

Legislation Text

File #: ROGC 18-733, **Version:** 1

Update to the San José Wage Theft Prevention Ordinance (Perez, Jones, Carrasco, Jimenez)

1. Approve the attached ordinance (Attachment 1) updating San José's existing Wage Theft Prevention Ordinance to achieve the following goals:

- a. Require Developers proposed major construction projects to disclose wage theft or other violations of labor and employment law committed in the past five years by their prime contractors and their subcontractors; and if any prime contractor or subcontractor has unpaid wage theft claims or other final unsatisfied judgments, citations, or final administrative decisions against them, disqualify that contractor from the project until they have complied with back wages owed or other final judgments, citations, or final administrative decisions.
- b. If the City provides any economic development incentives to private construction projects, those incentives should be subject to penalties if illegal abuses of workers are committed on the project. And direct staff to return to City Council with recommendations for appropriate penalties for Developers, prime contractors, and subcontracts, such as a “clawback” mechanism allowing the City to revoke all or a portion of the incentive if illegal abuses of workers are committed on the project.

2. Adopt the attached amendments (Attachment 2) updating San José's existing Wage Theft Prevention Policy to achieve the following goals:

- a. Remove the exclusion of public works contracts from the policy.
- b. Clarify that the existing definition of “Final Judgments, Decisions, and Orders” also includes judgments resulting from a Civil Wage and Penalty Assessment (CWPA) or from a Bureau of Field Enforcement (BOFE) Page 2 citation, as well as citations for serious, willful, and repeat OSHA violations.