

**From:** Rutan, Ed  
**Sent:** Tuesday, December 13, 2011 1:48 PM  
**To:** Simonsen, Soren  
**Cc:** Ferguson, Boyd  
**Subject:** FW: Ethics opinion - Council member Simonsen

Soren—

As discussed below, I don't think you have a problem, but if your firm did receive the contract award, Section 2.44.130B would require you to disclose that to the Mayor. (See last paragraph below)

Several sections of the conflict of interest ordinance prohibit you from being involved in the decision-making process regarding which firm is hired for the design/architectural work for the Glendale Library project. See § 2.44.030 (you may not perform governmental action involving your financial or professional interests if the decision will have an individualized material effect on those interests, different than the decision's effect on the public generally); § 2.44.030(A)(2) (you may not corruptly use your official position to further substantially your financial or personal interests or those of other persons, or secure special privileges for yourself or others); § 2.44.130A (you may not participate in a discretionary function with respect to any contract in which you, or a business entity in which you have a financial interest, have a financial interest); § 2.44.140A (you may not participate on behalf of the City in the procurement or contracting process while you are the agent or employee of any other party to that contract).

Our understanding is that you will not have occasion to participate in any City decisions or functions with respect to the Glendale Library project, except for the City Council vote on an appropriation of funds for the project. You have informed us that you intend to recuse yourself from that appropriation vote.

In addition, § 2.44.040B provides that you may not have a financial or professional interest in an entity that is doing business with the City department in which you are employed. As a Council member, your City department is the City Council Office, and that office will not be dealing directly with the firm that wins the Glendale Library work. Rather, the Administration will deal directly with that firm, so this prohibition does not apply to your situation.

Section 2.44.130(A)(3) provides that a business entity in which an elected officer has as financial interest may not submit a bid or proposal regarding a contract within the official responsibility of that elected officer. Under the City's separation of powers system, the City Council is not responsible for the hiring of designers and architects for City building projects. We conclude that such matters are not within your official responsibility, so this section would not preclude your firm from submitting a proposal.

Finally, if your firm were hired for the project, § 2.44.130B would require you to disclose, to the Mayor, any benefit you received or will receive from that contract. Such disclosure would be due within 30 days after you learn of the benefit.

Thanks

Ed & Boyd

**[Council Member Simonson subsequently decided not to submit a proposal and was accordingly advised that the conflict of interest no longer existed.]**