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**To:** Councilmember Ignacio De La Fuente  
**From:** LaTonda Simmons, City Clerk *LS*  
**cc:** Honorable Members of the City Council  
**Date:** February 2, 2010  
**Subject:** Responses To Your Questions Dated January 4, 2010, Regarding Ranked Choice Voting

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This memo serves to provide responses to questions provided by Councilmember De La Fuente submitted during the January 5, 2010 City Council Meeting.

**Questions for the City Clerk and/or Registrar of Voters (ROV) Regarding Voter Education**

*Q. The MOU states, "The ROV will thereafter conduct RCV elections in November 2010 per the Cities' requests and/or needs, including any voter education, outreach, poll worker training..." How much of the \$1.5 million is specifically allocated to Voter Education and Outreach?*

A. At this juncture, the Outreach and Education Plan remains in draft form. Finalization of the Plan with the consensus of all cities will allow the ROV to seek all estimates and determine costs for all services. At this time, total costs for Outreach and Education have not been determined.

*Q. Attachment B of item 15 describes several outreach and education materials that are either being prepared, are in draft form, or will be modeled after materials used by the City of San Francisco and Pierce County, WA, do samples of these materials exist and will we have a chance to review and approve these materials?*

A. Yes. Final edits are being made to the referenced draft materials and will be made available to the cities for comments and feedback. The Clerk's Office will submit the materials for review by Council once those materials are prepared for final review.

*Q. Will the Voter Outreach and Education plan (once finalized) presented tonight as part of item 15, become part of the MOU if adopted and who is responsible for its implementation?*

A. The Voter Outreach and Education Plan is not an addendum of the adopted MOU. The Voter Outreach and Education Plan is the framework for the Outreach and Education mandated upon the County of Alameda by the Secretary of State. Alameda County is responsible for meeting the specific requirements outlined within the Secretary of State's conditional approval of the use of Rank Choice Voting for elections of Berkeley, Oakland, and San Leandro.

*Q. Who has participated in the Ranked Choice Voting Planning Committee described in Attachment A of item 15?*

A. At the direction of the City Council at the meeting of February 5, 2008, the Office of the City Clerk was directed to work with the County of Alameda on continuing efforts to implement Rank Choice Voting for November 2010. Representatives from the City Clerk's Offices of Berkeley, Oakland, and San Leandro, as well as Councilmember's and representatives, and various groups of interested citizens and members of Alameda County constitute the Rank Choice Voting Planning Committee.

*Q. Who will translate all materials into Spanish and Chinese?*

A. Alameda County will use the same State credentialed vendors who routinely perform translation services for Alameda County elections.

*Q. The Oakland Charter, as amended by Measure O defines a majority of votes as, "more than fifty percent of the votes coming from continuing ballots," (section 1105 (A) (3).) What happens if no one gets more than fifty percent of the votes as was the case in the Nokomis – area Park Board Seat in Minneapolis due to ballots being "exhausted."*

A. The Office of the City Clerk is awaiting a response from the Registrar of Voters regarding this question.

I am available to answer any further questions you may have.

# Ranked Choice Voting Outreach and Education Strategy



**Identify Outreach Schedule** →

**ROV Staff Training/Implement Policies and Procedures** →

**Recruit and Train Extra Poll Workers** →

**Conduct Public Presentations to Targeted Communities** →

**Run PSA's/Media Blitz** →

**Mail Special RCV Postcard** →

- February – April**
- Identify outreach presentation format & materials
  - Assign facilitators
  - Procure presentation locations
  - Social networking sites developed by ALCO ITD  
Est. Cost - \$ 0
  - Develop RCV Brochure & Special Mailer  
Est. Cost Brochure- \$11,000
  - Develop Polling Place signs  
Est. Cost-TBD
  - Identify community groups

