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INTRODUCED BY COUNCIL MEMBERS LIBBY SCHAAF AND DAN KALB

APPROVED AS TO FORM AND LEGALITY

DRAFT

CITY ATTORNEY

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION ON THE CITY COUNCIL'S OWN MOTION SUBMITTING TO THE VOTERS AT THE NOVEMBER 4, 2014 STATEWIDE GENERAL ELECTION, A PROPOSED ORDINANCE TO AMEND THE CITY CHARTER TO CREATE THE CITY OF OAKLAND INDEPENDENT REDISTRICTING COMMISSION; CONSOLIDATING THE ELECTION WITH THE STATEWIDE GENERAL ELECTION; AND DIRECTING THE CITY CLERK TO TAKE ANY AND ALL ACTIONS NECESSARY UNDER LAW TO PREPARE FOR AND CONDUCT THE ELECTION

WHEREAS, the City of Oakland is divided into seven legally apportioned districts (City of Oakland Charter, Article II, Section 203); and

WHEREAS, the City is required by the Charter to perform a redistricting process every 10 years, starting in 1993, which will create districts composed of contiguous territory, as equal as possible in population, and as geographically compact as practicable; and

WHEREAS, the City's redistricting process will follow principles of equal protection under the Fourteenth Amendment to the United States Constitution, that districts shall have a population as equal as practicable; and

WHEREAS, the City of Oakland is among the most racially and ethnically diverse major cities in the nation with similarly robust economic and geographic diversity; and

WHEREAS, it is in the best interest of the City of Oakland to establish an Independent Redistricting Commission to draw the necessary boundary changes; now, therefore be it

RESOLVED: That the City Council of the City of Oakland does hereby submit to the voters at the November 4, 2014, statewide general election, an Amendment to the City Charter, as set forth below (section numbers and titles are indicated in **bold type**; additions are indicated by underscoring and deletions are indicated by strike-through type; portions of the City Charter not cited or not shown in underscoring or strike-through type are not changed), which reads as follows:

Section 1. Title.

City of Oakland Independent Redistricting Commission

Section 2. Amendment to Article II of the Charter of the City of Oakland to establish the City of Oakland Independent Redistricting Commission.

The Independent Redistricting Commission shall be empowered to divide the city into seven geographical council districts for the election of Councilmembers and Oakland Unified School Board of Directors. The Commission shall designate each council district by a number.

Section 3. Redistricting.

Section 220 is added to Article II of the Charter of the City of Oakland, to read as follows:

Section 220.Redistricting of City Council and School Board Districts.

(A) For purposes of this section, the following terms are defined:

(1) COMMISSION means the Independent Redistricting Commission.

(2) CONTROLLING PERSON means an officer, director, manager, principal, or shareholder or member owning at least 10% of a legal entity.

(3) ALTERNATE means a non-voting Commissioner who may be sworn in due to any vacancy.

(B) In 2021 and thereafter in each year following the year in which the national census is taken under the direction of Congress at the beginning of each decade, or whenever any substantial territory is annexed to or consolidated with the City, the Commission shall adjust the boundary lines of the seven(7)City Council and Oakland Unified School Board of Directors districts in conformance with the standards and process set forth in this article. The Commission shall be fully established no later than September 1, 2020, and thereafter no later than September 1 in each year ending in the number (0). The Commission shall not draw district lines at any other time, except if the districts must be redrawn because of a judicial decision invalidating the then existing district plan, in whole or in part.

(C) The Commission shall:

(1) Conduct an open and transparent process enabling full public consideration of and comment on the drawing of district lines;

(2) Draw district lines according to the redistricting criteria specified in this section.

(3) Conduct itself with integrity and fairness. The Commissioner selection process is designed to produce a Commission that is independent and is reasonably representative of the geographic, racial, ethnic and economic diversity of the City of Oakland.

(D) The Commission shall consist of thirteen sitting members and two alternates.

(1) Each Commissioner and alternate shall be a resident of the City of Oakland for at least the three years preceding the date of application.

(2) The term of office of each Commissioner and alternate shall expire after the final district lines are adopted and no longer subject to legal challenge. In the event of a legal challenge, terms of office will terminate when appeals of such challenge have been exhausted and a final decision entered.

(3) Nine members of the Commission shall constitute a quorum. Approval of the final map requires the affirmative votes of nine Commissioners.

