

Memorandum

**TO: HONORABLE MAYOR
AND CITY COUNCIL**

FROM: DENNIS HAWKINS

**SUBJECT: ACTIONS RELATED TO THE
MINIMUM WAGE INITIATIVE**

DATE: MAY 18, 2012

RECOMMENDATION

1. Accept the report prepared under Section 9212 if the California Elections Code.
2. Consistent with San Jose City Charter, Article 16, Sections 1601 (b) and 1603 (a) (2) and California Elections Code Section 9215:
 - a. Adopt the proposed ordinance as submitted no later than June 1, 2012; or,
 - b. Adopt a resolution calling an election to submit the initiative to the voters at a Special Municipal Election on a date to be decided, not less than 88 days or more than 103 days from the date of the resolution; or
 - c. Adopt a resolution no later than August 10, 2012 calling an election to submit the initiative to the voters at the next General Election on Tuesday, November 6, 2012

SUMMARY

On May 1, the City Council accepted the Certificate of Sufficiency issued by the Registrar of Voters that the Minimum Wage initiative qualified for Council action and directed staff to prepare a report on the effects of the Minimum Wage Initiative consistent with the requirements of Elections Code Section 9212 and report back to the City Council on May 22. The Elections Code requires that the 9212 report be considered by the Council within 30-days of its acceptance of the Certificate of Sufficiency. The City Council must make a determination at that time of whether to: a) adopt the proposed ordinance as specified, which must be done within ten days of acceptance of the 9212 report; or b) adopt a resolution calling an election to submit the initiative

HONORABLE MAYOR AND CITY COUNCIL

Subject: Actions Related to the Minimum Wage Initiative

May 18, 2012

Page 2

to the voters at a Special Municipal Election on a date to be decided, but no earlier than 88 days or later than 103 days from the date of the resolution; or c) adopt a resolution by August 10, 2012 calling for an election to submit the initiative to the voters at the next General Election on November 6, 2012.

BACKGROUND

On January 19, 2012, proponents of an initiative which would amend the San Jose Municipal Code, Title 4 filed a Notice of Intent to circulate a petition which would increase the minimum wage paid in San Jose to \$10.00 per hour. At the time that the Notice of Intention was filed, the voter registration report on file with the California Secretary of State showed 383,220 registered voters within San Jose. City Charter Section 1603 (b) requires that an initiative petition be signed by at least Five Percent (5%) of the total number of eligible registered voters to qualify the measure for either a Special Municipal Election or the next General Election (which is November 6, 2012). Based on that registration, the initiative requires 19,161 valid signatures of eligible San Jose registered voters for the initiative to qualify.

On March 29, 2012, the proponents of the initiative petition submitted 36,225 signatures on 5,084 sections. The Office of the City Clerk conducted a prima facie review and raw count of the petition and determined that there appeared to be a sufficient number of signatures to proceed.

On April 2, 2012, the petition was transferred to the County of Santa Clara Registrar of Voters for signature verification. The Registrar of Voters began the process of verifying all signatures contained on the petitions with instructions to stop the count once 19,500 valid signatures were confirmed. The Registrar reported on April 24, 2012 that the petition has qualified with the sufficient number of signatures. Therefore, the Registrar has certified the petition to be sufficient to initiate further Council action.

On May 1, 2012, the City Council accepted the Certificate of Sufficiency issued by the County of Santa Clara Registrar of Voters regarding the Minimum Wage Initiative and directed staff to return with a report pursuant to Elections Code Section 9212 on the effects of the proposed initiative. Per Council direction, said report should be impartial and include the following:

1. Its fiscal impact.
2. Its effect on the internal consistency of the city's general and specific plans.
3. Its effect on the use of land, the impact on the availability and location of housing, and the ability of the city to meet its regional housing needs
4. Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure

costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.

5. Its impact on the community's ability to attract and retain business and employment.
6. Its impact on the uses of vacant parcels of land.
7. Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.
8. Any other matters the City Council requests to be in the report. Per Council direction, the report should include the following:
 - a. Provide a breakdown of the demographic characteristics of low-wage workers who may be affected by the ordinance, including, where possible, the categories of ethnicity, gender and age.
 - b. Provide information on the ability of workers earning the current California minimum wage rate to afford necessities such as food and housing.
 - c. Review the potential economic benefits of establishing a minimum wage in addition to reviewing potential drawbacks. Consider drawing on San Francisco's minimum wage ordinance as a real-world example, and provide the Council with any studies or analyses of the San Francisco experience that may provide useful context.
 - d. Provide an assessment of the measure's likely effect on the incomes, standard of living, and employment of San José's low-income residents
 - e. An assessment, based on the economic literature, on the employment and business impacts of minimum wage increases specifically within municipalities.

ANALYSIS

The attached report provides information to assist the Council in making the decision to adopt the Initiative as submitted or to adopt a resolution calling for an election on the measure, as well as including all of the information requested by Council above.

COST SUMMARY/IMPLICATIONS

The costs already incurred with the County of Santa Clara for the signature verification is \$56,239. As for election costs, one of the biggest variables is whether or not the election is consolidated with any other election. For a special election that is not consolidated with an election which includes matters from other jurisdictions, the City of San José would bear the full cost of the election including printing, mailing and personnel costs with the Santa Clara County Registrar of Voters, currently estimated at approximately \$3.2 million. The estimated cost for Measure B on the June 2012 ballot, which is consolidated with the City's primary election for

HONORABLE MAYOR AND CITY COUNCIL

Subject: Actions Related to the Minimum Wage Initiative

May 18, 2012

Page 4

Council Districts 2, 4, 6, 8, and 10 and items from other jurisdictions, is approximately \$607,000. The cost varies by election depending on number of candidates, measures, registered voters, and personnel costs.

To provide some reference, however, in the November 2010 General Election, the City had three citywide measures on the ballot plus three Council district elections. The total cost for the three measures was \$968,677, which averages to \$322,892 per measure. Measure U was the first citywide measure and cost \$545,484, and the costs for Measures V (\$213,073) and W (\$210,120) were the second and third measures. The above costs were based upon the City not publishing the full text of the measure in the sample ballot and allowing only ballot arguments, but not including rebuttal arguments. These are options that the Council would consider in any resolution calling an election for this measure.

It is estimated that the annual cost of program enforcement would be \$612,000 and include 4.5 Full-Time Equivalent employees. In addition, it is estimated that there are approximately 85 City employees in three job classifications that currently earn less than \$10.00 per hour. The estimated annual cost to increased compensation to bring the employees up to the new minimum wage is \$29,942.

PUBLIC OUTREACH/INTEREST

The Office of the City Clerk, with the assistance of the Office of the City Manager, conducted outreach with the San Jose Silicon Valley Chamber of Commerce, Silicon Valley Council for Non-profits, and others. Some of these groups have contributed information included in the report. In addition, the City's Small Business Development, Senior Citizens, Youth, and Human Rights Commissions were contacted and invited to provide their input to the City Council on this matter. Lastly, the proponents of the measure were contacted and they provided additional information for the preparation of the 9212 report.

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council, or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

HONORABLE MAYOR AND CITY COUNCIL
Subject: Actions Related to the Minimum Wage Initiative
May 18, 2012
Page 5

COORDINATION

This memorandum and report has been coordinated and developed with the assistance, participation, and information provided from the Offices of the City Manager, Economic Development and the City Attorney as well as staff from the Departments of Housing; Public Works; Parks, Recreation, and Neighborhood Services; and Planning, Building, and Code Enforcement.

CEQA

Not a project.

CONCLUSION:

The San José City Council has two options: immediately adopt the Minimum Wage Initiative as submitted or place the Initiative on the ballot for the voters to decide. The Ordinance would go into effect 90 days from the date of the Council's adoption of the measure or, in the case of an election, 90 days from the Council's acceptance of the certification of the election.



DENNIS D. HAWKINS, CMC
City Clerk

For questions please contact Dennis Hawkins, City Clerk, at (408) 535-1275

Released May 18, 2012



CITY OF
SAN JOSÉ

MINIMUM WAGE INITIATIVE REPORT
PURSUANT TO ELECTIONS CODE 9212



INTRODUCTION

On January 19, 2012, proponents of an initiative which would amend the San José Municipal Code, Title 4 filed a Notice of Intent to circulate a petition which would increase the minimum wage paid in San José to \$10.00 per hour with annual increases tied to the Consumer Price Index.

On May 1, 2012, the City Council accepted the Certificate of Sufficiency after the petition qualified with over 19,500 valid signatures, and directed staff to return with a report pursuant to Elections Code 9212 reporting on the effect of the proposed initiative. Per the Elections Code and Council direction, said report should be impartial and include the following:

- 1) Its fiscal impact.
- 2) Its effect on the internal consistency of the city's general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on city actions under Section 65008 of the Government Code and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.
- 3) Its effect on the use of land, the impact on the availability and location of housing, and the ability of the city to meet its regional housing needs
- 4) Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.
- 5) Its impact on the community's ability to attract and retain business and employment.
- 6) Its impact on the uses of vacant parcels of land.
- 7) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.
- 8) Any other matters the City Council requests to be in the report. As requested by the Council on May 1, 2012, these additional matters include:
 - a) Provide a breakdown of the demographic characteristics of low-wage workers who may be affected by the ordinance, including, where possible, the categories of ethnicity, gender and age.
 - b) Provide information on the ability of workers earning the current California minimum wage rate to afford necessities such as food and housing.
 - c) Review the potential economic benefits of establishing a minimum wage in addition to reviewing potential drawbacks. Consider drawing on San Francisco's minimum wage ordinance as a real-world example, and provide the Council with any studies or analyses of the San Francisco experience that may provide useful context.
 - d) Provide an assessment of the measure's likely effect on the incomes, standard of living, and employment of San José's low-income residents

- e) An assessment, based on the economic literature, on the employment and business impacts of minimum wage increases specifically within municipalities.

The goal of this report is to provide the City Council with information to assist in making a decision to adopt the Initiative or to adopt a resolution calling for an election on the measure, and is not an argument on the pros and cons of the establishment of a municipal minimum wage. The benefits and drawbacks of minimum wage are complicated and this report does not seek to add to the debate.

THE INITIATIVE

The Minimum Wage Initiative proposes a citywide minimum wage of \$10.00 per hour effective 90 days after the ordinance is certified, and beginning January 1, 2014 “each year thereafter, the minimum wage shall increase by an amount corresponding to the prior years’ increase, if any, in the cost of living.” The Initiative proposes using the Consumer Price Index (CPI) as published by the United States Department of Labor. The Initiative applies to all businesses required to pay business tax in San José, including those located outside of San José doing business in San José. The proponents modeled their initiative on the municipal minimum wage ordinance in the City and County of San Francisco, which started at \$8.50 in 2004 and due to annual increases is currently at \$10.24/hour. The initiative provides for a waiver of the minimum wage through a bona fide collective bargaining agreement, and protects employees from retaliation. The enforcement proposed is complaint driven and is designed to encourage compliance, not punish non-compliance. The burden of enforcement would fall on City staff.

