



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Toni Taber, CMC
City Clerk

SUBJECT: Actions Related to the Petition
Initiative Amending the Envision
San José 2040 General Plan

DATE: February 15, 2018

RECOMMENDATION

- (a) Accept the Elections Code 9212 report, as revised, analyzing the Petition Initiative Amending the Envision San José 2040 General Plan (Initiative); and
- (b) As directed by Council on February 13, 2018, adopt a resolution calling an election to submit the Initiative to the voters at the next General Election on June 5, 2018.

BACKGROUND

On February 13, 2018, City Council heard the staff's report analyzing the initiative amending the *Envision San José 2040* General Plan to: (1) create a senior housing overlay land use designation for converting employment lands to senior housing citywide; (2) apply the senior housing overlay to a specific industrial site in Evergreen; (3) amend the *Evergreen-East Hills Development Policy* to address application of the senior housing overlay in Evergreen; (4) adopt the Evergreen Senior Homes Specific Plan for the industrial site; and (5) related Municipal Code changes.

In addition to revisions to the 9212 report (see Supplemental Memorandum), staff was directed to return on March 6, 2018 with a resolution calling for an election to place the Initiative on the June 5, 2018 ballot.

Pursuant to Council direction, and as required under the City Charter and California Elections Code, Council must adopt a resolution calling and giving notice to add the Initiative to the City's next General Municipal Election, to occur on June 5, 2018, at least 88 days beforehand. Eighty-eight days before the June 5, 2018 election is Friday March 9, 2018.

Council must also decide whether to allow arguments, rebuttal arguments, and to print the full text of the Initiative in the Sample Ballot. The cost of those items is detailed below.

COST SUMMARY/IMPLICATIONS

In adopting a resolution calling an election for a ballot measure, the Council may consider certain options which affect the cost of the election. The City of San José consolidates with the Santa Clara County Registrar of Voters for its elections. The estimated total cost of the ballot measure will be approximately \$416,348. This includes the costs for the City Attorney's impartial analysis, ballot arguments, rebuttal arguments, and the full text of the measure. A breakdown of the costs is detailed below:

Item	Measure
Base Cost	\$279,530
Impartial Analysis (one page)	\$22,803
Arguments (one page per argument)	\$45,606
Rebuttals (one page per argument)--optional	\$45,606
Full Text--367 pages—will also incur additional costs to base price to cover postage (numbers to follow from ROV)	\$8,368,609
Not Full Text (statement directing to website)	\$22,803
Total Cost Measure (excluding full text)	\$416,348

The City Council has appropriated \$1,835,400 of the General Fund for election costs in 2017-2018 (Appropriation 3955 – Elections and Ballot Measures) assuming the Registrar of Voter's estimated City costs for the June 5, 2018 election for five council districts (1, 3, 4, 7, and 9), the Mayor, and including one ballot measure is \$1,912,155.

Additionally, the City Council's decisions pertaining to the inclusion of rebuttal arguments and/or the full measure text in sample ballots can offer significant cost savings.

IMPARTIAL ANALYSIS:

The Council may direct the City Attorney to prepare an impartial analysis. (Elec. Code § 9280.) If this step is taken, the City Attorney "shall prepare an impartial analysis of the measure showing the effect of the measure on the existing law and the operation of the measure." The Impartial Analysis appears before the arguments for and against the measure in the voter's handbook and is limited to 500 words. The cost for this one page analysis is estimated at \$22,803 per page.

The deadline to submit the Impartial Analysis to the City Clerk is 12:00 p.m., Tuesday, March 20, 2018.

BALLOT ARGUMENTS:

For a measure placed on the ballot by petition, like the Initiative, the proponents may file a written argument in favor of the measure, and the City Council may approve submitting a written argument against it. (Elec. Code § 9282 (a).) These arguments are limited to 300 words. (Elec. Code § 9282 (c).)

Only one argument for and one argument against will be printed in the Sample Ballot. All ballot arguments must be accompanied by the printed name and signature or printed names and signatures of the author or authors submitting it, or, if submitted on behalf of an organization, the name of the organization and the printed name and signature of at least one of its principal officers who is the author of the argument. In addition, no more than five signatures will appear with any argument. In case any argument is signed by more than five authors, the signatures of the first five shall be printed. (Elec. Code § 9283.)

The deadline to submit ballot arguments to the City Clerk is 12:00 p.m., Tuesday, March 13, 2018.

If more than one argument for or against is submitted, the Elections Code establishes a priority order as follows (Elec. Code §§ 9282, 9287):

1. The legislative body, or member or members of the legislative body authorized by that body.
2. The individual voter, or bona fide association of citizens, or combination of voters and associations, who are the bona fide sponsors or proponents of the measure.
3. Bona fide associations of citizens.
4. Individual voters who are eligible to vote on the measure.

The ballot arguments are generally one page per side, two pages total, and the estimated cost is \$22,803 per page per measure or a total of \$45,606 for two arguments.

REBUTTAL ARGUMENTS:

In addition to ballot arguments, the Council may permit rebuttal arguments, limited to 250 words, to be printed in the Sample Ballot. (Elec. Code § 9285). In the past, the Council did not allow rebuttal arguments for Measure E—Cardroom Gaming in the November 2012 election, nor did they allow rebuttal arguments for Measure G—Employee Retirement Boards Governance Structure and costs were reduced accordingly. The Council, however, did permit rebuttal arguments for Measure B—tax measure in the June 2016 election, and for Measure C—Marijuana Initiative in the June 2016 election.

If the Council chooses to permit rebuttal arguments, the City Clerk will send a copy of the ballot arguments to each side immediately upon receiving the arguments. The author or a majority of the authors of an argument relating to a measure may prepare and submit a rebuttal argument or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument, but no more than five persons may sign the rebuttal. (Elec. Code §§ 9283, 9285.)

Rebuttal arguments are generally one page for each side, two pages, at a cost of \$22,803 per page per measure or a total of \$45,606 for two rebuttals.

If permitted, the deadline to submit rebuttal arguments to the City Clerk is 12:00 p.m., Tuesday, March 20, 2018.

FULL MEASURE TEXT IN THE SAMPLE BALLOT:

In order to reduce elections costs over the past few years, the City Council has decided not to include the full text of ballot measures in the sample ballot. Instead, the full text of the measure(s) has been posted on the City's web page, in multiple languages, and provided to any person upon request to the City Clerk.

The City Attorney's Impartial Analysis would also include the following statement:

“If you would like to read the full text of the measure, see www.sanjoseca.gov/clerk or call (408) 535-1260 and a copy will be sent at no cost to you.” The City Clerk will send, without charge, a copy of the full text of any or all City measures to any person requesting a copy.

The full text of the measure is estimated to take 347 pages, at a cost of \$8,368,609 plus additional costs to cover postage which we have not yet received from the Registrar of Voters at the time of writing. The cost would be \$22,803 without the full text.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the March 6, 2018 Council Meeting.

COORDINATION

This memorandum was coordinated with the City Attorney's Office.

CEQA

Not a Project, File No. PP10-069(c), Potential actions under Election Code §9215, in response to voter-sponsored initiative.

Toni J. Taber, CMC
City Clerk

HONORABLE MAYOR AND CITY COUNCIL

February 23, 2018

Subject: Actions Related to the Petition Initiative Amending the Envision San José 2040 General Plan

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For questions please contact Toni Taber, City Clerk, at (408) 535-1270.