

## NOTICE OF INTENT TO CIRCULATE PETITION


Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City of Sacramento for the purpose of amending the City Charter. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

Many cities in California have adopted requirements to ensure Fair and Open Competition on taxpayer-funded construction projects. Fair and Open Competition for contracts helps the city to achieve the following ends:

1. Offer job opportunities for contracts funded by the People to the largest possible pool of local qualified workers.
2. Maximize the number of capable and responsible bidders for contracts funded by the People.
3. Obtain the best quality work at the best price for contracts funded by the People.
4. City construction contracts should be posted online to increase transparency and enable the People to evaluate the City's contracting.

The citizens must be able to ensure that competition for construction contracts is fair and open and transparent, and that the city is making appropriate use of taxpayer funds.

 Dr. John W. Young

 Karen C. Young

 Thomas Griffin

## **SECTION I. FAIR AND OPEN COMPETITION**

This initiative measure may be known and referred to as the “Fair and Open Competition Reform Measure.”

## **SECTION II. FINDINGS AND PURPOSE**

The People of the City of Sacramento find that fair and open competition for contracts helps the City to achieve the following ends:

1. Offer job opportunities for contracts funded by the People to the largest possible pool of local qualified workers.
2. Maximize the number of capable and responsible bidders for contracts funded by the People.
3. Obtain the best quality work at the best price for contracts funded by the People.
4. City construction contracts should be posted online to increase transparency and enable the People to evaluate the City’s contracting.

The City shall not undermine these ends by entering into contracts that include unnecessary, costly, and restrictive requirements concerning the relationship of employees and employers to a labor union, or that require the payment of money from employees, employers, or the City to a fund administered by a labor union.

## **SECTION III. CHARTER AMENDMENT**

Article XIV of the Charter of the City of Sacramento is amended as indicated below. Deletions of existing language are denoted by ~~strike-out~~ type and additions of new language are denoted in underline type. Sections of Article XIV that are not affected by this Amendment are not duplicated below.

### **§ 205 Competitive bidding under state law.**

With the exception of section 206 of this article, the provisions of this article shall not apply to any contract entered into pursuant to or under any special assessment

proceeding wherein competitive bidding proceedings are specified by laws of the State of California.

**§ 206 Fair and open competition.**

(a) Except as otherwise provided by state or federal law, or required as a condition of the receipt of state or federal funding, in contracting for construction, alteration, demolition, installation, or repair of a work of improvement:

(1) The City of Sacramento shall not enter into any contract containing a requirement that a Contracting Party:

(A) Shall execute, or become a party to, adhere to, or otherwise become bound to an agreement with a Labor Organization covering employees in the building and construction industry;

(B) Shall make contributions, either as a direct cash payment or as payment for employee benefits, to a trust fund managed in whole or in part by a Labor Organization;

(C) Shall require its employees to join or be represented by a Labor Organization, or pay dues or initiation fees, or make other payments to any Labor Organization.

(2) The City of Sacramento shall not impose, as a bid specification, contract prerequisite, condition on the receipt of public funds, contract term or otherwise, any requirement prohibited by subsection (a)(1) of this section

(b) To help ensure compliance by the City of Sacramento with this section, the City Manager shall post on the City's website in searchable format the text of all construction contracts subject to this section valued at more than \$25,000 in a given fiscal year. The City Manager shall redact any proprietary, trade secret, or otherwise legally privileged or confidential information from contracts prior to posting. For each contract, the City Manager shall note the total number of bidders who competed for the contract. For any construction contract where the City deviates from the competitive bidding process, the City Manager shall post a written justification for the City's determination.

(c) As used in this section, the following definitions shall apply:

(1) "City of Sacramento" shall include the City of Sacramento, its agencies, corporations, boards, commissions, subdivisions, partnerships, offices, and any other entity in which the City of Sacramento holds an interest, or to which the City of Sacramento appoints a representative to the governing body.

(2) "Contracting Party" shall mean an owner, developer, construction manager, contractor, subcontractor, or material supplier.

(3) "Labor Organization" shall have the same meaning as under the National Labor Relations Act, 29 U.S.C. § 152.

(4) "Person aggrieved or injured" shall include, but not be limited to, any owner, developer, contractor, subcontractor, or material supplier, or any organization, association, or other representative of such a party, who is likely to bid upon or perform a construction contract containing a violation of this section; or any worker, or any organization, association, or other representative of such a worker, who may be employed on a project subject to a construction contract containing any requirement prohibited by subsection (a) of this section.

(d) Any person aggrieved or injured in any way by a violation of this section shall be entitled to injunctive relief in the Superior Court of the State of California, County of Sacramento, including by way of an action filed pursuant to California Code of Civil Procedure section 526a.

(e) Applicability and Severability

(1) This section shall be applied and interpreted liberally so as to fully implement the statement of the People's Findings and Purpose.

(2) Nothing in this section shall prohibit employers and employees from voluntarily entering into an agreement with a Labor Organization or adhering to an existing agreement with a Labor Organization, or be interpreted to regulate or interfere with any employer or employee activity

protected by law, including but not limited to the National Labor Relations Act.

- (3) This section is applicable only to work performed under contract, and is not applicable to work carried out by the City of Sacramento with its own forces.
- (4) To the extent permitted by law, this section shall be effective the day after the election at which this section receives the approval of the voters, and shall apply to all contracts awarded on or after the effective date. This section shall not apply to contracts awarded before the effective date of this section.
- (5) If any provision, section, subsection, paragraph, or clause of this section of this City Charter is held by a court of law to be invalid, the remainder of this section shall not be affected but shall remain in full force and effect, and to that end the provisions of this section are severable.

#### **SECTION IV. CONFLICTING PROPOSITIONS**

If any other proposition, appearing on the same ballot as this proposition, addresses the subject matter in a way that conflicts with the treatment of the subject matter in this proposition, and if each proposition is approved by a majority vote of those voting on each proposition, then as to the conflicting subject matter the proposition with the highest affirmative vote shall prevail, and the proposition with the lowest affirmative vote shall be deemed disapproved as to the conflicting subject matter.