Should Council adopt the Minimum Wage Initiative on May 22, 2012, per the terms of the initiative, the ordinance would go into effect on August 20, 2012.

FISCAL IMPACT

The Minimum Wage Initiative will impact all employers located or conducting business in San José—businesses, non-profits, and public entities—who have minimum wage earners both full and part-time. The most affected sectors are likely to be retail, food service, personal services, production and manufacturing. While the City of San José as an entity has relatively few minimum wage employees, the cost of implementing the Minimum Wage Initiative goes beyond minimum wage employees.

ENFORCEMENT COSTS

Since San Francisco’s Minimum Wage Ordinance was one of the ordinances studied and cited, City staff contacted San Francisco’s Office of Labor Standards Enforcement (OLSE) for information on their Minimum Wage Program. As a result of conversations, City staff has identified resources and expectations for San José should the Minimum Wage Initiative succeed.

OLSE's enforcement of the minimum wage ordinance is strictly complaint based; OLSE does not actively monitor or enforce the minimum wage requirements until a complaint is filed. The City of San José, on the other hand, has a proactive monitoring and enforcement program for prevailing and living wage requirements.

In 2011, OLSE statistics were:

- 78 complaints received by OSLE
- 26 complaints were successfully resolved and closed with restitution paid to affected workers
- 6 complaints resulted in settlement agreements
- 16 complaints were closed due to loss of contact with complainant or complaint withdrawn
- 6 complaints were referred to the California Department of Industrial Relations for overtime review; and
- 24 complaints are still pending

Since inception of San Francisco's minimum wage ordinance, OLSE has recovered \$5.2 million to underpaid workers. A 2009 audit of OLSE's program determined the average time from date of complaint received by OLSE to resolution was 23 days. San Francisco's minimum wage program is not cost recovery; since February 2004, OLSE has collected \$242,000 in recovery costs.

The number of OLSE staff assigned to the minimum wage program is 6.5 FTEs and these are all general funded positions. The breakdown of FTEs is: .5 Supervisor, 5 Contract Compliance Specialists and 1 Clerical. Non-personal costs include: annual mailings to all business owners; printing of all notifications in six (6) different languages; community education of immigrant and non-English speaking communities; advertisement of annual minimum wage increases posted in public transit locations and other media sources.

OLSE does not have any statistics on the number of minimum wage earners working in the City and County of San Francisco. As a result, any comparison between San José and San Francisco has to be based on the total number of jobs. Per San José's Office of Economic Developments Impact Report, San Francisco has 521,400 jobs compared to San José's 360,000 jobs, or San José has 70% of the jobs of San Francisco. Based on San José's 360,000 jobs and the information from San Francisco on their minimum wage program, an estimate of the number of staff is needed and the cost to enforce a San José minimum wage ordinance is approximately \$612,000 annually. The salary and fringe breakdown per FTEs is: 1 Coordinator (\$118k); 3 Contract Compliance Specialists (\$303k); and .5 Contract Compliance Assistant (\$41k).

OUTREACH

The City has an Outreach Policy for issues of citywide significance. Typically, this can take a year or more and includes notices and public meetings to ensure all stakeholders are aware of the upcoming item of significance. Should Council adopt the Minimum Wage Initiative on May 22, 2012, per the terms of the initiative, the ordinance would go into effect on August 20, 2012 providing very little time for businesses to adjust their financial planning to account for the increase in costs. In addition, city staff would have 90 days to perform outreach in multiple languages informing businesses of the new requirement.

Costs associated with outreach include staff time to prepare mailers, phone calls, meetings, site visits, web design, printing, postage, and translation services.

Furthermore, because the initial reaction of businesses may be based on their perception of an increased minimum wage rather than based on economic studies, City staff would need to provide outreach to current and potential employers to mitigate any negative perceptions an increased minimum wage may have in their minds. This would include web design, possible consultant costs to provide an academic analysis of applicable studies, printing, postage, stakeholder meetings, site visits, mailers, and translation services.

SALES TAX

The potential impact of minimum wage on consumption and sales tax generation is difficult to quantify. As the lowest paid employees earn more money, they can be expected to spend at least a portion of this income in San José. Furthermore, for businesses that must increase prices in order to afford to pay their employees the additional hourly rate, additional sales tax would be generated. However, if businesses decide to relocate into areas unaffected by the Minimum Wage Initiative (such as across the street in some cases), the City would continue to lose the retail sales to outside areas. The propensity for a business to relocate based on a higher minimum wage would need to be assessed in the context of other important factors such as sensitivity to costs, the degree of business mobility, relocation transaction costs, and the availability/feasibility of substitute locations. Therefore, the net impact of the increased minimum wage on sales tax in the City of San José is difficult to accurately quantify given the time staff has to generate this report. The studies of minimum wage in cities do not examine the impacts on sales tax.

CITY EMPLOYEES

The City's "employee count" and actual hourly rates for each incumbent in classifications that fall below \$10 per hour is shown in the chart below. The chart includes the classifications, number of workers in each classification, the hourly rate of pay, number of hours worked per week and the cost to bring those classifications to \$10 per hour.

Classification	Number of Workers	Hourly Rate of Pay	Hours Working Per Week	Cost to Bring to \$10
Community Services Aide PT	77	\$9.25	19	\$28,529
Student Intern PT	7	\$9.64	19	\$1,245
Student Intern PT	1	\$9.66	19	\$168
TOTALS	85			\$29,942

COST OF ELECTION

The cost for the signature verification of the minimum wage petition already incurred with the County of Santa Clara is \$56,239. As for election costs, one of the biggest variables is whether or not the election is consolidated with any other election. For a special election that is not consolidated with another election, the City of San José would bear the full cost of the election including printing, mailing and personnel costs with the Santa Clara County Registrar of Voters; these costs are currently estimated to be over \$3 million. The cost of the measure when included in a consolidated city-county election is approximately \$607,000 as estimated for a single measure on the June 2012 ballot. The costs of a consolidated November election would be different based on number of registered voters and number of measures and candidates on the ballot.

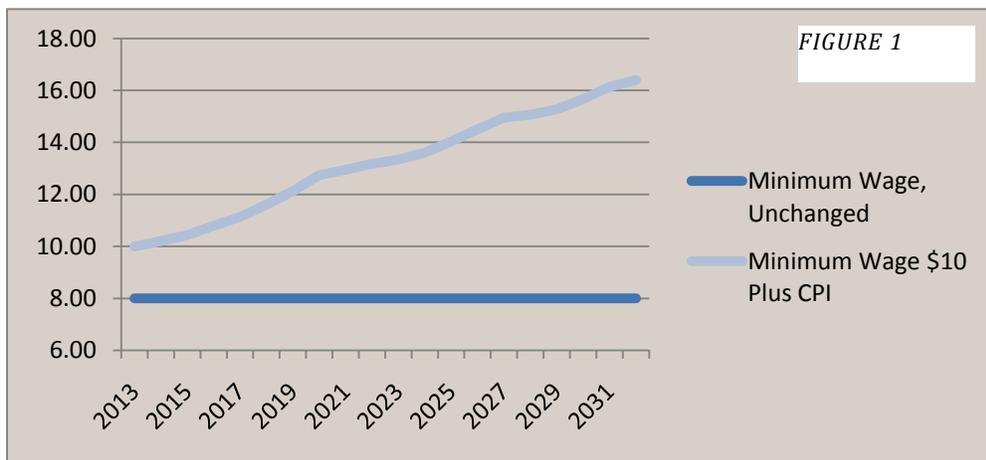
To provide some reference, however, in the November 2010 General Election, the City had three citywide measures on the ballot plus three Council district elections. The total cost for the three measures was \$968,677, which averages to \$322,892 per measure. Measure U was the first citywide measure and cost \$545,484, and the costs for Measures V (\$213,073) and W (\$210,120) were the second and third measures. The above costs were based upon the City not publishing the full text of the measure in the sample ballot and allowing only ballot arguments, but not including rebuttal arguments. These are options that the Council would consider in any resolution calling an election for this measure.

IMPACT ON CURRENT AND FUTURE EMPLOYERS

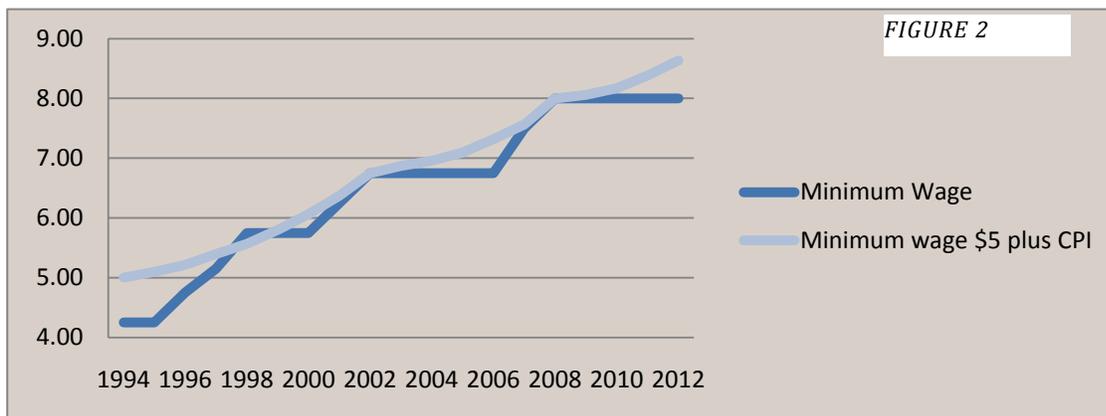
The increased minimum wage, which also includes annual increases based on the CPI, will create an immediate cost differential of 25% per hour to those businesses employing minimum wage workers within the City of San José in the first year. In twenty years, if the same CPI trend from 1994 to the present is applied, the City of San José minimum wage could increase to

\$16.39. Future employers could look at the labor cost differential growing over time, which could impact their decision to locate in San José. While existing employers may be tied to San José through their existing customer bases and facilities/leases, new employers or employers considering locating in San José are in a different situation. The labor cost differential, if not mitigated by other reasons to locate in San José, could provide incentive for employers to locate lower-skilled, lower-paying jobs outside San José. The cost of outreach to current and future employers to mitigate this perception has been discussed in “Outreach.” As the minimum wage rises in the first year, and, each year subsequently depending on CPI, workers earning near minimum wage may also experience wage increases as employers try to avoid wage compaction with higher-skilled or more experienced workers (Schmitt 24).

In addition, if the State of California minimum wage did not increase over the next twenty years, the differential between the State of California and the City of San José would be 52% or \$8.39 (Figure 1). This assumes the State minimum wage doesn’t increase and other Silicon Valley cities do not follow San José and institute a similar local minimum wage. Also, any cost-recovery fees the City may institute on employers to cover the costs of administering and enforcing a city minimum wage program would add to the cost differential with nearby cities.



However, if past practice informs the future, the State minimum wage is likely to increase. The longest gap in minimum wage increases in the State of California since 1947 has been 6 years (1988-1994). Additionally, every twenty years, the minimum wage has approximately doubled, even taking into consideration long gaps between increases. Taking data gleaned from the United States Department of Labor, Bureau of Statistics, and tracking the CPI for the San Francisco-Oakland-San José region from 1994 to present, and the State of California minimum wage for the same time period, we created a hypothetical situation. Had the City passed a minimum wage ordinance in 1994 of \$5.00/hour, an increase of 18% over the \$4.25 minimum of 1994, and tied annual increases to the CPI (and resetting to the State minimum wage whenever the State surpassed it), the current City of San José minimum wage would be \$8.63 (Figure 2).



A study of San Francisco’s minimum wage ordinance showed that “wages rose by an economically and statistically significant amount” while “employment did not change by a statistically significant amount” in the first three years of implementation (Schmitt 11). Additionally, the same study stated the minimum wage “had little impact on average wage at any establishment size up to 100 employees” (19). In the first three years of the Santa Fe minimum wage ordinance, there was no statistically significant change in employment and the results of the data examination gave “little support to the view that the city’s minimum wage hurt employment in fast food” (22). It should be noted that in this study, San Francisco was compared to communities in Alameda County, which is separated from San Francisco by the bay, while Santa Fe has only one major nearby competitor. Both cities are their region’s clear major job centers and consumer/visitor destinations. San José has more competitors immediately adjacent to its borders than both San Francisco and Santa Fe, which would allow a local business to, in some cases, literally move across the street to avoid paying the San José minimum wage. This also allows consumers to walk across the street to a competitor if prices become too high to compensate for the minimum wage increase.

The Envision 2040 General Plan emphasizes the need to strengthen job creation and rebalance San José’s job/employer base relative to its population/housing base. Relative to adjacent and nearby cities, San José has a weak job and economic base, which negatively affects the fiscal health of the city. San José’s ratio of jobs: employed residents is .86; this ratio is 1.84 in Santa Clara, 1.17 in Sunnyvale, 1.34 in Cupertino, and 1.51 in Mountain View. San Francisco has 521,400 jobs with 812,538 residents, while San José has 360,000 jobs and 971,372 residents (“Projections 2009”). San José already has an underdeveloped retail sector, relative to its population, and low sales tax revenue per capita. San José has 20% less retail sales than would be expected given its population and income levels, indicating that residents make about 20% of their expenditures outside of the City (Bay Area Economics). At the same time, adding retail and therefore lower-paying retail jobs may increase the population of workers who earn a minimum wage.

To understand potential employer and jobs impact, the key question is: how will employers adjust to the increased cost of employing their lowest-skilled workers? The adjustment can occur in a number of ways which will vary among private, public, and non-profits, and by the size of the companies. These options include:

- Improve the productivity of existing workers through improved retention
- Pass the increased cost to consumers
- Reduce other costs, such as eliminating or reducing benefits, commissions, training
- Increase workload for existing workers
- Generate additional revenue
- Absorb the cost increase in reduced financial returns to owners
- Relocate to a nearby city when lease expires.
- Negotiate lower prices from vendors based on bulk orders

Note that small businesses have less flexibility in reducing their costs. Joyce Rosenberg's recent article on inflation and small businesses provided examples of small businesses absorbing higher prices, changing menus to reflect less expensive items, cutting back on hiring and reducing training expenses. She also noted small businesses "are at a disadvantage because they can't buy in bulk like larger companies can" (Rosenberg). Additionally, small firms are more likely "to pass along their higher prices to customers," which also makes the small businesses less competitive (Rosenberg). To look at an example, locating on the San José side of ValleyFair Mall and paying employees an additional 25% may cause a small business to charge more for the same item than a similar business on the City of Santa Clara side of Valley Fair Mall, causing customers to have to choose to spend the extra money or not. Alternatively, the San José employer could cut back on the number of employees they hire, reduce benefits or perks such as commissions or paid lunch breaks to make up the difference in costs.

The Schmitt and Rosnick study on Washington D.C., San Francisco and Santa Fe, the only three cities with a minimum wage law independent of the State or Federal laws, found "the experience of smaller establishments . . . suggest that small establishments do not respond to minimum wages differently than larger firms" (Schmitt 1); however, the major difference between the three years included in the Schmitt and Rosnick study and the Minimum Wage Initiative is that in San Francisco and Santa Fe, small businesses were exempt for a time upon implementation of their minimum wage ordinances. In San Francisco, firms with less than 10 employees (0-9) were exempt for the first two years, while in Santa Fe, the law exempted establishments with fewer than 25 employees until the city council amended the ordinance in 2008 to include these firms. Therefore, of the three years studied, only one year included small businesses. We found no study on a municipal minimum wage ordinance in which small businesses were not exempt for a portion of the reporting period.

Anecdotally, most small businesses would react in the short term in ways that may not be supported by the current studies. For instance, telling a small business owner that the minimum

wage will not impact his business based on the studies, may not sway him to make no changes in the first year. Rather, for at least the implementation period, the small business owner may cut employees, employee hours or take other measures for the perceived loss of income. As the real results come in, the employer may adjust his or her reaction to the minimum wage increase accordingly.

IMPACT ON NON-PROFITS, AND INTERNSHIPS

The Minimum Wage Initiative does not exempt non-profits. Appendix F provides a detailed response from the Silicon Valley Council of Non-Profits.

As for unpaid Internships, provided the internship meets the six criteria as articulated by the United States Department of Labor, the Internship is exempt from minimum wage. Those criteria are as follows:

1. The training, even though it includes actual operation of the employer's facilities, is similar to that which would be given in a vocational school;
2. The training is for the benefit of the trainees or students;
3. The trainees or students do not displace regular employees, but work under their close observation;
4. The employer derives no immediate advantage from the activities of trainees or students, and on occasion the employer's operations may be actually impeded;
5. The trainees or students are not necessarily entitled to a job at the conclusion of the training period; and
6. The employer and the trainees or students understand that the trainees or students are not entitled to wages for the time spent in training.

USES OF VACANT PARCELS OF LAND AND IMPACT ON DEVELOPED AREAS DESIGNATED FOR REVITALIZATION.

San José does not have many large vacant parcels of land. There are currently three large undeveloped parcels planned as retail centers in Almaden, Evergreen, and Edenvale. There is also vacant and underutilized R&D land in North San Jose, Evergreen, Edenvale, and North Coyote Valley. A minimum wage increase could impact investments of new development on these sites if the added costs of the San José wage differential outweighed the attractiveness of the market to potential tenants.

PROVIDE A BREAKDOWN OF THE DEMOGRAPHIC CHARACTERISTICS OF LOW-WAGE WORKERS WHO MAY BE AFFECTED BY THE ORDINANCE, INCLUDING, WHERE POSSIBLE, THE CATEGORIES OF ETHNICITY, GENDER AND AGE.

In San José, the lowest paid civilian workers are in the food service industry, production (light assembly, food processing, sorters), laborers and material movers, (“Table 6. Civilian workers”). The lowest paid private industry workers are in the security field, food service and preparation industry, building and grounds cleaning, retail sales, and labor and materials movers (“Table 7. Private Industry”). In local government, the lowest paid employees are recreation workers and library assistants (“Table 8. State and local government”). Appendix A contains a list of employees making less than \$10/hour in the San José Geographical area (includes surrounding cities).

Sylvia Allegretto, an economist for the Institute for Research on Labor and Employment at UC Berkeley in a special to the Mercury News, stated that her studies published in the peer-reviewed economics journal *Industrial Relations* “validates and expands upon research showing that raising the minimum wage boosts incomes for the lowest-paid workers without reducing employment.” Her study with Michael Reich and Arindrajit Dube examined earnings and employment data before and after every state and federal minimum wage increases from 1990-2009, specifically analyzing minimum wage increases during times of high unemployment. Their study did not look at city-specific minimum wages.

Another population potentially affected by this initiative is low-skilled workers who are currently unemployed.

The minimum wage initiative would increase the marginal cost to employers of hiring an additional worker, whether a full-time employee, part-time employee or intern. According to a 1994 study of fast food employers in New Jersey and Eastern Pennsylvania, full time equivalent employment increased in New Jersey, where the minimum wage was increased vs. Eastern Pennsylvania where the minimum wage had not increased (Card 776). New Jersey and Eastern Pennsylvania were chosen because New Jersey is a “small state with an economy closely linked to nearby states” (Card 773). Competition for available jobs may increase as employees from outside of the City of San José may apply to work within the City if they can travel an extra couple of blocks to make 25% more per hour. Additionally, an increased entry-level wage could particularly affect youth, young adults and job-seekers with multiple barriers to entering the workforce (e.g., people with basic skills deficiencies, ex-offenders) as employers become even more sensitive to getting value commensurate with their expenditure. There is no study found showing the effect of an increased local minimum wage on job seekers with such barriers.

San José has 48,100 residents who are “officially unemployed.” The unemployment rate overall is 10% as of March 2012. The lowest-skilled workers have the highest unemployment rate.

Based on the 2010 Census, the Federal unemployment rate was 9.6, while San José’s was 12%. The demographic breakdown of the unemployment rate in San José was:

Population 20 to 64 years	12.3%	American Indian and Alaska Native	N
16 to 19 years	29.6%	Asian	12.0%
20 to 24 years	17.4%	Some other race	15.1%
25 to 44 years	10.6%	Two or more races	15.6%
45 to 54 years	12.9%	Hispanic/Latino origin (of any race)	16.2%
55 to 64 years	13.7%	White alone, not Hispanic or Latino	9.6%
65 to 74 years	10.2%	Male	12.5%
75 years and over	14.2%	Female	12.1%
White	12.1%	With own children under 6 years	10.8%
Black or African American	17.1%		

**THE ABILITY OF WORKERS EARNING THE CURRENT CALIFORNIA
MINIMUM WAGE RATE TO AFFORD NECESSITIES, AN ASSESSMENT OF
THE MEASURE’S LIKELY EFFECT ON THE INCOMES, STANDARD OF
LIVING AND EMPLOYMENT OF SAN JOSÉ’S LOW-INCOME RESIDENTS**

According to David Schepp, the cost of living in Silicon Valley exceeds New York, and the cost of basic necessities exceeds the national average by 62%. Apartment rentals are 76% higher than the national average; housing prices are 191% higher. In New York, notorious for the high cost of housing, an employee who earns \$92,300/year in San José would only need to earn \$74,800 to have the same standard of living.

A full-time worker in Santa Clara County earning a minimum wage of \$8/hour would earn \$16,640 annually and not be able to support themselves, much less other family members, with basic necessities. Insight, Center for Community Economic Development (Insight) conducted a comprehensive study on self-sufficiency (funded by the Lucile Packard Foundation for Children’s Health, the San Francisco Foundation, and the Y&H Soda Foundation). Table 1 below provides the self-sufficiency wage across a sampling of different household types in Santa Clara County. This wage “calculates a family-sustaining wage that does not require choosing between basic necessities such as child care, nutritious food, adequate housing, or health care.” Therefore, the methodology covers basic daily living needs but excludes non-daily items such as emergency funds, car repairs, or college tuition savings.