(4) Each Commissioner and alternate shall apply this section in a manner that is impartial and that reinforces public confidence in the integrity of the redistricting process. A Commissioner shall be ineligible, for a period of ten years beginning from the date of appointment, to hold elective public office for the City of Oakland. A member of the Commission shall be ineligible, for a period of four years beginning from the date of appointment, to hold appointive public office for the City of Oakland or Oakland Unified School Board, to serve as paid staff for or as a paid consultant to Oakland City Council, or any member of the City Council or Oakland School Board, to receive a non-competitively bid contract with the City of Oakland, or to register as a lobbyist. This four year ban on having a paid consultancy or entering non-competitively bid contracts applies to the member individually and all entities for which the member is a controlling person.

(E) The Commission shall establish the boundaries of the council and school districts for the City of Oakland in a plan using the following criteria as set forth in the following order of priority:

(1) Districts shall comply with the United States Constitution. Each council and school district shall have reasonably equal population with other districts, except where deviation is required to comply with the federal Voting Rights Act or permitted by law.

(2) Districts shall comply with the federal Voting Rights Act, commencing at 42 U.S.C. Section 1971, the California Voting Rights Act, commencing at Section 14025 of the Elections Code, and any other requirement of federal or state law.

(3) Districts shall be geographically contiguous.

(4) The geographic integrity of any local neighborhood or local community of interest shall be respected in a manner that minimizes their division to the extent possible without violating the requirements of any of the preceding

subsections. A community of interest is a contiguous population that shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation. Communities of interest shall not include relationships with political parties, incumbents, or political candidates.

(5) To the extent practicable, district boundaries shall be drawn to encourage geographical compactness such that nearby areas of population are not bypassed for more distant populations.

(6) Districts may not be drawn for the purpose of favoring or discriminating against an incumbent or political candidate.

(7) The Commission may establish and consider additional criteria that comply with the above listed criteria and the requirements of federal and state law.

(F) Prior to the appointment of the first Commission, the City Attorney shall draft, and the City Council shall approve, interim regulations necessary for appointment of the first commission. The commission shall adopt permanent regulations governing its operations in consultation with the City Attorney.

(G) By December 31, 2021, and in each year ending in the number one (1) thereafter, the Commission shall adopt a final plan for the City of Oakland specifically describing the district boundaries for each of the council and school districts prescribed above. Upon adoption, the commission shall certify the plan to the City Council. The City Council may not change the plan. The plan shall have the force and effect of law.

(1) The Commission shall issue a report that explains the basis on which the Commission made its decisions in achieving compliance with the criteria listed above and shall include definitions of the terms and standards used in drawing the final plan.

(2) If the Commission does not adopt a final plan by the dates in this section, the City Attorney for the City of Oakland shall immediately petition state court for an order prescribing the boundary lines of the districts in accordance with the redistricting criteria and requirements set forth in this Section. The plan prescribed by the court shall be used for all subsequent City Council elections until a final plan is adopted by the commission to replace it.

(H) The City Attorney shall serve as legal counsel to the Commission in the manner provided for in Section 401(6) of Article IV of the City Charter.

(I) Commissioners shall disclose all contact regarding the Commission's subject matter jurisdiction that occurs outside of a publicly noticed meeting. Commissioners shall disclose these contacts no later than the commission's next regular or special meeting. The Commission shall establish procedures for disclosure. These procedures

shall, at minimum, require disclosure of contacts with incumbent members of the City Council and School Board regarding matters before the commission.

(J) Commission Selection Process

(1) No later than July 1, 2019, and in each year ending in the number zero (0) thereafter, the City Attorney shall draft regulations, subject to the City Council's approval, that establish minimum standards for outreach efforts to recruit a robust pool of applicants, and to establish criteria for the selection of a screening panel, composed of one retired judge who resides in Oakland, one volunteer who shall be a student at a law school accredited by the Committee of Bar Examiners of the State Bar of California or graduate public policy student, and three one representatives of a local 501(c)(3) nonprofit good government organizations. Members of the screening panel shall be subject to the same qualifications as the Commissioners.

(2) No later than January 1, 2020, and in each year ending in the number zero (0) thereafter, the City Administrator or his or her designee shall recruit and select members for the selection panel based on criteria approved by the City Council as required by subdivision (J)(1).

(3) The City Administrator or his or her designee shall do all of the following:

(a) No later than January 1, 2020, and in each year ending in the number zero (0) thereafter, initiate and widely publicize an application process, open to all residents of Oakland who meet the requirements of subdivision (D)(1), in a manner that promotes a qualified Commissioner applicant pool that is large and reflective of the geographic, racial, ethnic and economic diversity of the City of Oakland. This process shall remain open until April 1, 2020 and in each year ending in the number zero (0) thereafter.

(b) Create a reader-friendly application available electronically and in hard copies for prospective commissioners, and seek assistance from a broad range of community-based organizations in its outreach efforts. Applicants shall attest on the application, under penalty of perjury, that the information provided is true.