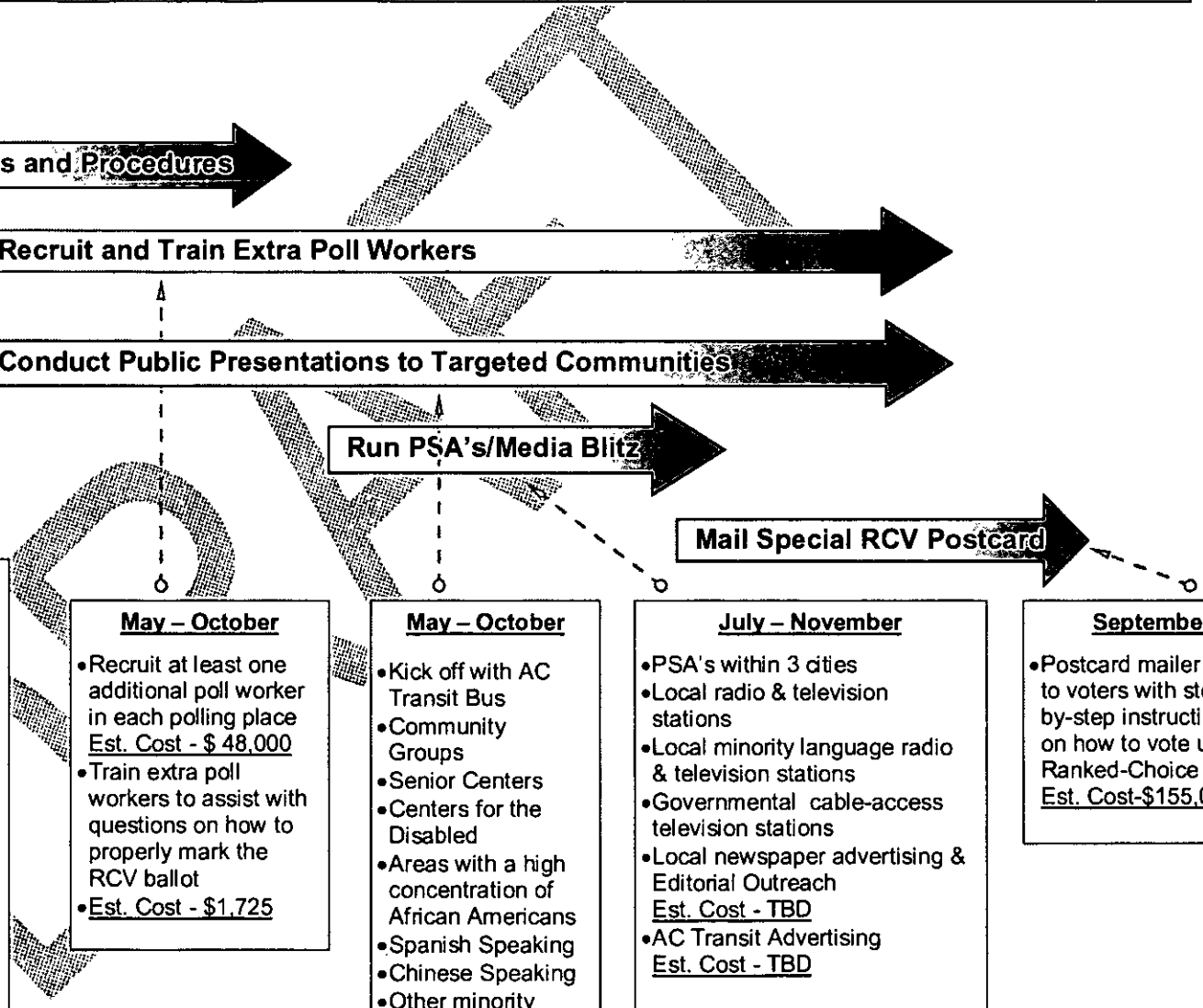
- February – June**
- Train ROV staff to ensure an overall understanding of Ranked Choice Voting
  - Est. Cost -\$12, 640
  - Implement best practices
  - Commence firmware upgrades  
Est. Cost-\$79,000
  - Develop & launch RCV Webpage
  - Develop PSA script
  - Develop Flash Media & Short Video  
Est. Cost-\$5,000

- May – October**
- Recruit at least one additional poll worker in each polling place  
Est. Cost - \$ 48,000
  - Train extra poll workers to assist with questions on how to properly mark the RCV ballot
  - Est. Cost - \$1,725

- May – October**
- Kick off with AC Transit Bus
  - Community Groups
  - Senior Centers
  - Centers for the Disabled
  - Areas with a high concentration of African Americans
  - Spanish Speaking
  - Chinese Speaking
  - Other minority language communities

- July – November**
- PSA's within 3 cities
  - Local radio & television stations
  - Local minority language radio & television stations
  - Governmental cable-access television stations
  - Local newspaper advertising & Editorial Outreach  
Est. Cost - TBD
  - AC Transit Advertising  
Est. Cost - TBD

- September**
- Postcard mailer sent to voters with step-by-step instructions on how to vote using Ranked-Choice  
Est. Cost-\$155,000



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**CITY OF OAKLAND**  
**CITY ATTORNEY'S OFFICE**

MEMORANDUM

**TO:** Councilmember Ignacio De La Fuente

**FROM:** Alix A. Rosenthal, Deputy City Attorney

**CC:** Honorable Members of the City Council  
LaTonda Simmons, City Clerk

**DATE:** February 2, 2010

**RE:** Responses to Your Questions Dated January 4, 2010, Regarding Ranked Choice Voting

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We offer the following information in response to your letter dated January 4, 2010, regarding the implementation of Ranked Choice Voting ("RCV") in Oakland. We understand the City Clerk's Office will also be responding to your questions regarding the cost of implementing RCV and about voter education and outreach.

**Questions for the City Attorney:**

*Q: In the MOU the Registrar of Voters doesn't commit to actually hold an RCV election in November, correct?*

A: No. The Registrar makes a commitment in the MOU to "conduct RCV elections in November 2010 per the Cities' requests and/or needs."

*Q: What happens if the Registrar doesn't or can't conduct the RCV election?*

A: There is no provision in the MOU that addresses this situation. We tried to negotiate a liquidated damages clause, however the Registrar would not agree to such a provision. The MOU provides that the Registrar will "conduct RCV elections in November 2010 per the cities' requests and/or needs." And so the City will have to sue the County for specific performance, if it violates this provision. In the worst case scenario, the City would have to go to court to obtain permission to conduct a primary election in November and a general election at some later date.