As shown below, a minimum wage of \$8 in 2011 is less than the half of the required wage for a single self-sufficient adult (\$16.51) and twenty percent less than the wage required for each of the two self-sufficient, full-time adult workers. As household size increases, the required self-sufficiency wage also increases, especially when children are present in the household. For example, the minimum wage is only eighteen percent of the self-sufficiency wage for a single adult with an infant and preschooler. A single mother with one infant would need to work the equivalent of four, full-time minimum wage jobs in order to be self-sufficient.

For case studies on the below information, see Appendix E.

**Table 1. Self-Sufficiency Wages for Santa Clara County
Across Different Household Types**

Monthly Costs	One Adult	One Adult + Infant	One Adult + Infant + Preschooler	Two Adults
Housing	\$1,416	\$1,702	\$1,702	\$1,416
Child Care	\$0	\$1,201	\$2,486	\$0
Food	\$272	\$405	\$544	\$537
Transportation	\$271	\$278	\$278	\$522
Health Care	\$140	\$374	\$385	\$420
Miscellaneous	\$210	\$396	\$539	\$289
Taxes	\$597	\$1,121	\$2,029	\$617
Tax Credits (Child & Child Care)	\$0	(\$133)	(\$267)	\$0
Hourly Self-Sufficiency Wage	\$16.51	\$30.37	\$43.73	\$10.80
Annual Self-Sufficiency Wage	\$34,870	\$64,138	\$92,359	\$45,609
\$8 Minimum Wage as a % of Self-Sufficiency Wage	48%	26%	18%	74%

* Insight Center for Community Economic Development, 2011: <http://www.insightccd.org/communities/cfess/ca-ssold/SSS-Santa-Clara-12.html>

ALTERNATIVE POLICY OPTIONS

The City Council can adopt an ordinance in addition to submitting the initiative to the voters in the November election. Should the City Council decide to do this, in order for the City’s ordinance to go into effect, the initiative would have to fail. Should the Minimum Wage Initiative pass, despite the City having an alternative Minimum Wage ordinance in place, the Initiative would supersede any such ordinance.

Alternative options include:

- Phase the minimum wage increase in over multiple years
- Raise minimum wage in future years with the state increase to maintain a \$2 differential, rather than annually raising with the Consumer Price Index
- Exempt or phase in implementation for small businesses, nonprofits and paid internships

CONCLUSION

The City of San José has two options:

- 1). Immediately adopt the Minimum Wage Initiative with no changes.
- 2). Place the Initiative, with no changes, on the ballot for the voters to decide and either:
 - a) Call a Special Election to vote on the measure; or
 - b) Place on the ballot for the next Regular General Municipal Election. (November 6, 2012)

The initiative will go into effect 90 days after certification of the initiative. At the earliest, should the initiative be adopted on May 22, 2012, the minimum wage would go into effect on August 20, 2012. At the latest, should the initiative pass on November 6, 2012, the initiative would go into effect 90 days after the City Council accepts the certification of the election, or March 2, 2013 provided the Registrar of Voters provides the official count to the Clerk in time to be certified on the December 2, 2012 council meeting.

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APPENDIX A:

JOB TITLES MAKING LESS THAN \$10/HOUR IN SANTA CLARA COUNTY

These survey data are from the 2010 Occupational Employment Statistics (OES) survey. The wages have all been updated to the first quarter of 2011 by applying the Santa Clara County US Department of Labor's Employment Cost Index to the 2010 wages. Occupations are classified using the Standard Occupational Classification (SOC) codes. For details of the methodology, see the Overview of the OES Survey at www.labormarketinfo.edd.ca.gov. *Source:* <http://www.labormarketinfo.edd.ca.gov/Content.asp?pageid=152>

Shampooers	Cooks, Short Order
Food Preparation and Serving Related Workers, All Other	Public Address System and Other Announcers
Cooks, Fast Food	Proofreaders and Copy Markers
Farming, Fishing, and Forestry Occupations	Pressers, Textile, Garment, and Related Materials
Dining Room and Cafeteria Attendants and Bartender Helpers	Nonfarm Animal Caretakers
Ophthalmic Laboratory Technicians	Locker Room, Coatroom, and Dressing Room Attendants
Amusement and Recreation Attendants	Maids and Housekeeping Cleaners
Counter Attendants, Cafeteria, Food Concession, and Coffee Shop	Stock Clerks and Order Fillers
Dishwashers	Helpers--Installation, Maintenance, and Repair Workers
Waiters and Waitresses	Counter and Rental Clerks
Combined Food Preparation and Serving Workers, Including Fast Food	Furniture Finishers
Cleaners of Vehicles and Equipment	Helpers--Production Workers
Gaming Dealers	Sewing Machine Operators
Food Preparation Workers	Baggage Porters and Bellhops
Hosts and Hostesses, Restaurant, Lounge, and Coffee Shop	Food Servers, Nonrestaurant
Bartenders	Photographic Process Workers and Processing Machine Operators
Food Preparation and Serving-Related Occupations	Food and Tobacco Roasting, Baking, and Drying Machine Operators and Tenders
Cashiers	Driver/Sales Workers
Packers and Packagers, Hand	Personal Care and Service Occupations
Retail Salespersons	Janitors and Cleaners, Except Maids and Housekeeping Cleaners
Food Batchmakers	Sales and Related Occupations
Ushers, Lobby Attendants, and Ticket Takers	Electronic Equipment Installers and Repairers, Motor Vehicles
Tour Guides and Escorts	Demonstrators and Product Promoters
Home Health Aides	Agricultural Equipment Operators
Hairdressers, Hairstylists, and Cosmetologists	Sound Engineering Technicians
Laundry and Dry-Cleaning Workers	Food Cooking Machine Operators and Tenders
Parking Lot Attendants	Packaging and Filling Machine Operators and Tenders
Manicurists and Pedicurists	Assemblers and Fabricators, all others
Meat, Poultry, and Fish Cutters and Trimmers	
Religious Workers, All Other	

APPENDIX B:

ADDITIONAL RESOURCES CONSULTED BUT NOT REFERENCED

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APPENDIX C:

FEEDBACK FROM STAKEHOLDERS AND COMMISSIONS.

On May 17, 2012, the Human Rights Commission voted 7-1 to support immediate adoption of the Minimum Wage Ordinance by the City Council on May 22, 2012.

Having sat as a Commissioner on the San José Small Business Development Commission and worked for the International Labour Organization in Geneva, I was encouraged to see that the San José City Government is reaching out to the community with regards to the Minimum Wage Ordinance. The Minimum Wage Ordinance will have significant impact, both good and bad, on income generation and employment generation for workers and businesses in San José and surrounding communities. There is substantial literature written on this subject matter, most notably by the ILO, and a comprehensive desk study should be conducted to highlight the impacts, specific to the San José.

Moreover, it would be encouraging to see the evidence and justification for setting the minimum wage at \$10, as opposed to \$9.50 or \$10.25 or \$11. Has there been any studies conducted to determine the optimal wage point for a minimum wage in the San José area.

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Brian Wei

Matt Mahood, San José Silicon Valley Chamber of Commerce, provided the responses of their informal Chamber of Commerce Survey on the proposed minimum wage initiative.

San Jose Silicon Valley Chamber of Commer Survey Responses

Overview of Minimum Wage Increase Support:

All Responses: Support – 28%; Oppose – 60%; Not Sure – 12%
 San Jose Employers: Support – 24%; Oppose – 66%; Not Sure – 10%
 Minimum Wage Employers: Support – 19%; Oppose – 79%; Not Sure – 2%

Overview of How Local Business Will Handle Effects of an Increase:

<i>Effects of Increase in Minimum Wage</i>		
	Cut Back Hours	Lay Off Employees
Overall Respondents	51% (89)	27% (46)
San Jose Employers	52% (77)	30% (44)
Min. Wage Employers	67% (59)	43% (38)

Overall Survey Responses:

1. Please indicate your business sector:

Food/Entertainment	15.6%
Education/Government	6.7%
Financial Services/Insurance	11.2%
Industry/Manufacturing	8.9%
Medicine/Hospital	3.6%
Nonprofit	9.4%
Professional Office (architect, attorney, etc)	18.3%
Real Estate/Development	8.5%
Retail	11.2%
Technology	7.1%
Hotels/Lodging	4.5%

2. Do you operate a business in San Jose?

Yes	81.7%
No	18.3%

3. Do you support an increase in the minimum wage, as proposed for San Jose?

Yes	28.8%
No	60.3%
Not Sure	10.9%

4. If a minimum wage were approved for San Jose, would your business be affected?

Yes	52.4%
No	34.1%

Not Affected **13.5%**

5. If your business would be affected, please indicate how so. (Check all that apply.)

Would level playing field; I pay my workers more than the current minimum wage that my competitors pay.	2.9%
Would have to also raise wages of my non-minimum wage workers	5.2%
Lay off workers	26.6%
Delay future hiring	53.8%
Cut back on workers' hours to adjust for new wage	51.4%
Might leave San Jose as a place to operate our business	13.9%
Wouldn't open another business/location in San Jose.	31.8%
My suppliers would probably raise their rates/fees	9.8%

6. How many minimum wage employees do you currently employ in your place of business in San Jose?

Zero	58.5%
10 or fewer	20.5%
11-25	6.1%
26-100	8.7%
More than 100	6.1%

Food/Retail/Hotel Sector Responses:

Support Minimum Wage Increase:

Yes	15.7%
No	75.7%
Not Sure	8.6%

Business is Located in San Jose:

Yes	91.4%
No	8.6%

Affected by Proposal:

Yes	80.0%
No	11.4%
Not Affected	8.6%

Effects of Proposal:

Lay off workers	44.4%
Delay future hiring	63.5%
Cut back on workers' hours to adjust for new wage	65.1%
Might leave San Jose as a place to operate our business	17.5%

Wouldn't open another business/location in San Jose. **46.0%**

Employ Min Wage Workers:

Zero	32.9%
10 or fewer	22.9%
11-25	8.6%
26-100	20.0%
More than 100	15.7%

Only Affected Businesses Responses:

Support Minimum Wage Increase:

Yes	14.2%
No	81.7%
Not Sure	4.2%

Business is Located in San Jose:

Yes	89.2%
No	10.8%

Effects of Minimum Wage Increase:

Lay off workers	37.0%
Delay future hiring	61.1%
Cut back on workers' hours to adjust for new wage	63.9%
Might leave San Jose as a place to operate our business	15.7%
Wouldn't open another business/location in San Jose.	33.3%

To: San Jose City Council

Subject: Minimum Wage Initiative

Dear Council,

There are several concerns with immediately enacting a City-specific Minimum Wage Increase rather than allowing the initiative to go to the voters in November. At the May 9th meeting of the Small Business Development Commission we discussed the Proposition to Raise the Minimum Wage in San Jose to \$10 per hour with annual increases. Major concerns quickly arose that drove the Commission to draft this letter for your review.

