INTRODUCED BY COUNCILMEMBERS NANCY NADEL AND PATRICIA KERNIGHAN

Approved as to Form and Legality

Office of the City Attorney

OAKLAND CITY COUNCIL

06 JUL 3 AM 11:44

RESOLUTION NO. 80079 C.M.S.

RESOLUTION SUBMITTING ON THE COUNCIL'S OWN MOTION TO BE VOTED UPON AT THE MUNICIPAL GENERAL ELECTION TO BE HELD ON NOVEMBER 7, 2006, A PROPOSED CHARTER AMENDMENT, ENTITLED "MEASURE AMENDING CITY CHARTER SECTIONS 205, 303, 1100 AND 1103 AND ADDING SECTION 1105 ADOPTING RANKED CHOICE VOTING TO ELECT CITY OFFICES BY MAJORITY VOTE IN A SINGLE ELECTION IN NOVEMBER WITHOUT HOLDING A SEPARATE NOMINATING ELECTION."

RESOLVED: That the City Council hereby authorizes and directs the City Clerk, at least 88 days prior to November 7, 2006 to file with the Alameda County Board of Supervisors and the County Clerk certified copies of this resolution; and be it

FURTHER RESOLVED: That the proposed Charter Amendment text shall be as follows (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 regulations not cited or not shown in underscoring or strike-through type are not changed):

Article II of the Charter of the City of Oakland is amended at Section 205 to read:

Section 205. Vacancy, Filling of. All vacancies occurring in the office of Councilmember shall be filled by special election within 120 days of a vacancy. An extension of up to 60 days may be allowed for the express purpose of consolidating the special election with the next Municipal Election or Statewide Election. If the special election is to take place before the first use of ranked choice voting in a Municipal Election, the Council shall have the authority to provide for a ranked choice voting election by ordinance. Otherwise, the ~~The~~ candidate who receives the highest number of votes at the special election shall be declared the winner and thereafter sworn into office as soon as legally possible. Special elections for the office of Councilmember that take place during or after the first use of ranked choice voting in a Municipal Election shall be conducted using the same ranked choice voting procedures used to elect Councilmembers in General Municipal Elections. Whenever the period of vacancy in a Councilmember's term of office equals or exceeds 120 days the vacancy may be temporarily filled by appointment through the majority vote of the remaining Councilmembers, provided the appointee is not a candidate for the office which created the vacancy and provided the appointment does not exceed 128 days or go beyond the date the new incumbent is sworn in, whichever is shortest. Alternative legal voting procedures shall be used to the greatest extent feasible to increase voter participation in special elections including but not limited to mail ballot voting, electronic voting, ~~preference voting~~ and extended voting period. Notwithstanding any other provision of

this section 205 or this Charter, an election shall not be required to fill a vacancy in the office of Councilmember that occurs when the Vice Mayor fills a mayoral vacancy pursuant to Sections 303 and 304 of this Charter, and the Vice Mayor shall be entitled to return to his/her seat.

Article III of the Charter of the City of Oakland is amended at section 303 to read:

Section 303. Vacancy, Filling of. Upon the declaration of vacancy in the office of the Mayor, the office of the Mayor shall be filled by the Vice-Mayor of the Council. Except as otherwise provided in this Section, when the Vice-Mayor of the Council assumes the office of Mayor upon declaration of a vacancy, she/he shall serve for the unexpired term if such term is less than one year; otherwise she/he shall serve until the vacancy is filled as provided herein. Whenever the period of vacancy in a Mayor's term of office is less than one year and the Vice Mayor notifies the Council in writing that she/he does not wish to serve as Mayor for the unexpired term, the vacancy shall be filled by appointment through a majority vote of the remaining Councilmembers; provided the appointee shall be ineligible to be a candidate for the next full term of the Office of Mayor. If at the time of a vacancy declaration the unexpired term is one year or more, the vacancy occurring in the office of Mayor shall be filled by special election within 120 days of such vacancy. An extension of up to 60 days may be allowed for the express purpose of consolidating the special election with the next Municipal Election or Statewide Election. If the special election is to take place before the first use of ranked choice voting in a Municipal Election, the Council shall have the authority to provide for a ranked choice voting election by ordinance. Otherwise, the following procedures shall be used: if no candidate receives the majority of the votes cast in the special election, then a run-off election shall be held for the two candidates who received the highest number of votes no later than 60 days after the date of the special election; provided that all persons receiving a number of votes equal to the highest number of votes received by any candidate shall also be candidates at such run-off election. The candidate receiving the highest number of votes cast for all candidates for the office at the run-off election shall be declared elected. Special elections for the office of Mayor that take place during or after the first use of ranked choice voting in a Municipal Election shall be conducted using the same ranked choice voting procedures used to elect the Mayor in a General Municipal Election. The candidate elected to fill the vacancy shall hold office for the balance of the unexpired term. ~~Notwithstanding any other provision of this section or the Charter, the Council shall have the authority to provide by ordinance for preferential voting procedures as an alternative to a run-off election.~~ Alternative legal voting procedures shall be used to the greatest extent feasible to increase voter participation in special elections including but not limited to mail ballot voting, electronic voting, and extended voting period.