*Q: Is SOS certification unconditional?*

A: No, the Secretary of State certified the Sequoia Voting System conditioned upon the implementation of a voter education program to be conducted by the Alameda County Registrar of Voters.

*Q: Does the City have any legal obligation to conduct a voter education drive regarding RCV?*

A: Yes. The City Charter section 1105(b) states that the City shall conduct a voter education campaign. This is an obligation separate and apart of the obligation of the Registrar. The City Clerk's Office has been working closely with the County and the Secretary of State's Office to plan the joint voter education campaign.

*Q: If the County does not do the outreach, what happens to the election? How is the outreach audited or tested? What happens if, after the deadline to hold a June election, the SOS deems the outreach insufficient? What if the SOS is so dissatisfied by the outreach that she pulls her certification?*

A: If the SOS rescinds her certification after the deadline to hold a June election, we are in unchartered territory. It is highly unlikely that the SOS would rescind her certification of RCV once the deadline to hold a June election has passed, because this would leave Oakland in the position of having to hold a Nominating Election in November, and there is no provision in the Charter for such an election. There is no provision in the MOU or in the certification letter for auditing or testing by the SOS. However, the outreach activities will be monitored closely by campaigns and activists, who may complain to the SOS at any time. We believe that the SOS will give the City and the County opportunities to correct any infirmities in the outreach program before she rescinds certification. If she rescinds certification, we would be compelled to go to court to be permitted to hold a November Nominating Election and a runoff election thereafter.

*Q: Your report suggests that it is not at all certain that either Berkeley or San Leandro will sign the MOU. As I read it, Oakland would be responsible for all the costs – up to \$1.5 million – if Berkeley and San Leandro don't participate. Is that correct?*

A: The San Leandro City Council approved the use of RCV for its November 2010 election, and authorized the MOU. Berkeley is expected to approve the MOU at its next City Council meeting. If Berkeley doesn't approve the MOU, then Oakland and San Leandro will be required to cover their proportionate shares of Berkeley's costs, which is a not-to-exceed amount of \$371,850. The MOU also provides that Oakland will be reimbursed a proportionate share of the RCV setup costs if any other jurisdiction (including possibly the County itself) adopts RCV in the future.

*Q: Do you believe the Registrar has stated that he is "able" to conduct the election as that term is contemplated by the Charter?*

A: Yes. In his letter to our office dated January 5, the Registrar clearly stated that he is able to conduct a ranked choice voting election in Oakland.

*Q: I understand that the Registrar may not want to say that he is ABLE until he has our signature on the MOU, but what worries me is that the MOU doesn't commit him to actually conducting this RCV election. Can you explain to me how the Registrar can say he is able, yet not want to be held accountable for conducting the election?*

A: The Registrar has stated that he is able to conduct a ranked choice voting election in Oakland. The MOU provides that the Registrar will “conduct RCV elections in November 2010 per the cities’ requests and/or needs.” While the MOU does not provide for any penalty if the Registrar fails to conduct a ranked choice voting election, it does commit him to conduct the election. This will allow us to go to court to obtain an order compelling the Registrar to conduct the RCV election, if necessary.

**Questions regarding the cost of implementing RCV:**

*Q: The title of the resolution before us states that Oakland’s share for implementation of RCV is \$946,950, however, the proposed MOU sets a not to exceed amount of \$1.5 million for implementation, what is the amount that we are committing to?*

A: San Leandro City Council has approved the use of RCV in their 2010 election, and they have authorized the MOU. Berkeley is expected to follow suit. If San Leandro and Berkeley had decided not to join Oakland in using RCV this year, Oakland would pay the full \$1.5 million, until those cities and/or other jurisdictions adopt RCV. The MOU provides that any other jurisdiction (including the County itself) that adopts RCV will reimburse Oakland for its proportionate share of the RCV setup costs.

*Q: Financially speaking, what happens if we hold a June election in order to place parcel tax measures on a June ballot as has been discussed by this council?*

The City Clerk’s Office has estimated that a June election limited to ballot measures would cost the City approximately \$400,000.

*Q: Section 3 b of the MOU states, “Each City agrees and understands that the RCV setup costs described above are in addition to the normal costs of conducting an election on each City’s behalf. Each City remains responsible for these election costs.” What is the amount of these additional costs and what is the total maximum amount IRV can potentially cost the City of Oakland?*

The cost to Oakland of an election can vary from election to election, depending on a variety of factors including anticipated turnout and the number of ballot cards. The City Clerk’s Office has estimated the normal costs of conducting an election – separate from the RCV setup costs – to be approximately \$400,000. This amount is not attributable to RCV, since these costs will have to be paid to the County for running the election regardless of whether RCV is implemented. The total maximum amount that RCV could have cost the City was \$1.5 million – if neither Berkeley nor San Leandro had approved the use of RCV this year. However, San Leandro has now approved the MOU, and Berkeley is expected to do the same at its next City Council meeting. Oakland will be reimbursed a portion of its contribution if any other jurisdiction adopts RCV.