The SBDC received a thorough presentation from the San Jose Silicon Valley Chamber of Commerce. Their Vice President, Pat Sausedo, provided initial reports and testimony from local small business owners. The overwhelming consensus from the business owners contacted is that they oppose the enactment of the Proposition and are concerned over its intended and unintended consequences.

The members of the commission engaged in a vigorous discussion. We concluded that there were many issues that needed to be considered and that unintended, as well as intended, consequences should be thoughtfully examined.

The SBDC had several concerns over the Proposition to increase the City's minimum wage to \$10/hour with annual increases:

1. San Jose is surrounded by other municipalities without minimum wage laws, beyond the State requirements, and this Proposition would put us at economic disadvantage. Many of San Jose's current businesses would only have to move "across the street" to reduce payroll costs.
2. Increased costs to businesses would result in increased costs to consumers. The resulting inflationary effects would immediately serve to nullify the bulk of the benefit gained by entry-level workers. Most in the private sector, who had advanced beyond minimum wage, would be hit doubly-hard with either a raise wiped away or diminished by the increased minimum wage and inflation reducing how much they could stretch their paychecks.

3. Many Labor Union contracts have provisions with pay increases tied to the Minimum Wage, this could be another increased cost for the City and those doing business with the Trades.

4. Major corporations are almost always better suited to adjust to the impact of ordinance changes and another concern is how this Proposition would disproportionately burden smaller and disadvantaged businesses.

5. Minimum Wage is meant for entry-level work for those with very limited skills. The City's goal should be to focus on creating more opportunities for those currently in entry-level work not increasing their pay at the detriment of those who have advanced.

These are serious issues that need to be studied thoroughly and discussed in public forums. The time needed could be obtained by having Council members allow the initiative to go forth to the November ballot as it was intended. In the interim, the SBDC would be available to assist by holding open forums and developing impact studies which should increase understanding of this initiative and its impact by the San Jose community at large.

Considering the major concerns with this potential legislation, we recommend that you do not adopt the language of the initiative and allow the Proposition to continue, as written, onto the November ballot. This will allow for extended public discourse over the costs, job losses and reduced competitiveness that would result from the passage of this new law.

Sincerely,

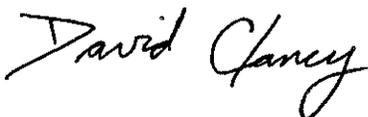
Johnny Khamis

Chairman



David Clancy

Vice Chair



APPENDIX D

YOUTH COMMISSION INPUT.

May 9, 2012

Dennis D. Hawkins, CMC
City Clerk
City of San José
200 E. Santa Clara Street, Wing - 2nd Floor
San José, CA 95113-1905

Ref: Council Item 2.11 - Council Agenda 5/1/12 –
Action related to the Minimum Wage Initiative

Youth Commissioners Responses

Mariam Khan, City Wide Youth Commissioner

Personally, if local businesses are struggling to pay their workers already, I do not believe that this proposal should be passed since it would be devastating to those businesses. If the vast majority of businesses do have a fiscal surplus, however, this initiative could be extremely beneficial to all and I would be more inclined to support it.

Ideally, I would support the increase of the minimum wage to \$10.00. The cost of living in San José is already expensive as it is. It is about 54% higher than the National Average, according to PayScale (graph attached to this email). Therefore, one would need a higher salary to make ends meet in San José as opposed to one living in another city of the U.S. Furthermore, several members of immigrant families, undocumented workers, high-school dropouts, and other blue-collar workers are generally the ones getting paid minimum wage. Lacking the six-figure salary of Silicon Valley corporate executives, these people are the ones struggling to support themselves and their families. An increase to their wages would make it much easier for them to become self-sustainable... possibly, even lessen their reliance on welfare and other government benefits. An increase to minimum wage could potentially make a difference in their lives by allowing them to meet their monthly rent and utilities bill. Additionally, an increase of the minimum wage could also result in an increase in the disposable income of such blue-collar workers. Therefore, these workers could then spend more in the City and become greater consumers. Consumer spending generates our economy, so in the long run; this would be a plus point. All in all, raising the minimum wage could very well be a step in breaking the poverty cycle in our City.

However, given our current economy, it is most unfortunate but critical that we also consider the businesses in our City. I am a firm believer that corporations and businesses are not people, and therefore, should not be prioritized over the average citizenry. But, it is important to note that these companies are the ones actually hiring workers. With the country's economic downturn,

San José has been hit quite hard as well. The unemployment rate in the City as of March 2012 is 10% (not seasonally adjusted) according to the Public Data offered on Google. (Link: http://www.google.com/publicdata/explore?ds=z1ebjgk2654c1_&met_y=unemployment_rate&idim=city:PA063000&fdim_y=seasonality:U&dl=en&hl=en&q=unemployment+california+san+José) Raising the minimum wage at this point in time could potentially lead to another wave of lay-offs as companies struggle to pay their employees. Most importantly, small businesses and innovative start-ups that have been the heart of Silicon Valley will be the ones who suffer greatly (more so than the giants, like Cisco or Adobe) because they are more likely to rely on minimum-wage workers. Given our unemployment rate, it is highly unwise to shun small businesses who then might find it more prosperous to relocate to our more affluent neighboring cities, Palo Alto and Mountain View, for example. Also, it must be noted that if the minimum wage were to reach \$10.00, many businesses might then higher their qualifications for their employees--seeking more highly educated and/or experienced workers... which, in essence, could mean a shortage of job opportunities for a small portion of the working class who lack the education and/or experience.

As far as youth go... unfortunately, due to rising tuition costs of UCs, Cal State schools, and Privates alike, more and more students are required to work in order to fund their higher education. With more of college students taking out student loans, youth must work these minimum-wage jobs to begin paying off their debt. I, myself, a rising freshman at Santa Clara University will be amongst the masses juggling schoolwork with a job to pay off the loans I will be taking on. That being said, an increase to \$10.00 would be highly beneficial to the college students of San José across the board. However, again, I would stress that given our current economic state; this measure must be re-looked at because it may end up causing businesses to stop hiring youth because of rising expenses. I think it is necessary that City, State, and National public officials collaborate with each other on ways to make college education financially feasible. Maybe a minimum wage increase might not be the best option right now, but certainly ensuring that CA Governor Brown renews the Cal Grants or lobbying the National government to expand the Federal Work-Study Program, are extremely important. But, I digress. For many youth under 18, a job is a part-time obligation in comparison to school... and so, many see minimum-wage jobs as a mere stepping-stone to better jobs in the future (a tool to pad their resumes). For such youth, it is not the utmost priority to increase the minimum wage for them.

My recommendation, if possible, is to take another look at this initiative a couple of years from now when the economy in this country and City is on an upward trend. Then it would be the right moment to pass such a measure. I say this because it is necessary to take into account the social,

political, and economic context in which such issues are brought up. Although this may seem like extraneous information, my father to this day is still unemployed despite being highly educated--an indicator that the City of San José must tackle its high unemployment rate first. While it has not been thoroughly calculated whether economic incentives and tax breaks help businesses stimulate job growth (trickle-down economics does not hold much truth), it is surely counter-intuitive to instate policies that would drive off businesses right now.

Since City Council will most likely have to come to a vote soon, I would support Councilmember Liccardo's memo on perhaps creating an alternative proposal that would exempt small businesses from the minimum wage increase. Also, I agree with the Councilmember that a 'complaint-driven' enforcement mechanism would be the City's best bet in alleviating City costs for enforcing such a measure. Lastly, I would also agree with exempting youth under 18 from the minimum wage increase (as stated earlier, youth see it as a stepping stone for the most part, not an income to base their whole lives around). But let me just be clear, young adults 18 and over should be entitled to the wage increase if the measure were to pass. And I would say, to consider adding in a clause that would allow certain youth under 18 to receive the \$10.00 minimum wage if their family demonstrates extreme financial need, as there are high school students who find themselves working to support their families as well.

Sandeep Peddada, D1 Youth Commissioner

Although I understand the intent of raising minimum wage, I do not think it is a good idea in general, unless the government finds that it is below a certain "living wage" necessary for an acceptable standard of living. I think our minimum wage should increase with the CPI and should be valued in proportion to the Index, in order to adequately provide for workers while also allowing businesses to flourish without the restrictive burden of having to pay employees an excessive amount. But I do not think it should be arbitrarily raised, unless the City has found that a worker earning \$8 cannot properly sustain him or herself.

Nihar Wahal, D1 YAC and Ad Hoc Team Member

I believe that the minimum wage should be raised to \$10.00 an hour. Raising the wage would provide more families with financial stability. Having financial stability in a family is crucial to the family's and cities success. If a family cannot succeed, logic dictates that it will end. Families tearing apart are signs of a deteriorating standard of living. While some people may be laid off from this, the amount of families saved would make up for the cons. A dying family is worse than a slightly higher unemployment rate. Therefore, I strongly urge that this measure to increase the minimum wage be passed.

Kimberly Tan DI YAC and Ad Hoc Team Member

I believe that the San José city council should only work toward passing this amendment after gauging the response from the local businesses. After all, since this initiative is mainly intended to benefit the workers, we should be certain that they would actually want this initiative to be passed before taking action on it. One of the main things I think city council should stress to the local business employees is that even though their salaries may increase, the likelihood of them getting laid off may also rise as well.

Veronica Abad, District 5 Youth Commissioner

I personally support the increase in minimum wage because it would lower poverty that is going on in the city due to the high standard of living. Although it may cause unemployment because employers may not be able to afford paying the new minimum wage, it will increase the migration of people to San José, which will increase consumption and consumers. Making the City an overall wealthier place to live and making it more appealing people. As for youth specifically, it may be harder for them to find jobs due to a possible shortage of jobs, but those who do find them and obtain employment, will be able to help their families economically. And this would be a positive impact.

Rose Dhaliwal, District 8 Youth Commissioner

I feel that the minimum wage increase would be beneficial because it would help boost our economy and give more money to those individuals and families who are either close to or on that poverty line. I am concerned, however, of the impacts of this increase on small businesses that cannot afford to pay their employees so much. It is interesting that the wage would jump so drastically as well. A \$2 increase so suddenly could have very negative effects on the business of the employers. Although I support a wage increase, I feel a slight increase at a time will do much more for our economy and workers in the long run.

Nicole Lim, District 9 Youth Commissioner

I support the implementation of the concept behind the wage proposal, that if an employee works for a minimum of two hours, they are entitled to the minimum wage, but if it is increased to \$10 an hour, where does the money come from? Will there be enough money in company budgets (including small businesses and start-up companies or small companies) to pay all employees a minimum wage of \$10 an hour? True, it will be good for people who are struggling to pay their bills because they can work the two hours and get paid, but from what I read on the finance department website, it states that the maximum wage for those with health benefits will be \$9.50 and maximum \$10.75. There is the possibility that although the pay is raised, some may still go without medical benefits. Overall, I am not completely sure if this is a good idea, but with further discussion, there might be a compromise that can be made to where both the employers and the employees benefit mutually.

Layla Forooghi, D10 Youth Commissioner

I believe that with the state of our economy, it is better to have more jobs that are hiring than companies laying off people or not hiring at all. The wage increase may assist some and in the same time harm small companies and start-ups. Therefore, I must agree with Councilmember Sam Liccardo's memo and support the idea of making some type of alternative motion for small companies and start-ups.

APPENDIX E.

CASE STUDIES OF MINIMUM WAGE AND COST OF LIVING

Case Study #1: One Adult, Minimum Wage

One way to understand the context of Santa Clara County's cost of living and the local self-sufficiency wage is to consider the residual income left for housing after non-residential basic necessities are paid for. Consider a one-adult household working a full-time minimum wage job earning \$16,640 annually (Table 1, Column 2). The annual non-residential cost for basic necessities is \$17,880, which exceeds the individual's total annual wage by \$1,200 annually or \$100/month. This would mean that the individual would need to reduce non-residential expenditures by \$100/month just to afford those basic goods and still have no income for housing costs.

In order to afford even minimal housing, this individual would be required to make significant tradeoffs in basic non-housing necessities. The individual could either rent a single bedroom out of an existing housing, rent an individual unit, or double- or triple-up in overcrowded conditions. For the first alternative, single bedrooms range between \$400 and \$1250 per month. Assuming that the one-person household can find a \$400 bedroom for rent, this would mean reducing expenditures for non-housing necessities by the same amount per month (\$400 reduction in non-housing goods to offset the cost of rent), in addition to the extra \$100 that would need to be reduced on non-housing necessities as mentioned above, for a total reduction of \$500/month in non-housing expenditures. This could be accomplished by eliminating health care, reducing food and transportation costs to \$40/week, and reduce miscellaneous costs to \$12.50/week. For the second alternative (renting a complete unit), the average rent for a one-bedroom unit in San José is \$1,558. To find a unit priced within this individuals range, the unit would need to be a deed-restricted affordable unit for extremely low-income households or located on the open market. Given the scarcity of extremely affordable deed-restricted units, assume that the individual locates a \$400 market-rate unit. With average rents 4 times the \$400 unit, it can be assumed that the unit is likely to be a severely substandard unit that can pose significant health and safety risks. To afford this substandard unit, the household would again need to eliminate health care, reduce food and transportation costs to \$40/week, and reduce miscellaneous costs to \$12.50 per week. Living in overcrowded conditions could potentially reduce housing costs, but not by much and would expose all residents to potential health and safety risks.

Case Study #2: One Adult + One Infant Household, Minimum Wage

In a second scenario, consider a household composed of one adult and one infant at minimum wage (Table 1, Column 3). With an annual wage of \$16,640, this single parent household has the same income constraint as the adult household with no children but with significantly greater

non-residential costs due primarily to the cost of child care as well as to the increased cost of food and health care. The annual minimum wage including tax credits scarcely covers the annual food, transportation, health care, and miscellaneous costs, and would not cover child care or taxes.

This single parent household would be required to make even more severe tradeoffs than the childless household if it were to afford housing. Assuming that the single parent minimizes housing costs to \$400/month by either renting a single bedroom (instead of the two-bedroom unit assumed in the methodology) or a single substandard housing unit, the parent would have a residual income of \$1,120/month remaining for \$3,775/month of non-residential costs. Therefore, non-residential costs would need to be reduced by \$2,655/month, the equivalent of paying only taxes and eliminating all child care, food, transportation, health care, and miscellaneous. This outcome is, of course, untenable for survival, and ignores other realities such as the inability to work at all without child care services or the feasibility of finding housing that would take a single parent household with an infant. While fair housing laws do exist, rental discrimination against families with young children is one of the most common. Again, living in overcrowded conditions is a third option, which poses the health and safety risks to parent and child.

Case Study #3: Two Adult Household, Minimum Wage

For a third scenario, consider a minimum wage household with two full-time working adults with no children (Table 1, Column 5). Even without a child and with two minimum wage workers, this two-person household would still be required to make real, albeit less severe, tradeoffs to either housing or non-residential necessities. A minimum wage two-person household earns \$33,280 annually, which would cover all non-residential expenses and leave a residual income of \$4,660 for housing costs. This would allow the two-person household to nearly afford a residential space for \$400/month. Again, there may be real world challenges to making this situation work. For example, a two-person household may have a more challenging time locating a landlord willing to rent a single bedroom to a couple. Thus, while a minimum wage, two-person household could survive, it does involve a significant tradeoff in residential quality or quantity. Alternatively, the couple may choose to reduce non-housing costs to afford more or better housing. Assuming that the couple can reduce food, health care, and transportation costs by \$100/month each and miscellaneous costs by \$50/month, an additional \$350/month could be secured for a total housing budget of \$738/month.

In each of the three case studies, tradeoffs, some of which would be severe or untenable, were required to survive. Additionally, self-sufficiency wages cover only basic needs. Households who are somehow able to make ends meet would still lack the ability to save for emergencies, car maintenance, or other expenditures. Finally, note that the housing costs associated each household scenario assumes that a single adult or a couple occupies one bedroom but that children do not share a bedroom with adults. Therefore, the “One Adult” scenario models a one-

bedroom residential unit while the other five scenarios assume a two-bedroom unit. The assumed housing costs in Table 1 are based on HUD's FY 2011 Fair Market Rents (FMR). These FMRs are below the most recent rent data for San José, which show that the average one-bedroom rent is for \$1,558 and \$2,004 for a two-bedroom unit. Additionally, while rents are expected to continue to rise nationally due to demographic shifts and changing consumer preferences towards renting rather than owning, numerous reports project that San José will experience one of the highest rates of increase in the country. Thus, the wages shown in Table 1 underestimate the true self-sufficiency wage required to live in San José.

APPENDIX F.

EMAIL FROM PATRICIA GARDNER, SILICON VALLEY COUNCIL OF NON-PROFITS

As we continue to learn more about the impact of the minimum wage, we wanted to find out more on the impact to job training programs that hire the disabled here is what we have learned from the Silicon Valley Independent Living Center.

Section 14(c) of the 1938 Fair Labor Standards Act (FLSA), allows certain entities holding special wage certificates from the Secretary of Labor to pay workers with disabilities less than the federal minimum wage.

As long as an organization holds the special wage certificate from DOL under 14(c), any changes in local minimum wage laws would not impact that organization's ability to continue paying sub-minimum wage to people with disabilities.

They both also confirmed that Section 14(c) denies people the guarantee of a minimum wage for POTENTIALLY ANY JOB, and at any point in a career, based on disability status. The law does not authorize below-minimum wages for all less-productive workers—only those who have disabilities.

Although any employer can in theory pay a below-minimum wage to an employee with a disability who meets the Section 14(c) qualifications, as I mentioned, in practice the overwhelming majority of workers with disabilities who are paid below-minimum wages work in sheltered workshops (i.e. “center-based” employment programs). Work centers employ about 95 percent of all 14(c) workers (according to a GAO survey).

As a result of 14(c) and various other federal laws that subsidize sheltered workshops (including the Javits-Wagner-O’Day Act, which was originally adopted in 1938 and requires the government to purchase certain goods from sheltered workshops), there are more than 2,500 employers certified to pay more than 350,000 people with disabilities less than minimum wage.

City of San Jose Minimum Wage Ordinance Overview

The mission of the Silicon Valley Council of Nonprofits (SVCN) is to magnify the influence and contribution of nonprofit businesses in Santa Clara County. SVCN is *the* catalyst in Santa Clara County for both unifying the voice of health and human service agencies and building nonprofit leaders as vocal advocates, partners and collaborators. SVCN has a significant network of 200 member agencies. We work on issues that impact the entire nonprofit sector and ultimately our community, particularly those individuals and families who are disenfranchised and find themselves struggling to meet even their most basic needs of housing, healthcare, food and education.

SVCN Survey Data Information

SVCN conducted a survey during the week of May 7, 2012 of local nonprofits to get the pulse of our sector on the impact of a potential minimum wage ordinance. We polled our agencies with business addresses in the City of San Jose to find the potential impact of the minimum wage increase in San Jose on these organizations. The SVCN survey had a 45% response rate, providing us with significant data on the potential effects of the increase. (68 nonprofits responded).

These nonprofits are from a variety of fields such as:

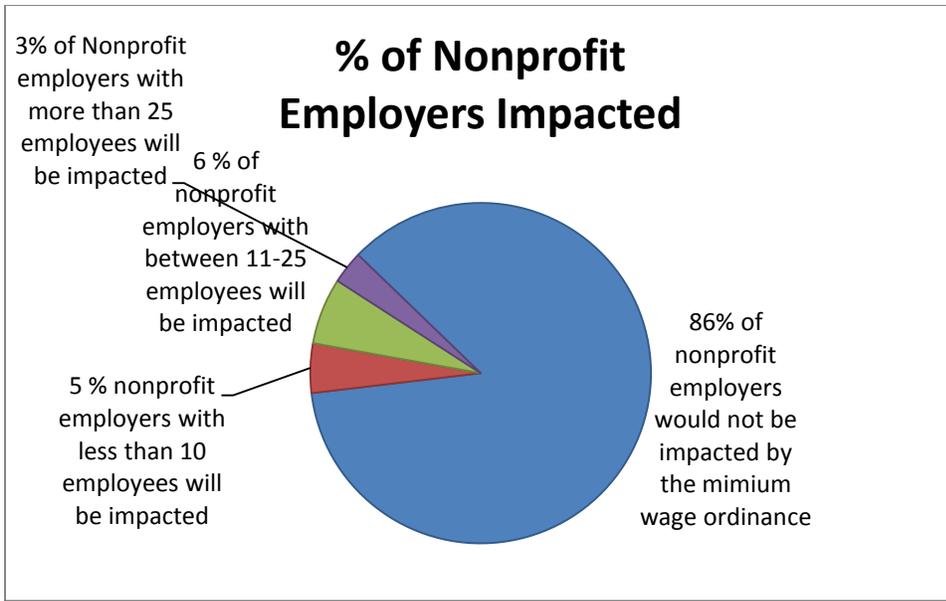
- 55% Health and Human Services
- 6% Arts
- 18% Education
- 4% Housing
- 12% Legal
- 5% Other

Nonprofits as Employers

There are 1,400 Nonprofits in Santa Clara County with budgets over \$100,000 and 40% of these are located in San Jose. Nonprofits are major employers in this community. As the SVCN survey demonstrates, nonprofit employers are currently paying above the current minimum wage despite the massive funding cut backs in our sector. Nonprofits have lost approximately \$18.5 million in funding cuts over that last 3 years and over 240 jobs throughout our workforce. Through the economic downturn, nonprofit employers continue to demonstrate a commitment to sustainable wages and benefits for our employees.

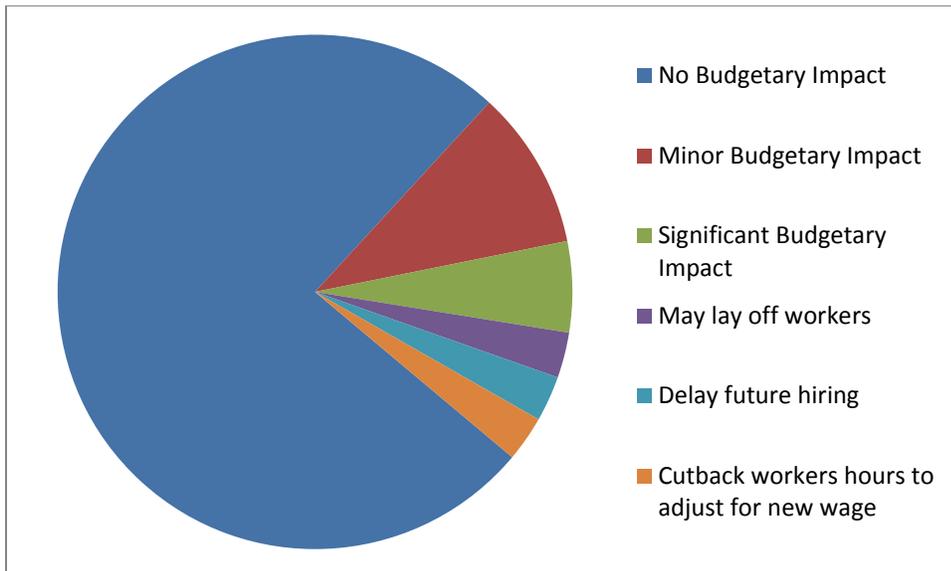
We surveyed local nonprofits in San Jose on the impacts they face as employers:

- As our survey data demonstrates, most nonprofits already pay their employees above minimum wage and above \$10 per hour, despite the funding cuts and tight budgets.
- 86% of nonprofit employers reported that they will not be affected because they do not have any minimum wage employees or employees under \$10 per hour.



We asked our agencies what would be the economic impact to their organization if the \$10 per hour minimum wage ordinance is enacted in San Jose. We learned that an overwhelming number of the agencies responding believed there would no budgetary impact. Only 14% of our agencies reported any impact. We believe the biggest impact seems to be for nonprofits whose core business is client job training programs. Only 3% of our employers reported that the minimum wage increase would delay hiring, may result in the need to lay off current workers, or cut back hours for current workers.

The diagram below demonstrates the economic and budgetary impact to nonprofits:



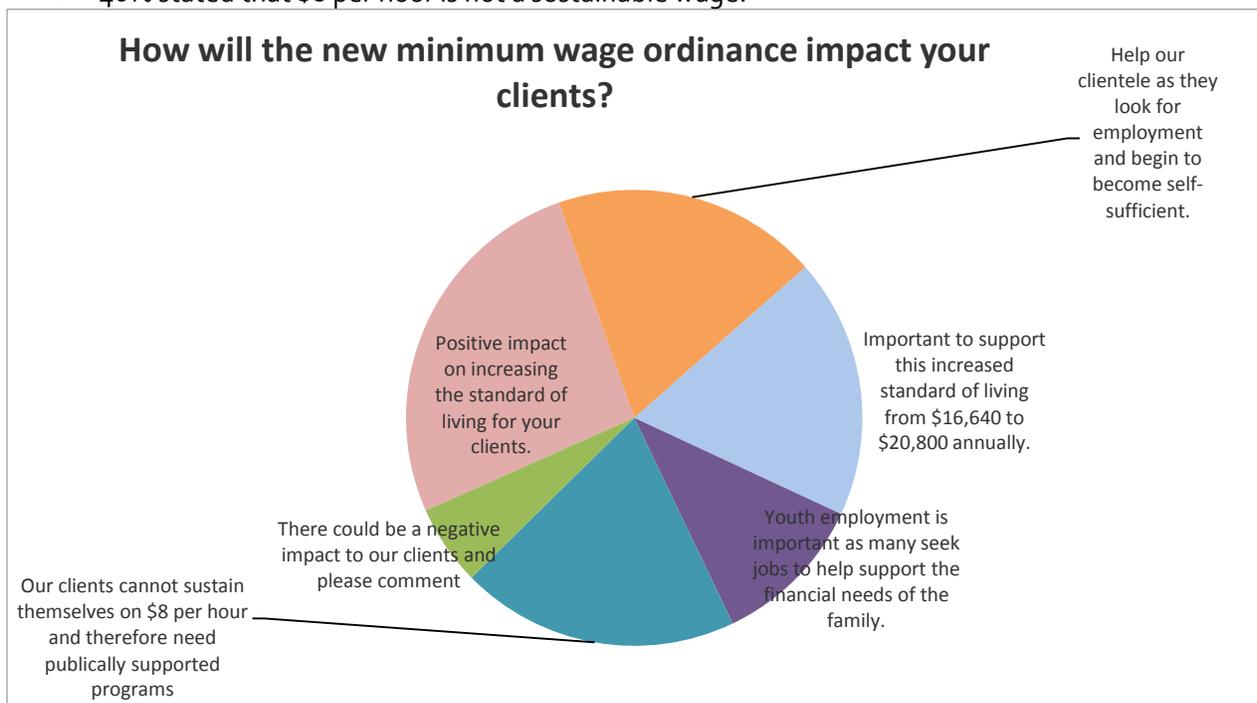
Nonprofits' View of Minimum Wage on Low Income People in our Community

Nonprofits are employers and providers of services to marginalized and low income communities. Some of the clients we serve are the workers that would be impacted by a change in the minimum wage ordinance. *Based on a report published by United Way Silicon Valley, the self-sufficiency standard in Santa Clara County is \$28,240 for a single adult and \$38,244 for 2 adults. The self-sufficiency standard measures the actual cost of living, on a county by county basis accounting for different family sizes and local variations of cost. There are 102,286 households below the self-sufficiency standard living in Santa Clara County.*

An overwhelming number of our agencies believed the client and economic impact of increasing the minimum wage was important. Nonprofit leaders provided strong support for the positive benefits of the Minimum Wage Ordinance, including that San Jose has a high cost of living and the increase in the minimum wage would benefit entire families by increasing the standard of living of our very low income families. The increase may mean less dependency on government and nonprofit programs. Most importantly, an increased wage provides for a stronger standard of living for the marginalized and low income people in our community allowing them to move toward self-sufficiency.

Here are some facts that were derived from our survey from our nonprofit agencies. The majority feel a new minimum wage ordinance will positively impact the clients we serve.

- 60% stated that the ordinance will increase their clients' standard of living.
- 44 % believe that it will help their clientele as they look for employment and begin to become self sufficient.
- 42.% stated that it is important to support the increase in the standard of living.
- 25% mentioned that this will positively affect youth employment, which is important as many youth work to help support their families.
- 46% stated that \$8 per hour is not a sustainable wage.



We also want to note that our agencies are concerned about a few possible unintended consequences of the Minimum Wage Ordinance as reported in our survey.

- Only 13% believe that this will negatively affect their clients, and the reasons include:
 - Could cause hiring freezes.
 - Less benefits available to workers, such as child-care and co-pays may increase.
 - May make the job market for minimum wage jobs more competitive, less likely to hire unskilled workers.
 - Less job programs; this means less job training assistance for groups such as unskilled workers, disabled workers, and recently released offenders.

SVCN has produced this report to provide a snapshot view of the impact of the Minimum Wage Ordinance in San Jose. Our survey is based on the agencies connected to the SVCN network of providers in the City of San Jose.

We feel confident that a large majority of the nonprofit sector would not be significantly negatively impacted by an increase in the minimum wage law. We believe that it is important to the clients we serve in the City of San Jose to place this issue on the November Ballot.

APPENDIX G.

FULL TEXT OF INITIATIVE

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The City Attorney of San José has prepared the following Title and Summary of the chief purpose and points of the proposed measure:

AN INITIATIVE ORDINANCE SEEKING TO IMPLEMENT AND ENFORCE THE PAYMENT OF A MINIMUM WAGE IN THE CITY OF SAN JOSE

This measure proposes to require the Office of Equality Assurance (the Office”) or other office designated by the City Council of the City of San José (the “City”) to establish guidelines for the monitoring, investigation, and enforcement of a minimum wage in the City of San José. Under the measure, an employee is any person who has performed at least two (2) hours of work for the employer or is entitled to the California state minimum wage. The measure would define an employer as any person that employs or exercises direct or indirect control over wages, hours or working conditions of any employee, and either is subject to the payment of the tax imposed under Chapter 4.76 of the San José Municipal Code or maintains a facility in San José. The measure proposes that the employer be required to pay the employee(s) a minimum wage of ten dollars (\$10) per hour, and that this rate increase each year by the Consumer Price Index beginning January 1, 2014. The measure proposes to limit the number of hours certain welfare-to-work programs could require a program participant to work equal to the value of all cash benefits received divided by the minimum wage. The measure would require that each year the Office make available to employers a bulletin of the minimum wage requirement and amount in various languages for posting at the workplace. This measure would authorize the Office to issue administrative fines and penalties for noncompliance; or a civil action to be brought in a court of law by any person harmed, any person on behalf of the public, or the City. The measure provides that the remedies available in a court of law would include civil penalties, back wages, interest, reinstatement, reasonable attorneys' fees and costs, and administrative costs of enforcement. Pursuant to this measure, the employer's permits or licenses or applications for the same may be revoked or suspended pending compliance with the minimum wage requirement if consistent with state and federal law. The proposed measure would not preempt any federal law respecting an express waiver of all or any portion of the minimum wage requirement in a collective bargaining agreement. This measure if enacted may be amended by the City Council without a vote of the people provided the changes do not decrease the proposed measure's substantive requirement or scope.

**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**

LEGAL TEXT OF MINIMUM WAGE ORDINANCE

AN INITIATIVE ORDINANCE OF THE CITY OF SAN JOSE
AMENDING TITLE 4 OF THE SAN JOSE MUNICIPAL CODE TO
REQUIRE THE PAYMENT OF A CITY-WIDE MINIMUM WAGE

WHEREAS families and workers need to earn a living wage, and public policies which help achieve that goal are beneficial; and

WHEREAS payment of a minimum wage advances the interests of the City as a whole, by creating jobs that keep workers and their families out of poverty; and

WHEREAS a minimum wage will enable a worker to meet basic needs and avoid economic hardship; and

WHEREAS this ordinance is intended to improve the quality of services provided in the City to the public by reducing high turnover, absenteeism, and instability in the workplace; and

WHEREAS prompt and efficient enforcement of this Chapter will provide workers with economic security and the assurance that their rights will be respected.

NOW THEREFORE, BE IT ORDAINED, BY THE PEOPLE OF THE CITY OF SAN JOSE:

SECTION 1. Title 4 of the San Jose Municipal Code is hereby amended to add a new Chapter to be numbered, entitled and to read as follows:

CHAPTER 4.100 **Minimum Wage Ordinance**

4.100. 010 TITLE.

