

Office of the City Manager

CONSENT CALENDAR

July 9, 2024

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Mark Numainville, City Clerk  
Subject: Policies and Timelines for Filing Ballot Measure Arguments

RECOMMENDATION

Adopt a Resolution establishing policies and timelines for filing ballot measure arguments in the November 5, 2024 General Municipal Election.

FISCAL IMPACTS OF RECOMMENDATION

No direct fiscal impacts related to the recommended action.

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley will hold its General Municipal Election on November 5, 2024. Several City ballot measures will appear on the ballot.

The resolution in Attachment 1 establishes policies and timelines for filing ballot measure arguments on City measures. These policies govern how and when arguments are submitted as well as the required documentation that must accompany the primary and rebuttal arguments. The Council regularly adopts these policies in every municipal election.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects, climate impacts, or sustainability opportunities associated with the subject of this report.

CONTACT PERSON

Mark Numainville, City Clerk, (510) 981-6900

Attachments:

- 1: 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 –N.S.

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

WHEREAS, the City Council will likely submit ballot measures to the voters at the November 5, 2024, 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 5, 2024, General Municipal Election:

Section 1. The Primary Argument filing period opens at 8:30 a.m. on Monday, August 12, 2024, and closes at 12:00 p.m. on Friday, August 16, 2024. The Rebuttal Argument filing period opens at 4:00 p.m. on Friday, August 16, 2024, and closes at 12:00 p.m. on Friday, August 23, 2024.

Section 2. There is a 10-day public review period for all ballot materials which starts the day after the due date for the materials.

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 20<sup>th</sup> word.

Section 9. The names and titles of proponents will be printed exactly as they appear on the "Printed Name" and "Title" lines on the Signature Form for Proponents 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 of the arguments to the authors of the

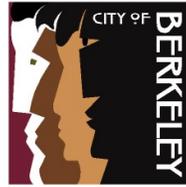
opposing arguments (both for and against the measure) who may then submit rebuttals within the time period shown above. *(EC 9285)*

Section 12. Primary arguments may be changed or withdrawn up to 12:00 p.m., Friday, August 16, 2024. Rebuttal arguments may be changed or withdrawn up to 12:00 p.m., Friday, August 23, 2024. Arguments received prior to the deadline are confidential until the deadline.

Section 13. Only the author whose primary argument has been selected by the City Clerk in accordance with Elections Code Section 9287 may file a rebuttal argument or may authorize in writing another person or persons to prepare, submit, or sign the 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, the primary/rebuttal argument shall be submitted in electronic format in addition to the required hard copy.

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



**CITY OF BERKELEY  
CITY CLERK DEPARTMENT**

**Selection Procedure for Multiple Ballot Measure Arguments**

When multiple ballot measure arguments are submitted for or against a measure, Elections Code Section 9287 provides guidelines for determining which argument will be published in the Voter Information Guide.

**9287. City elections official to select if more than one argument.**

(a) 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:

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

(2) 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.

(3) Bona fide associations of citizens.

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

(b) 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.

(c) 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, Elections 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 each argument shall be written on a piece of paper, folded, and placed in a container so that each argument is represented by one paper. 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 names recorded in the order 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 of the drawing will then be posted in the City Clerk Department.

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**BALLOT MEASURE ARGUMENT CONSENT FORM**  
**▶ PRIMARY ARGUMENT ◀**

**CONSENT FOR USE OF ORGANIZATION NAME**

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  
(subject or measure letter)

General Municipal Election to be held on November 5, 2024.

**To be completed by  
Organization Principal:**

\_\_\_\_\_  
Printed Name of Principal

\_\_\_\_\_  
Signature of Principal

\_\_\_\_\_  
Title

\_\_\_\_\_  
Organization Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Signatory

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**CONSENT FOR USE OF ENDORSER NAME**

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)  
at the City of Berkeley General Municipal Election to be held on November 5, 2024.

**To be completed by  
Endorser:**

\_\_\_\_\_  
Printed Name of Endorser

\_\_\_\_\_  
Signature of Endorser

\_\_\_\_\_  
Title

**BALLOT MEASURE ARGUMENT CONSENT FORM**  
**▶ REBUTTAL ARGUMENT ◀**

**CONSENT FOR USE OF ORGANIZATION NAME**

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 5, 2024.

**To be completed by  
Organization Principal:**

\_\_\_\_\_  
Printed Name of Principal

\_\_\_\_\_  
Signature of Principal

\_\_\_\_\_  
Title

\_\_\_\_\_  
Organization Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Signatory

**CONSENT FOR USE OF ENDORSER NAME**

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 5, 2024.

**To be completed by  
Endorser:**

\_\_\_\_\_  
Printed Name of Endorser

\_\_\_\_\_  
Signature of Endorser

\_\_\_\_\_  
Title

**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 5, 2024, 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 5, 2024, 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 5, 2024,  
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 5, 2024, 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.
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