Article XI of the Charter of the City of Oakland is amended at section 1100 to read:

~~**Section 1100. Nominating Election.** Municipal Nominating Elections for the nomination of officers and for such other purposes as the Council may prescribe shall be held in the City on the first Tuesday after the first Monday in June in each even-numbered year. In order to consolidate Municipal Nominating Elections with Statewide Primary Elections, the Council may by ordinance provide for a date for a Municipal Nominating Election which conforms to the date of a Statewide Primary Election.~~

Article XI of the Charter of the City of Oakland is amended at section 1103 to read:

Section 1103. Election Procedure. Except as may be otherwise provided by this charter, the ~~The~~ mode, manner, form and procedure for nominations, qualifications, petitions, filing -- including fees therefor and amounts thereof -- and elections, for elective office, may be provided by ordinance. Except as may be otherwise provided by ordinance or by this charter, declarations of candidacy, nominations for election, all elections and all procedures relating thereto shall be in accordance with the applicable provisions of state law.

Article XI of the Charter of the City of Oakland is amended at section 1105 to read:

Section 1105. Ranked Choice Voting. Elections for all city offices, including but not limited to Mayor, Councilmember, City Attorney, City Auditor, and School Director, shall be conducted using ranked choice voting, known sometimes as "instant runoff voting."

(A) Definitions. "Ranked choice voting" shall mean an election system in which voters rank the candidates for office in order of preference, and the ballots are counted in rounds that, in the case of a single-winner election, simulate a series of runoffs until one candidate receives a majority of votes. In each round of counting: (1) "continuing ballot" shall mean a ballot that counts towards some candidate; (2) "continuing candidate" shall mean a candidate that has not been eliminated; and (3) "majority of votes" shall mean more than fifty percent of the votes coming from continuing ballots.

(B) General Provisions. Ranked choice voting elections for single-winner city offices shall be conducted according to the procedures in this section. The City shall conduct a voter education campaign to familiarize voters with ranked choice voting. The use of ranked choice voting shall commence with the 2008 General Municipal Election.

(C) Ballot. The ranked choice voting ballot shall allow voters to rank as many choices as there are candidates. The ballot shall not interfere with a voter's ability to rank a write-in candidate.

(D) Tabulation. The ballots shall be counted in rounds: (1) In the first round, every ballot shall count as a vote towards the first choice candidate. (2) After every round, if any candidate receives a majority of votes from the continuing ballots, that candidate shall be declared the winner. If no candidate receives a majority, the candidate receiving the smallest number of votes shall be eliminated, and every ballot counting towards that candidate shall be advanced to the next-ranked continuing candidate. All the ballots shall be counted again in a new round.

(E) Ties. In the event that two or more candidates tie for the smallest number of votes, the candidate to eliminate shall be chosen by lot.

(F) Elimination of more than one candidate. During the elimination

stage of any round, in the event that any candidate has more votes than the combined vote total of all candidates with fewer votes, all the candidates with fewer votes shall be eliminated simultaneously, and those ballots advanced to the next-ranked continuing candidate.

(G) Skipped rankings. In the first or any round, in the event that any ballot reaches a ranking with no candidate indicated, that ballot shall immediately be advanced to the next ranking.

(H) Undervotes, Overvotes, and Exhausted Ballots. After each round, any ballot that is not continuing is either an undervote, overvote, or exhausted ballot, as follows. Any ballot that has no candidates indicated at any ranking shall be declared an "undervote." In the event that any ballot reaches a ranking with more than one candidate indicated, that ballot shall immediately be declared an "overvote." In the event that any ballot cannot be advanced because no further candidates are ranked on that ballot, that ballot shall immediately be declared "exhausted." Any ballot that has been declared an undervote, overvote, or exhausted shall remain so and shall not count towards any candidate in that round or in subsequent rounds.

(I) Reports. Summary, ballot image, and comprehensive reports shall be made available after each ranked choice voting election, as follows: (1) The "summary report" for a race shall mean a report that lists the candidate vote totals in each round, along with the cumulative numbers of undervotes, overvotes, and exhausted ballots in each round. (2) The "ballot image report" for a race shall mean a report that lists, for each ballot, the candidate or candidates indicated at each ranking, the precinct of the ballot, and whether the ballot was cast absentee. In the report, the ballots shall be listed in an order that does not permit the order in which they were cast in each precinct to be reconstructed. (3) The "comprehensive report" for a race shall mean a report that breaks the numbers in the summary report down by precinct. The report shall list, for each round, the number of ballots cast in each precinct (a) that count as votes for each candidate in that round, (b) that have been declared undervotes, (c) that have been declared overvotes up to that point, and (d) that have been declared exhausted up to that point. (4) Mode and manner of release. Preliminary versions of the summary report and ballot image report shall be made available as soon as possible after the ballots have begun to be processed and counted. The summary report, ballot image report, comprehensive report, and preliminary versions of the summary report and ballot image report shall be made available to the public during the canvass via the Internet and by other means. The ballot image report and preliminary versions of the ballot image report shall be made available in a plain text electronic format.

(J) Manual Tally. Prior to the selection of precincts for the public one percent manual tally, as provided by State law, a report shall be made available to the public that lists, for the ballots subject to the manual tally, the number of those ballots in each precinct that counted in each round as undervotes, overvotes, exhausted ballots, and as votes for each candidate. The public manual tally shall check those vote totals in each of the randomly selected precincts.

(K) Changes to Procedures. For the purposes of this subsection: "voting equipment" shall mean all ballots and/or voting devices, vote tabulating systems and/or similar or related systems to be used in the conduct of the City's election,

including but not limited to paper ballot systems, optical scan systems, and touch-screen systems. (1) Number of rankings. In the event that the voting equipment cannot feasibly accommodate a number of rankings on the ballot equal to the number of candidates, the City Clerk may limit the number of choices a voter may rank to the maximum number allowed by the equipment. This limit shall never be less than three. (2) Voting equipment. If the voting equipment cannot feasibly accommodate all of the procedures in subsections (E)-(J) above, the City Clerk may make changes to those procedures provided that ranked choice voting shall still be used and the smallest feasible number of changes made until such time as the voting equipment can accommodate those procedures in their entirety. (3) State guidelines. If the State of California adopts guidelines for the conduct of ranked choice voting elections and the voting equipment used to conduct the City's election can accommodate the State's guidelines, the City Clerk shall have the option of adopting those guidelines, in whole or in part, in lieu of the ranked choice voting procedures in this section. (4) First choice tally. The City Clerk may authorize the following change to make ranked choice voting on voting equipment feasible: before counting the ballots in rounds, the first ranking on every ballot shall be tallied, with the exception of overvotes. If some candidate receives a majority of first rankings from all ballots cast, including undervotes and excluding overvotes, that candidate shall be declared the winner; and the ballots shall not be counted in rounds. Otherwise, the ballots shall be counted in rounds in accordance with this section. (5) Election integrity. The City Clerk shall further have the authority to make any changes to these procedures necessary to preserve the secrecy of the ballot and ensure the integrity and smooth functioning of the election, provided that ranked choice voting shall still be used and the smallest number of changes made to achieve such purposes.

(L) Exception from Using Ranked Choice Voting. Notwithstanding any other provision of this Charter, the City shall use ranked choice voting once the Alameda County Registrar of Voters is able to conduct the election on behalf of the City in accordance with the requirements and procedures of this section, including any changes to such procedures made pursuant to subsection (K).

(M) Election Procedures if Ranked Choice Voting is Not Used.

(1) In the event that the City is unable to use ranked choice voting, the City shall hold Municipal Nominating Elections for the nomination of officers and for such other purposes as the Council may prescribe, which shall be held in the City on the first Tuesday after the first Monday in June in each even-numbered year. In order to consolidate Municipal Nominating Elections with Statewide Primary Elections, the Council may by ordinance provide for a date for a Municipal Nominating Election which conforms to the date of a Statewide Primary Election. Any candidate receiving a majority of the vote cast for all candidates for that office at the Municipal Nominating Election shall be declared elected. (2) If at any Municipal Nominating Election there is any office to which no person was elected, then the two candidates for such office receiving the highest number of votes for such office shall be the candidates, and the only candidates, for such office whose names shall be printed upon ballots to be issued at the second or General Municipal Election; provided that, in any event, all persons receiving a number of votes equal to the highest number of votes received by any candidate shall also be candidates at such second election. The candidate receiving the highest number of votes cast for all candidates for that office at the second or General Municipal Election shall be declared elected.

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 Charter amendment, and said date *shall be posted in the Office of the City Clerk; and be it*

FURTHER RESOLVED: That in accordance with the Elections Code and Chapter 11 of the Oakland Municipal Code, the City Clerk shall provide for notice and publication as to said proposed Charter amendment in the manner provided for by law; 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 November 7, 2006 election and appropriate all monies necessary for the City Administrator and City Clerk to prepare for and conduct the November 7, 2006 election, consistent with law.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 18 2006, 2006

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, KERNIGHAN, NADEL, QUAN, and PRESIDENT DE LA FUENTE – 6

NOES- CHANG and REID 2

ABSENT- 0

ABSTENTION- 0

ATTEST: _____
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California