This ordinance shall be known as the “Minimum Wage Ordinance.”

4.100. 020 AUTHORITY.

This Chapter is adopted pursuant to the powers vested in the City of San Jose under the laws and Constitution of the State of California, but not limited to, the police powers vested in the City pursuant to Article XI, Section 7 of the California Constitution and Section 1205(b) of the California Labor Law.

4.100.030 DEFINITIONS.

The following terms shall have the following meanings:

A. "City" shall mean City of San Jose.

B. "Employee" shall mean any person who:

1. In a calendar week performs at least two (2) hours of work for an Employer as defined below.

2. Qualifies as an employee entitled to payment of a minimum wage from any employer under the California minimum wage law, as provided under Section 1197 of the California Labor Code and wage orders published by the California Industrial Welfare Commission, or is a participant in a Welfare-to-Work Program.

C. "Employer" shall mean any person, including corporate officers or executives, as defined in Section 18 of the California Labor Code, who directly or indirectly through any other person, including through the services of a temporary employment agency, staffing agency or similar entity, employs or exercises control over the wages, hours or working conditions of any Employee and who is either subject to the Business License Tax Chapter 4.76 of the Municipal Code or maintains a facility in the City.

D. "Minimum Wage" shall have the meaning set forth in Section 4.100.040 of this Chapter.

E. "Office" shall mean the Office of Equality Assurance or such other City department or office as the Council shall by resolution designate.

F. "Welfare-to-Work Program" shall mean the CalWORKS Program, County Adult Assistance Program (CAAP) which includes the Personal Assisted Employment Services (PAES) Program, and General Assistance Program, and any successor programs that are substantially similar to them.

4.100.040 MINIMUM WAGE.

A. Employers shall pay Employees no less than the Minimum Wage set forth in this Section for each hour worked within the geographic boundaries of the City.

B. The Minimum Wage shall be an hourly rate of ten dollars (\$10). To prevent inflation from eroding its value, beginning on January 1, 2014, and each year thereafter, the Minimum Wage shall increase by an amount corresponding to the prior year's increase, if any, in the cost of living. The prior year's increase in the cost of living shall be measured by the percentage increase, if any, as of August of the immediately preceding year over the level as of August of the previous year of the Consumer Price Index (Urban Wage Earners and Clerical Workers, U.S. City Average for All Items) or its successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the minimum wage increase rounded to the nearest multiple of five cents. The adjusted minimum wage shall be announced by October 1 of each year, and shall become effective as the new minimum wage on January 1.

C. A violation for unlawfully failing to pay the Minimum Wage shall be deemed to continue from the date immediately following the date that the wages were due and payable as provided in Part 1 (commencing with Section 200) of Division 2 of the California Labor Code, to the date immediately preceding the date the wages are paid in full.

4.100.050 WAIVER THROUGH COLLECTIVE BARGAINING.

To the extent required by federal law, all or any portion of the applicable requirements of this Chapter may be waived in a bona fide collective bargaining agreement, provided that such waiver is explicitly set forth in such agreement in clear and unambiguous terms.

4.100.060 NOTICE, POSTING AND PAYROLL RECORDS.

A. By December 1 of each year, the Office shall publish and make available to Employers a bulletin announcing the adjusted Minimum Wage rate for the upcoming year, which shall take effect on January 1. In conjunction with this bulletin, the Office shall by December 1 of each year publish and make available to Employers, in all languages spoken by more than five percent of the work force in the City, a notice suitable for posting by Employers in the workplace informing Employees of the current Minimum Wage rate and of their rights under this Chapter.

B. Every Employer shall post in a conspicuous place at any workplace or job site where any Employee works the notice published each year by the Office informing Employees of the current Minimum Wage rate and of their rights under this Chapter. Every Employer shall post such notices in any language spoken by at least five percent of the Employees at the work-place or job site. Every Employer shall also provide each Employee at the time of hire with the Employer's name, address, and telephone number in writing.

C. Employers shall retain payroll records pertaining to Employees for a period of four years, and shall allow the City access to such records, with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of this Chapter. Where an Employer does not maintain or retain adequate records documenting wages paid or does not allow the City reasonable access to such records, the Employee's account of how much he or she was paid shall be presumed to be accurate, absent clear and convincing evidence otherwise.

4.100.070 RETALIATION PROHIBITED.

It shall be unlawful for an Employer or any other party to discriminate in any manner or take adverse action against any person in retaliation for exercising rights protected under this Chapter. Rights protected under this Chapter include, but are not limited to: the right to file a complaint or inform any person about any party's alleged noncompliance with this Chapter; and the right to inform any person of his or her potential rights under this Chapter and to assist him or her in asserting such rights. Protections of this Chapter shall apply to any person who mistakenly, but in good faith, alleges noncompliance with this Chapter.

Taking adverse action against a person within ninety (90) days of the person's exercise of rights protected under this Chapter shall raise a rebuttable presumption of having done so in retaliation for the exercise of such rights.

4.100.080 IMPLEMENTATION

A. Guidelines. The Office shall be authorized to coordinate implementation and enforcement of this Chapter and may promulgate appropriate guidelines or rules for such purposes. Any guidelines or rules promulgated by the Office shall have the force and effect of law and may be relied on by Employers, Employees and other parties to determine their rights and responsibilities under this Chapter. Any guidelines or rules may establish procedures for ensuring fair, efficient and cost-effective implementation of this Chapter, including supplementary procedures for helping to inform Employees of their rights under this Chapter, for monitoring Employer compliance with this Chapter, and for providing administrative hearings to determine whether an Employer or other person has violated the requirements of this Chapter.

B. Reporting Violations. An Employee or any other person may report to the Office in writing any suspected violation of this Chapter. The Office shall encourage reporting pursuant to this subsection by keeping confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the Employee or person reporting the violation. Provided, however, that with the authorization of such person, the Office may disclose his or her name and identifying information as necessary to enforce this Chapter or other employee protection laws. In order to further encourage reporting by Employees, if the Office notifies an Employer that the Office is investigating a complaint, the Office shall require the Employer to post or otherwise notify its Employees that the Office is conducting an investigation, using a form provided by the City.

C. Investigation. The Office shall be responsible for investigating any possible violations of this Chapter by an Employer or other person. The Office shall have the authority to inspect workplaces, interview persons and request the City Attorney to subpoena books, papers, records, or other items relevant to the enforcement of this Chapter.

D. Informal Resolution. The Office shall make every effort to resolve complaints informally, in a timely manner, and shall have a policy that the Office shall take no more than one year to resolve any matter, before initiating an enforcement action. The failure of the Office to meet these timelines within one year shall not be grounds for closure or dismissal of the complaint.

4.100.090 ENFORCEMENT

A. Where prompt compliance is not forthcoming, the Office shall take any appropriate enforcement action to secure compliance.

4

1. The Office may issues an Administrative Citation pursuant to Chapter 1.15 of the Code with a fine of not more than \$50 for each day or portion thereof and for each Employee or person as to whom the violation occurred or continued.
2. Alternatively, the Office may initiate a proceeding under Chapter 1.14 of the Code by issuing a Compliance Order.
3. The City may initiate a civil action for injunctive relief and damages and civil penalties in a court of competent jurisdiction.

B. Any person aggrieved by a violation of this Chapter, any entity a member of which is aggrieved by a violation of this Chapter, or any other person or entity acting on behalf of the public as provided for under applicable state law, may bring a civil action in a court of competent jurisdiction against the Employer or other person violating this Chapter and, upon prevailing, shall be awarded reasonable attorneys' fees and costs and shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation including, without limitation, the payment of any back wages unlawfully withheld, the payment of an additional sum as a civil penalty in the amount of \$50 to each Employee or person whose rights under this Chapter were violated for each day that the violation occurred or continued, reinstatement in employment and/or injunctive relief. Provided, however, that any person or entity enforcing this Chapter on behalf of the public as provided for under applicable state law shall, upon prevailing, be entitled only to equitable, injunctive or restitutionary relief to employees, and reasonable attorneys' fees and costs.

C. This Section shall not be construed to limit an Employee's right to bring legal action for a violation of any other laws concerning wages, hours, or other standards or rights nor shall exhaustion of remedies under this Chapter be a prerequisite to the assertion of any right.

D. Except where prohibited by state or federal law, City agencies or departments may revoke or suspend any registration certificates, permits or licenses held or requested by the Employer until such time as the violation is remedied.

E. Relief

The remedies for violation of this Chapter include but are not limited to:

1. Reinstatement, the payment of back wages unlawfully withheld, and the payment of an additional sum as a civil penalty in the amount of \$50 to each Employee or person whose rights under this Chapter were violated for each day or portion thereof that the violation occurred or continued, and fines imposed pursuant to other provisions of this Code or state law.
2. Interest on all due and unpaid wages at the rate of interest specified in subdivision (b) of Section 3289 of the California Civil Code, which shall accrue from the date that the wages were due and payable as provided in Part 1 (commencing with

Section 200) of Division 2 of the California Labor Code, to the date the wages are paid in full.

3. Reimbursement of the City's administrative costs of enforcement and reasonable attorneys fees.

F. Posted Notice

If a repeated violation of this Chapter has been finally determined, the Office may require the Employer to post public notice of the Employer's failure to comply in a form determined by the City.

4.100.100 RELATIONSHIP TO OTHER REQUIREMENTS.

This Chapter provides for payment of a local Minimum Wage and shall not be construed to preempt or otherwise limit or affect the applicability of any other law, regulation, requirement, policy or standard that provides for payment of higher or supplemental wages or benefits, or that extends other protections.

4.100.110 APPLICATION OF MINIMUM WAGE TO WELFARE-TO-WORK PROGRAMS.

The Minimum Wage established pursuant to Section 4(b) of this Chapter shall apply to the Welfare-to-Work programs under which persons must perform work in exchange for receipt of benefits. Participants in Welfare-to-Work Programs shall not, during a given benefits period, be required to work more than a number of hours equal to the value of all cash benefits received during that period, divided by the Minimum Wage.

4.100.120 FEES

Nothing herein shall preclude the City Council from imposing a cost recovery fee on all Employers to pay the cost of administering this Chapter.

4.100.130 AMENDMENT BY THE CITY COUNCIL.

This Chapter may be amended by the City Council without a vote of the people as regards the implementation or enforcement thereof, in order to achieve the purposes of this Chapter, but not with regard to lessening the substantive requirements of the Chapter or its scope of coverage.

SECTION 2. Effective Date.

This ordinance shall become effective on the ninetieth (90) day after it is certified. This ordinance is intended to have prospective effect only.

6

SECTION 3. Severability.

If any part or provision of this ordinance, or the application of this ordinance to any person or circumstance, is held invalid, the remainder of this ordinance, including the application of such part or provisions to other persons or circumstances, shall not be affected by such a holding and shall continue in full force and effect. To this end, the provisions of this ordinance are severable.