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Office of the City Manager

<u>CONSENT CALENDAR</u>
May 1, 2018

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Mark Numainville, City Clerk

Subject: Calling for a Consolidated General Municipal Election for November 6, 2018

<u>RECOMMENDATION</u>
1) Adopt a Resolution: a) Calling for a General Municipal Election to be consolidated with the Statewide General Election to be held in Berkeley on November 6, 2018; b) Requesting that the Alameda County Board of Supervisors consolidate the City of Berkeley General Municipal Election with the Statewide General Election; c) Authorizing certain procedural and contractual actions; and d) Establishing policies for the filing of candidate statements of qualification.

2) Adopt a Resolution establishing policies and timelines for filing ballot measure arguments.

<u>FISCAL IMPACTS OF RECOMMENDATION</u>
The table below shows the year-by-year costs for elections since 2008. The dramatic cost increase that occurred in 2012 and 2014 is due primarily to general year-over-year increases, and the addition of two more required languages (Vietnamese and Tagalog). The cost increase in 2016 is due to a surcharge from the Registrar of Voters to pay for replacement of the voting machines in 2020 or 2022. This surcharge will continue for several more election cycles.

	Election						
	Nov. 2008	**Jun. 2010**	**Nov. 2010**	**Nov. 2012**	**Nov. 2014**	**Nov. 2016**	**Mar. 2017**
No. of Measures	7	1	3	10	7	11	0
No. of Candidates	25	0	31	26	23	29	2
General Costs	$224,576	$191,732	$164,816	$367,884	$392,331	$706,901	-
RCV Costs	N/A	N/A	$257,956*	$101,041	$189,148	$181,954	-
Total Costs	$224,576	$191,732	$422,772	$468,925	$581,479	$888,855	$85,628

* Includes first-year startup costs for software purchase and public outreach

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Calling for a Consolidated General Municipal Election   CONSENT CALENDAR
for November 6, 2018   May 1, 2018

CURRENT SITUATION AND ITS EFFECTS
The City of Berkeley is required under the City's Charter to conduct its general municipal elections in November of each even-numbered year. Adopting this resolution is the first official step toward holding the regular municipal election.

The resolution in Attachment 1: a) calls for a General Municipal Election and requests the Alameda County Board of Supervisors accept consolidation of the City's General Municipal Election with the Statewide General Election on November 6, 2018; b) provides authority for the City Clerk to enter into contracts necessary for election supplies and services for the general election; c) provides authority for the City Clerk to hire temporary staff as needed to assist with the conduct of this election; d) adopts certain administrative policies for the filing of candidate statements; and e) authorizes the filing of rebuttal arguments for City ballot measures pursuant to Elections Code Section 9285.

The resolution in Attachment 2 establishes policies and timelines for filing ballot measure arguments on city measures.

BACKGROUND
Since 2010, voters have selected candidates for Mayor, Auditor, and City Council using Ranked-Choice Voting (RCV). In 2018 voters will continue to use RCV, thus eliminating the need for any runoff election. The use of RCV does not affect any of the actions stated in the resolution calling the election.

The City Charter, State Elections, and Government Codes require adoption of a resolution requesting consolidation, and authorizing procedural, contractual and organizational actions in connection with the General Municipal Election to be held on November 6, 2018.

ENVIRONMENTAL SUSTAINABILITY
There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION
The proposed action is mandated by state code in order to carry out the provisions of the City Charter.

ALTERNATIVE ACTIONS CONSIDERED
None.

CONTACT PERSON
Mark Numainville, City Clerk, 981-6900

Attachments:
1: Resolution Calling the November 6, 2018 General Municipal Election
2: Resolution Establishing Policies and Timelines for Filing Ballot Measure Arguments
      Exhibit A: Selection Procedure for Multiple Ballot Measure Arguments
      Exhibit B: Ballot Measure Argument Consent Form
      Exhibit C: Signature Form for Proponents

RESOLUTION NO.

CALLING FOR A GENERAL MUNICIPAL ELECTION TO BE CONSOLIDATED WITH THE STATEWIDE GENERAL ELECTION ON NOVEMBER 6, 2018

WHEREAS, a General Municipal Election is to be held on Tuesday, November 6, 2018, in and for the City of Berkeley; and

WHEREAS, certain actions are required in connection with said election.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the General Municipal Election to be held in the City of Berkeley on November 6, 2018 is hereby called.

BE IT FURTHER RESOLVED as follows:

1. In accordance with the provisions of Section 10002 and 10403 of the Elections Code of the State of California, the Alameda County Board of Supervisors is requested to consolidate the City of Berkeley General Municipal Election with the Statewide General Election to be held November 6, 2018.

2. The Registrar of Voters of Alameda County is requested to perform services in connection with said election at the request of the City Clerk. These services include all necessary services related to signature checking for nomination petitions and signatures-in-lieu of filing fee, official ballot creation, sample ballot and voter information pamphlet preparation, vote-by-mail, polling places, poll workers, voter registration, voting machines, canvass operations, and any and all other services necessary for the conduct of the consolidated election.

3. The City hereby requests that the Registrar of Voters conduct the election for City Council and Auditor using ranked choice voting in accordance with the executed Memorandum of Understanding between the City and the Registrar as well as Berkeley Municipal Code Section 2.14.010 et. seq.

4. The Board of Supervisors of Alameda County is requested to include on the ballots and sample ballots, all qualified measures submitted by the City Council to be ratified by the qualified electors of the City of Berkeley.

5. That the City of Berkeley acknowledges that the consolidated election will be held and conducted in the manner prescribed in Elections Code Section 10418.

6. The City Clerk is hereby directed to cause the posting, publication and printing of all notices or other election materials pursuant to the requirements of the Charter of the City of Berkeley and the Elections and Government Codes of the State of California.

7. The City Clerk is hereby authorized to enter into any contracts necessary for election consulting services, temporary employment services, printing services, and any such other supplies and services as may be required by the statutes of the State of California and the Charter of the City of Berkeley for the conduct of the November General Municipal Election.

8. The offices to be voted upon at the General Municipal Election shall be:
    a) One council member seat, District 1, term ending November 30, 2022
    b) One council member seat, District 4, term ending November 30, 2022
    c) One council member seat, District 7, term ending November 30, 2022
    d) One council member seat, District 8, term ending November 30, 2022
    e) One seat for auditor, term ending November 30, 2022
    f) Three school board director seats, terms ending November 30, 2022
    g) Five rent stabilization board commissioner seats, terms ending November 30, 2022;

9. The offices of auditor and council member require a 50%+1 majority in the ranked choice voting system to be elected. The offices of school board director and rent stabilization board commissioner require a plurality of the votes cast.

10. Candidates may file a statement of qualification pursuant to the regulations in the Elections Code, the City Charter, the Municipal Code, and the policies set forth below:

    a. Candidate statements must be filed no later than the last day to file nomination papers.
    b. Candidate statements must be filed at the same time as completed nomination papers are filed.
    c. Statements may not be changed once they are submitted. Statements may be withdrawn until 5:00 p.m. on the next business day after the close for the nomination period.
    d. Statements are confidential until the close of the nomination period. The statements are subject to public review and contest.
    e. There shall be no fee charged by the city for the submission of a candidate statement of qualifications.
    f. Statements must be typed or printed from a computer. If prepared on a computer, submit the statement in electronic format in addition to the required hard copy.
    g. Statements shall be submitted in plain text formatting, single paragraph, without any formatting such as underline, bold, italics or all caps.
    h. Candidate statements must be attached to the form provided by the City Clerk when filed.
    i. Statements are limited to 200 words. The word counting guidelines in Section 9 of the Elections Code shall govern the counting of words.
    j. The candidate statement will be translated into Spanish, Chinese, Vietnamese, and Tagalog pursuant to the requirements of the Federal Voting Rights Act.
    k. Signed and completed consent forms are required for each Berkeley resident referenced as an endorser (no less than 5, no more than 20) and for any person and any organization mentioned in the text of the statement as an endorser or supporter.
    l. For any discrepancy between the information listed on the hard copy of a candidate statement or candidate statement form and the consent form, the signed consent form will take precedence.
    m. The name and title of an endorser will be printed exactly as it is written on the consent form.

n. The total word count for all title(s) of a single endorser shall not exceed 20 words. In the case that there are more than 20 words, the title will be truncated at the 20th word. Words will be counted in accordance with Elections Code Section 9.

o. Any mention of partisan activity or membership is prohibited.

p. Any mention of any opponent or other candidate for the same office is prohibited.

q. A candidate may submit a photograph of himself or herself to be printed with his or her statement. Hard copy or electronic photo must be submitted at the same time the candidate statement is filed in order to be included in voter pamphlet.

11. Pursuant to Elections Code Section 9285 (b), the City Council hereby adopts the provisions of Elections Code Section 9285 (a) providing for the filing of rebuttal arguments for city ballot measures.

RESOLUTION NO –N.S.

ESTABLISHING THE SCHEDULE AND POLICY PROVIDING FOR THE FILING OF BALLOT ARGUMENTS FOR CITY MEASURES SUBMITTED AT MUNICIPAL ELECTIONS

WHEREAS, the City Council will likely submit ballot measures to the voters at the November 6, 2018 election; and

WHEREAS, it is necessary to establish a schedule and policy for the filing of ballot arguments.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the following policy is hereby adopted for the November 6, 2018 General Municipal Election:

Section 1. The Primary Argument filing period opens at 8:00 a.m. on August 13, 2018 and closes at 12:00 p.m. on August 17, 2018. The Rebuttal Argument filing period opens at 4:00 p.m. on August 17, 2018 and closes at 12:00 p.m. on August 24, 2018.

Section 2. The 10-day public review period for all ballot materials opens at 4:00 p.m. on August 24, 2018 and closes at 5:00 p.m. on September 4, 2018.

Section 3. Primary Arguments for or against ballot measures shall not exceed 300 words in length. Rebuttal Arguments for or against ballot measures shall not exceed 250 words in length *(EC 9282, 9285).* Word count will be determined using the standards set forth in Elections Code Section 9.

Section 4. If more than one argument is submitted on a measure, the City Clerk shall select the argument and shall give preference, in the order named, to arguments of the following: *(EC 9287)*

   a) The legislative body, or member or members of the legislative body authorized by that body.
   b) 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.
   c) Bona fide associations of citizens.
   d) Individual voters who are eligible to vote on the measure.

If more than one argument from the same level of standing is submitted, the argument to be printed will be determined by the procedure in Exhibit A.

Section 5. Each ballot argument must be accompanied by the printed name(s) and signature(s) of the person or persons 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. *(EC 9283)*

   a. The consent form in Exhibit B must be submitted in order to use an organization name for the title of a signor or as an endorser in the argument text.

b. If the argument is filed by, 1) the legislative body or authorized members of the legislative body; or 2) individual voters eligible to vote on the measure, then, pursuant to Elections Code Sections 9282 and 9283, all signors to the argument must be eligible to vote on the measure.

Section 6. No more than five signatures shall appear with any argument. In case any argument is signed by more than five persons, the signatures of the first five shall be printed. *(EC 9283)* Authors must list the signors names on the argument in the order they are to be printed.

Section 7. The certification of the author(s) and proponent(s) in Exhibit C must be submitted at the time the respective primary argument or rebuttal argument is filed. A separate signature form is required for the rebuttal argument even if the same signor completed a form for the primary argument. *(EC 9600)*

Section 8. For proponents of ballot arguments whose name and title shall appear with the argument in the voter pamphlet, the title of said proponent is limited to 20 words. In the case that there are more than 20 words, the title will be truncated at the 20th word. Words will be counted in accordance with Elections Code Section 9.

Section 9. The names and titles of proponents will be printed exactly as they appear on the "Printed Name" line and the "Title" line on the consent form in Exhibit C.

Section 10. The Consent Form for Use of Organization Name for Ballot Argument/Rebuttal Statements shown in Exhibit B is required for any proponent and/or signatory that uses the name of any organization in their title. If using more than one organization name in the full title(s), a separate consent form is required for each organization.

a. Consent forms are required for persons and/or organizations listed as supporters in the text of the argument.

b. Offices held with public agencies (including city boards and commissions) do not require a consent form from the jurisdiction.
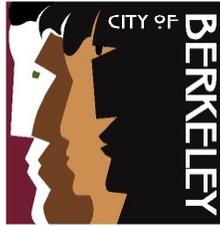
Section 11. The City Clerk, upon receipt of arguments and after the filing deadline, will immediately transmit copies to any known opposing parties who may then submit rebuttals within the time period shown above. *(EC 9285)*

Section 12. Primary arguments may be changed or withdrawn up to 12:00 p.m., August 17, 2018. Rebuttal arguments may be changed or withdrawn up to 12:00 p.m., August 24, 2018. Arguments received prior to the deadline are confidential until the deadline.

Section 13. Only those person(s) whose argument has been selected by the City Clerk in accordance with Election Code 9287 may file a rebuttal argument. *(EC 9285)*

Section 14. Primary and rebuttal arguments must be typed or printed from a computer. Hand written arguments will not be accepted. If prepared on a computer, submit the primary/rebuttal argument in electronic format in addition to the required hard copy.

BE IT FURTHER RESOLVED that these provisions, excluding the date specific deadlines, shall remain in effect for all future elections until superseded.

**CITY OF BERKELEY
CITY CLERK DEPARTMENT**

**Selection Procedure
Multiple Ballot Measure Arguments**

Elections Code Section 9287 establishes a hierarchy for the submission of arguments to determine whose argument has priority.

9287. If more than one argument for or more than one argument against any city measure is submitted to the city elections official within the time prescribed, he or she shall select one of the arguments in favor and one of the arguments against the measure for printing and distribution to the voters. In selecting the argument the city elections official shall give preference and priority, in the order named, to the arguments of the following:

(a) The legislative body, or member or members of the legislative body authorized by that body.

(b) 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.

(c) Bona fide associations of citizens.

(d) Individual voters who are eligible to vote on the measure.

(e) In order to enable the city elections official to determine whether it qualifies as a bona fide association of citizens, an organization or association submitting an argument for or against a city measure shall submit with its argument a copy of one of the following:

1. Its articles of incorporation, articles of association, partnership documents, bylaws, or similar documents.

2. Letterhead containing the name of the organization and its principal officers.

3. If the organization or association is a primarily formed committee established to support or oppose the measure, its statement of organization filed pursuant to Section 84101 of the Government Code.

(f) In selecting an argument from among bona fide associations of citizens, the city elections official shall not consider the type of documentation submitted pursuant to subdivision (b) or the form of the association.

The Elections Code does not require that the signors of the argument, when filed by a bona fide association of citizens, must reside or be registered to vote in the jurisdiction that is voting on the measure.

If the argument is being filed by a bona fide association, Election Code Section 9283 requires that "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" must accompany the argument.

The Elections Code does not contain any provision for selecting an argument based on which argument was filed first, or earliest in relation to any arguments filed later, but before the deadline. All arguments filed before the deadline are considered equal in priority.

The Elections Code clearly states that only one argument for and one argument against may be printed **(EC Sec. 9287).** If two or more parties filing an argument for or against a measure fall under the same classification, then the Elections Official shall select one argument to print. The Elections Official will determine the most appropriate procedure to select the argument to be printed.

The Berkeley Municipal Code and the City Charter do not stipulate a method for selecting arguments if multiple arguments of equal standing are filed. Therefore, state law is followed to make the determination.

The procedure to determine the winning candidate in the case of a tie vote is by drawing of lots **(EC Sec. 15651)**. The Elections Official may determine that the drawing of lots, as outlined below, is the most appropriate means to select the argument to be printed.

Procedure for Drawing of Lots

The names of the authors of the arguments shall be written on pieces of paper, folded, and placed in a container. The container will be agitated to mix the papers, and then one paper shall be drawn at-a-time. As each piece of paper is removed, it will be opened and the name recorded in the order it was removed.

The order in which the names are removed from the container shall be the order of priority for printing the argument, i.e., the first name chosen shall be the author whose argument shall be printed.

Arguments for a measure and arguments against a measure will each have their own drawing process.

The results will then be posted in the City Clerk Department.

BALLOT MEASURE ARGUMENT CONSENT FORM
► PRIMARY ARGUMENT ◄

<u>CONSENT FOR USE OF ORGANIZATION NAME</u>

I hereby consent that my organization's name may be referred to as an endorser either

within the text of the primary argument or in the title of the signatory listed below for city

ballot measure _____ at the City of Berkeley
<div align="center">(subject or measure letter)</div>

General Municipal Election to be held on November 6, 2018.

To be completed by
Organization Principal:

_____
Printed Name of Principal

_____
Signature of Principal

_____
Title

_____
Organization Name

_____
Date

_____
Printed Name of Signatory

- -

<u>CONSENT FOR USE OF ENDORSER NAME</u>

I hereby consent that my name may be referred to as an endorser within the text of the

primary argument for City Ballot Measure _____
<div align="center">(subject or measure letter)</div>
at the City of Berkeley General Municipal Election to be held on November 6, 2018.

To be completed by
Endorser:

_____
Printed Name of Endorser

_____
Signature of Endorser

_____
Title

CONSENT FORM FOR USE OF ORGANIZATION NAME
► REBUTTAL ARGUMENT ◄

I hereby consent that my organization's name may be referred to as an endorser either

within the text of the rebuttal argument or in the title of the signatory listed below for city

ballot measure _____ at the City of Berkeley
                            (subject or measure letter)

General Municipal Election to be held on November 6, 2018.

To be completed by
Organization Principal:

_____
Printed Name of Principal

_____
Signature of Principal

_____
Title

_____
Organization Name

_____
Date

_____
Printed Name of Signatory

- -

<u>CONSENT FOR USE OF ENDORSER NAME</u>

I hereby consent that my name may be referred to as an endorser within the text of the

rebuttal argument for City Ballot Measure _____
                                        (subject or measure letter)

at the City of Berkeley General Municipal Election to be held on November 6, 2018.

To be completed by
Endorser:

_____
Printed Name of Endorser

_____
Signature of Endorser

_____
Title

Exhibit C

SIGNATURE FORM FOR PROPONENTS
► PRIMARY ARGUMENT ◄

EC 9600: "All arguments concerning measures filed pursuant to this division shall be accompanied by the following form statement, to be signed by each proponent and by each author, if different, of the argument:"

The undersigned proponent or author of the ballot argument ☐ *in favor of or*

☐ *against ballot measure* _____ *at the*
                                                (subject or measure letter*)*

General Municipal Election for the City of Berkeley to be held on November 6, 2018,

hereby states that this argument is true and correct to the best of his/her/their

knowledge and belief:

Signed:_____   Date: _____

Printed Name: _____
                      (Name will be printed exactly as written on this line)

Full Title: _____
                      (Title will be printed exactly as written on this line – limit 20 words)

Residence Address: _____

Phone Number: _____

☐ For the City of Berkeley General Municipal Election to be held on November 6, 2018, I hereby consent that my name may be referred to as an endorser within the text of the primary argument for City Ballot Measure _____.
                                                                      (subject or measure letter)

➢ *For any argument filed by the City Council or an individual voter, all signors must be eligible to vote on the measure (i.e. Berkeley resident, at least 18 years old on Election Day, U.S. citizen, not incarcerated in a state or federal prison or on parole for the conviction of a felony, and not currently found mentally incompetent to vote by a court).*
➢ *For any signor on a city ballot measure, a consent form is required for the use of any organization name in the signor's title(s). The organization must consent to the use of its name for all signors.*
➢ *Offices held with public agencies (including city boards and commissions) do not require a consent form from the jurisdiction.*
➢ *If using more than one organization name in the full title(s), a separate consent form is required for each organization.*

SIGNATURE FORM FOR PROPONENTS

► REBUTTAL ARGUMENT ◄

EC 9600: "All arguments concerning measures filed pursuant to this division shall be accompanied by the following form statement, to be signed by each proponent and by each author, if different, of the argument:"

The undersigned proponent or author of the ballot argument ☐ *in favor of or*

☐ *against ballot measure* _____ *at the*
                                                                    (subject or measure letter)

General Municipal Election for the City of Berkeley to be held on November 6, 2018,

hereby states that such argument is true and correct to the best of his/her/their

knowledge and belief:

Signed:_____ Date: _____

Printed Name: _____
                        (Name will be printed exactly as written on this line)

Full Title: _____
                        (Title will be printed exactly as written on this line – limit 20 words)

Residence Address: _____

Phone Number: _____

☐ For the City of Berkeley General Municipal Election to be held on November 6, 2018, I hereby consent that my name may be referred to as an endorser within the text of the rebuttal argument for City Ballot Measure _____.
                                                                    (subject or measure letter)

➢ *For any argument filed by the City Council or an individual voter, all signors must be eligible to vote on the measure (i.e. Berkeley resident, at least 18 years old on Election Day, U.S. citizen, not incarcerated in a state or federal prison or on parole for the conviction of a felony, and not currently found mentally incompetent to vote by a court).*
➢ *For any signor on a city ballot measure, a consent form is required for the use of any organization name in the signor's title(s). The organization must consent to the use of its name for all signors.*
➢ *Offices held with public agencies (including city boards and commissions) do not require a consent form from the jurisdiction.*
➢ *If using more than one organization name in the full title(s), a separate consent form is required for each organization.*