INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

To the Honorable Registrar of Voters of the County of Sacramento:

We, the undersigned, registered and qualified voters of the State of California, residents of the County of Sacramento, pursuant to Section 3 of Article XI of the California Constitution and Chapter 5 (commencing with Section 23720) of Division 1 of Title 3 of the Government Code, present to the Board of Supervisors of the County of Sacramento this petition and request that the following proposed amendment to the charter of the County be submitted to the registered and qualified voters of the County for their adoption or rejection at an election on a date to be determined by the County Council.

The proposed charter amendment reads as follows:

SECTION I. FAIR AND OPEN COMPETITION

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

SECTION II. FINDINGS AND PURPOSE

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

1. Offer job opportunities for contracts funded by the People to the largest possible pool of local qualified workers.
2. Maximize the number of capable and responsible bidders for contracts funded by the People.
3. Obtain the best quality work at the best price for contracts funded by the People.
4. County construction contracts should be posted online to increase transparency and enable the People to evaluate the County’s contracting.
The County shall not undermine these ends by entering into contracts that include unnecessary, costly, and restrictive requirements concerning the relationship of employees and employers to a labor union, or that require the payment of money from employees, employers, or the County to a fund administered by a labor union.

SECTION III. CHARTER AMENDMENT

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

§ 91 Fair and Open Competition.
(a) Except as otherwise provided by state or federal law, or required as a condition of the receipt of state or federal funding, in contracting for construction, alteration, demolition, installation, or repair of a work of improvement:
(1) The County of Sacramento shall not enter into any contract containing a requirement that a Contracting Party:
   (A) Shall execute, or become a party to, adhere to, or otherwise become bound to an agreement with a Labor Organization covering employees in the building and construction industry;
   (B) Shall make contributions, either as a direct cash payment or as payment for employee benefits, to a trust fund managed in whole or in part by a Labor Organization;
   (C) Shall require its employees to join or be represented by a Labor Organization, or pay dues or initiation fees, or make other payments to any Labor Organization.
(2) The County of Sacramento shall not impose, as a bid specification, contract prerequisite, condition on the receipt of public funds, contract term or otherwise, any requirement prohibited by subsection (a)(1) of this section.
(b) To help ensure compliance by the County of Sacramento with this section, the County Executive shall post on the County’s website in searchable format the text of all construction contracts subject to this section valued at more than $25,000 in a given fiscal year. The County Executive shall redact any proprietary, trade secret, or otherwise legally privileged or confidential information from contracts prior to posting. For each contract, the County Executive shall note the total number of bidders who competed for the contract. For any construction contract where the County deviates from the competitive bidding process, the County Executive shall post a written justification for the County’s determination.

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

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

2. “Contracting Party” shall mean an owner, developer, construction manager, contractor, subcontractor, or material supplier.

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

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

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

(e) Applicability and Severability

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

(2) Nothing in this section shall prohibit employers and employees from
voluntarily entering into an agreement with a Labor Organization or
adhering to an existing agreement with a Labor Organization, or be
interpreted to regulate or interfere with any employer or employee activity
protected by law, including but not limited to the National Labor Relations
Act.

(3) This section is applicable only to work performed under contract, and is
not applicable to work carried out by the County of Sacramento with its
own forces.

(4) To the extent permitted by law, this section shall be effective the day after
the election at which this section receives the approval of the voters, and
shall apply to all contracts awarded on or after the effective date. This
section shall not apply to contracts awarded before the effective date of
this section.

(5) If any provision, section, subsection, paragraph, or clause of this section of
this County Charter is held by a court of law to be invalid, the remainder
of this section shall not be affected but shall remain in full force and
effect, and to that end the provisions of this section are severable.

SECTION IV. CONFLICTING PROPOSITIONS

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

NOTICE OF INTENTITION TO CIRCULATE PETITION

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

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

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

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

_______________________________________
(Proponent name)