(c) Ensure that the pool has at least three qualified applicants from each existing City Council district.

(d) Take all reasonable and necessary steps to ensure that the pool has the requisite numbers, diversity, and qualifications.

(4) If the pool of eligible applicants is not sufficient as outlined in the requirements of subdivision (J)(3) after 6 weeks of recruitment efforts, the City

Administrator shall make additional outreach to ensure that the pool meets these requirements.

(5) Based on review of the applications, the City Administrator or his or her designee shall remove from the Commissioner applicant pool any of the following:

(a) A person with a conflict of interest, as defined in the Political Reform Act, commencing at Section 81000 of the Government Code.

(b) A person who is, on the date of application, a paid employee of City of Oakland or serving on a City of Oakland commission.

(c) A person who has been, within the five years immediately preceding the date of application a paid employee of any redistricting contractor or consultants

(d) A person who, or whose spouse, parent, child, or registered domestic partner, has been, within ten years immediately preceding the date of application, any of the following:

(i) Elected to, or a candidate for, local office.

(ii) An employee, or paid consultant or contractor to a campaign for local office.

(iii) Registered or required to be registered as a local lobbyist.

(iv) A paid employee of, a consultant to, or under contract with any elected City of Oakland Official.

(v) A principal officer of an active campaign committee domiciled in Alameda County that has made expenditure on local Oakland candidate elections.

(d) A person who has contributed 50% or more of the allowable amount to candidates for City of Oakland elective office in the last city election.

(6) No later than July 1, 2020, and in each year ending in the number zero (0) thereafter, the City of Oakland City Administrator shall review and remove individuals who are disqualified under subdivision (J)(5) from among the Commission applicants. The City Administrator shall then publicize the names of all members of the eligible applicant pool, which must contain at least 40 qualified candidates, including at least 3 applicants from each existing City

Council district, by mid-July, 2020, and in each year ending in the number zero (0) thereafter, at the final July City Council meeting.

(7) From the eligible applicant pool, the screening panel shall select through an open and public process the thirty applicants most qualified to perform the duties of the Commission and who are reflective of the geographic, racial, ethnic and economic diversity of the City of Oakland, including at least two from each district. This subpool shall also be created on the basis of relevant analytical skills, ability to be impartial, and apparent ability to work together well with other potential commissioners.

(8) The City Clerk, or his or her designee, shall randomly draw at a public meeting six names from the remaining pool of applicants. These six individuals shall serve on the Commission.

(9) The six Commissioners shall review the remaining names in the pool of applicants and, from the remaining applicants in that pool, shall appoint seven applicants to the commission and two alternates. The appointed Commissioners and Alternates shall be selected in an open and public process and as the most qualified to perform the duties of the commission and reflective of the geographic, racial, ethnic and economic diversity of the City of Oakland, including at least one Commissioner from each district. The six Commissioners shall approve the additional Commissioners and alternates by at least four affirmative votes.

(10) The City Attorney and the City Administrator, or his or her designee, shall train the Commissioners prior to beginning their work. The training shall cover the open meeting requirements of the Ralph M. Brown Act.

(K) Citizens Redistricting Commission Vacancy, Removal, Resignation, or Absence.

(1) In the event of substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office, a member of the Commission, having been served written notice and provided with an opportunity for a response, is subject to removal by the Commission. Removal of a Commissioner requires approval by two-thirds vote.

(2) Any vacancy, whether created by removal, resignation, or absence, in the thirteen commission positions shall be filled by the Commission within 15 days after the vacancy occurs, from the two available alternates.

(L) The activities of the Citizens Redistricting Commission are subject to all of the following:

(1) The commission shall comply with all applicable state and city requirements for open meetings, including the Ralph M. Brown Act, commencing at Section 54950 of the Government Code, and the City's Sunshine Ordinance at Chapter 2.20 of the Oakland Municipal Code.

(2) The City of Oakland Administrator shall designate staff to support the Commission. The Commission shall approve consultants as needed following a competitive bidding process. Compensation of such persons shall be limited to the period in which the Commission is active.

(3) An employer may not threaten, intimidate or coerce an employee by reason of the employee's membership on the Commission.

(4) The Commission shall establish and implement an open hearing process for public input and deliberation that shall be subject to public notice and promoted through an extensive outreach program to solicit broad public participation in the redistricting public review process. The hearing process shall include hearings to receive public input before the Commission draws any maps and hearings following the drawing and display of any Commission maps. In addition, hearings shall be supplemented with other activities as appropriate to further increase opportunities for the public to observe and participate in the review process. The Commission shall display the maps for public comment in a manner designed to achieve the widest public access reasonably possible. Public comment and Commission meetings should include a variety of hours. Public comment shall be taken for at least 14 days from the date of public display of any map.

