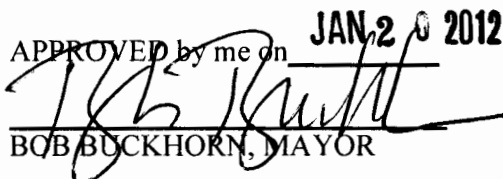
29  
30 **SECTION 4.** That this Ordinance shall take effect immediately upon  
31 becoming law.

32  
33 PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY  
34 OF TAMPA, FLORIDA, ON JAN 19 2012.

35  
36 ATTEST:

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.

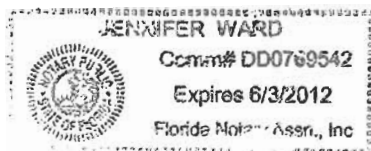
Affiant further says that the said THE FREE PRESS is a newspaper published at Tampa, in said Hillsborough County, and that the said newspaper has heretofore been continuously published in said Hillsborough County, Florida, each week and has been entered as a second-class mail matter at the post office 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