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Office of the City Attorney

RICHARD DOYLE, CITY ATTORNEY

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February 21, 2018

TO ALL INTERESTED PARTIES:

Attached is the City Attorney's title and summary for the proposed measure to amend Title 17 of the San José Municipal Code. In preparing this title and summary, the City Attorney makes no representation about the merits or legality of the proposed measure, nor does the City Attorney verify or confirm any factual or legal assertion made in the proposed measure. Rather, the title and summary are presented as a "true and impartial statement of the purpose of the proposed measure" as required by California Elections Code Section 9203.

Very truly yours,

RICHARD DOYLE, City Attorney

By: _____

Mark Vanni
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Deputy City Attorney

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INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

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The City Attorney of San Jose has prepared the following title and summary of the chief purpose and points of the proposed measure:

AN INITIATIVE AMENDING TITLE 17 OF THE SAN JOSE MUNICIPAL CODE TO REQUIRE DEVELOPERS TO PAY PREVAILING WAGE TO CONSTRUCTION WORKERS AND TO GIVE HIRING PREFERENCE TO LOCAL RESIDENTS AND APPRENTICES ON COVERED PROJECTS.

This measure proposes an ordinance that requires developers to follow wage and hiring requirements on any Covered Project. A "Covered Project" is any new private development that includes 100 or more residential units or 100,000 or more square feet of floor area dedicated to non-residential uses; and the City provides assistance or authorization. A Covered Project is authorized by the City or receives City assistance if: the project is built on public land for a private purpose or on land that the City transferred to the developer; the developer has a voluntary development agreement with the City; or the developer receives financial assistance, land use approval or a planning permit, all as defined in the measure, from the City.

The measure's requirements do not apply to any Covered Project that, prior to November 6, 2018, has City assistance or authorization that is either current or that the City has extended beyond its initial term.

Under the measure, developers of Covered Projects would be required to pay, or cause to be paid, the higher of state or applicable federal prevailing wages to workers for all Construction Work. The City would establish the prevailing wage where there is no applicable state or federal wage. These wage requirements would not apply if all construction contractors and subcontractors for a Covered Project are parties to a project labor agreement that requires the payment of at least prevailing wages and provides for wage enforcement through binding arbitration.

The measure requires developers of Covered Projects to use best efforts to allow 30% of all Construction Work hours to be performed by Local Residents, but work performed by residents from states other than California are excluded from this calculation. A "Local Resident" is a person whose primary residence is in the City of San José or within 50 miles of the City limits.

The measure also requires developers of Covered Projects to use best efforts to ensure that apprentices work at least one hour for every five hours of Construction Work performed by a journeyman, with not less than 25% of apprentice work performed by Disadvantaged Workers. A "Disadvantaged Worker" is an apprentice who meets specified criteria, such as veteran, homeless, former foster youth or former inmate. These hiring requirements apply to construction contractors and subcontractors that are signatory to a collective bargaining agreement only to the extent that compliance does not violate the agreement.

The measure requires the Office of Equality Assurance, or other office the City Council designates, to enforce compliance with its provisions through various means, including the

assessment of penalties and liquidated damages, and establishes a private right of action for any person aggrieved by a violation of the prevailing wage requirements against the violator.

If enacted, the City Council may amend the measure without voter approval, provided the changes do not lessen its substantive requirements, scope or coverage.

NOTICE TO THE PUBLIC: THIS PETITION MAY BE CIRCULATED BY A PAID SIGNATURE GATHERER OR VOLUNTEER. YOU HAVE THE RIGHT TO ASK.

SAN JOSE CITY REGISTERED VOTERS ONLY