(5) The City Council shall appropriate funds to meet the operational needs of the Commission and any outreach program to solicit broad public participation in the redistricting process of at least the amount spent in 2013 on redistricting adjusted for inflation using the Consumer Price Index. The City Council shall allocate the pro rata share of the total estimated cost beginning in year 2015 and each year ending in two (2) thereafter, in anticipation of the redistricting year.

Section 4. Conforming Amendment. Section 203 of Article II of the Charter of the City of Oakland is amended to read as follows:

Section 203. Nomination and Election of Councilmembers.

Seven Councilmembers shall be nominated from districts and one shall be nominated at large. The Councilmember-at-large shall be nominated and elected by the qualified electors of the City at large. The District Councilmembers shall be nominated and elected by the qualified electors of their respective districts. The districts shall be as they exist upon the taking effect of this section, until revised by ordinance. ~~In the year 1993, and every ten years thereafter, and whenever any substantial territory is annexed to or consolidated with the City, the Council shall form new districts not~~

~~exceeding seven. Districts shall be composed of contiguous territory, as equal as possible in population, and as geographically compact as practicable. The Independent Redistricting Commission shall establish district boundaries in accordance with the provisions of this Article and applicable federal and state constitutional and statutory requirements.~~ No change in the boundary of a district shall operate to exclude an incumbent from office before the expiration of the term for which he or she was elected or appointed.

and be it

FURTHER RESOLVED: That the City Council of the City of Oakland does hereby request that the Board of Supervisors of Alameda County order the consolidation of the Oakland Municipal election with the statewide general election of November 4, 2014, consistent with provisions of State Law; and be it

FURTHER RESOLVED, that each ballot used at said election shall have printed thereon, in addition to any other matter required by law, the following:

PROPOSED OAKLAND CHARTER AMENDMENT

AN AMENDMENT TO THE CHARTER OF THE CITY OF OAKLAND TO CREATE THE CITY OF OAKLAND INDEPENDENT REDISTRICTING COMMISSION AND TRANSFERRING AUTHORITY TO DRAW DISTRICT BOUNDARY LINES FOR THE CITY COUNCIL AND OAKLAND UNIFIED SCHOOL DISTRICT FROM THE CITY COUNCIL TO THE COMMISSION.

<p>Measure __. Shall the Charter of the City of Oakland be amended to transfer to a 13-member independent redistricting commission the City Council's authority to redraw the district boundary lines for the City Council and Oakland Unified School District?</p>	<p>Yes</p>	
	<p>No</p>	

FURTHER RESOLVED: That the City Council hereby authorizes and directs the City Clerk of the City of Oakland (the "City Clerk") at least 88 days prior to November 4, 2014, to file with the Alameda County Clerk certified copies of this resolution; and be it

FURTHER RESOLVED: That the City Council does hereby request that the Board of Supervisors of Alameda County include on the ballots and sample ballots recitals and measure language to be voted on by the voters of the qualified electors of the City of Oakland; and be it

FURTHER RESOLVED: That the City Clerk is hereby directed to cause the posting, publication and printing of notices, pursuant to the requirements of the Charter of the

City of Oakland, Chapter 3 of the Oakland Municipal Code, the Government Code and the Election Code of the State of California; and be it

FURTHER RESOLVED: That the City Council does hereby request that the Registrar of Voters of the County of Alameda perform necessary services in connection with said election; and be it

FURTHER RESOLVED: That the City Clerk is hereby directed to obtain printing, supplies and services as required; and be it

FURTHER RESOLVED: That the City Clerk is hereby authorized to provide such other services and supplies in connection with said election as may be required by the Statutes of the State of California and the Charter of the City of Oakland; and be it

FURTHER RESOLVED: That in accordance with the Elections Code and Chapter 11 of the Oakland Municipal Code, the City Clerk shall fix and determine a date for submission of arguments for or against said proposed Ordinance and rebuttals, and said date shall be posted in the Office of the City Clerk; and be it

FURTHER RESOLVED: That the City Clerk and City Administrator are hereby authorized and directed to take any and all actions necessary under law to prepare for and conduct the 2014 statewide general election and appropriate all monies necessary for the City Administrator and City Clerk to prepare and conduct the November 4, 2014, statewide general election, consistent with law and be it

FURTHER RESOLVED: That certain sections of this Ordinance may be codified into the City of Oakland Municipal Code at the direction of the City Clerk:

IN COUNCIL, OAKLAND, CALIFORNIA _____, 2014

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES
ABSENT
ABSTENTION

ATTEST:

LATONDA SIMMONS
City Clerk and Clerk of the Council
Of the City of Oakland, California

Date: