



Office of the City Manager

CONSENT CALENDAR

February 29, 2024

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 Special Municipal Election to fill the City Council District 4 Vacancy

RECOMMENDATION

Adopt a Resolution: a) Calling for a Special Municipal Election to be held in Berkeley to fill the City Council District 4 vacancy; b) Requesting that the Alameda County Board of Supervisors authorize the Registrar of Voters to provide election administration services for the special election; c) Authorizing certain procedural and contractual actions; and d) Establishing policies for the filing of candidate statements of qualification.

FISCAL IMPACTS OF RECOMMENDATION

The Alameda County Registrar of voters estimates the cost for election services at \$11 per registered voter for an all Vote-by-Mail election. This does not include costs related to Ranked-Choice Voting as well as costs for the printing and translation of voting materials and the Voter Information Guide into Spanish, Chinese, Tagalog and Vietnamese. There are approximately 7,300 voters in District 4. Based on the cost incurred for the March 2017 special vote-by-mail election for District 4, the estimated cost for the April 2024 special election is \$146,000.

CURRENT SITUATION AND ITS EFFECTS

With the resignation of Councilmember Harrison on February 23, 2024, a vacancy was created in the office of City Councilmember for District 4. The District 4 seat is on the regular rotation to be filled at the 2026 municipal election. According to the City Charter (Article V, Section 12) if there is more than one year remaining on the term of the vacant seat, the City Council must call a special election to fill the vacancy within 10 days of the occurrence of the vacancy (March 4). Furthermore, the Charter requires that the election to fill the vacancy occur not less than 60 nor more than 90 days from the date the election is called. Calling the election for Tuesday, May 28, 2024 meets the requirements in the Charter.

The City Manager agenda item originally scheduled for February 28 recommended an election date of May 21. In order to provide more time for District 4 residents to consider and plan for a potential candidacy, maximize candidate access, and ensure voters have

the greatest opportunity to vet candidates within the truncated timeline mandated by the Charter, the Mayor recommended an election date of May 28. To ensure Brown Act compliance, the February 28 meeting, which noticed the election date as May 21, has been cancelled and the meeting was re-noticed for February 29. The May 28 election date is under consideration at this special meeting, although the City Council may select another election date which complies with the City Charter and is administratively feasible.

Due to the timelines in the City Charter, a special election to fill a vacancy must be conducted on a compressed timeline. In the compressed timeline, it is important to maintain a fair opportunity for candidates to qualify for the ballot. The proposed timeline provides for an 18-day filing period to ensure adequate candidate access to the ballot. The 18-day period is 7 days shorter than what is provided in a general election. However, as discussed below, this slightly compressed filing period is necessary in order to ensure adequate time for ballots and other election materials to be prepared and circulated by the Alameda County Registrar of Voters.

The current timeline also maintains as much time as possible for voters and candidates to engage on important issues as well as performing outreach to the public about the upcoming election regarding how to register to vote and participate in the election.

From the start of candidate filing to election day, the compressed election schedule is five weeks shorter than the standard timeline in a general election. This shortened timeline impacts the operational aspects of the election primarily performed by the Registrar of Voters. There are just 31 days between the end of candidate filing period and the date that ballots must be mailed. During this time, the Registrar must create the ballot, translate the ballot into 4 languages, send it to the printer and mail it to voters. These steps must also be taken for the voter information guide. The operational requirements and demands on the Registrar necessitate the maximum possible time allowance as proposed in this resolution.

All elections in Alameda County are now conducted in the vote-by-mail format. The Registrar will mail the ballots for the May 28 election starting on April 29.

The nomination period for candidates will open on Monday, March 11, 2024 and close on Friday, March 29, 2024. All candidates must pay the filing fee and complete all the paperwork as would be required for a Council candidate in a general election. Candidates may still use signatures-in-lieu to offset the filing fee. The period for signatures-in-lieu is March 7 – March 18. A calendar of important dates, including campaign finance reporting, is in Attachment 1.

BACKGROUND

The City of Berkeley is required under the City's Charter to conduct its general and special municipal elections using Ranked-Choice Voting (RCV). In the May 2024 special election 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 Code, and Government Code require adoption of a resolution requesting consolidation, and authorizing procedural, contractual and organizational actions in connection with the Special Municipal Election to be held on May 28, 2024.

The resolution in Attachment 2: a) calls for a Special Municipal Election to fill the vacancy in the District 4 Council seat; b) requests the Alameda County Board of Supervisors to authorize the Registrar of Voters to provide election administration services for the special election; c) provides authority for the City Clerk to enter into contracts necessary for election supplies and services for the special election; and d) adopts certain administrative policies for the filing of candidate statements.

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: Election Calendar for the May 28, 2024 Special Election
- 2: Resolution Calling the May 28, 2024 Special Municipal Election

CITY OF BERKELEY - SPECIAL ELECTION CALENDAR
May 28, 2024
Offices to be Elected: City Council District 4

<u>DAYS PRIOR TO ELECTION</u>	<u>DATE</u>	<u>ACTION TAKEN</u>
90	February 28, 2024	Late Contribution Disclosure Enforcement Period Begins (\$1000+)
90	February 28, 2024	Independent Expenditure Disclosure Enforcement Period Begins (\$1000+)
82 71	March 7, 2024 March 18, 2024	Signature In-Lieu of Filing Fee - Candidates may collect signatures during this period to offset the \$150 filing fee. Valid signatures are worth \$1 each. Charter Art. III, Sec. 6.5, BMC 2.16.020
78	March 11, 2024	FILING PERIOD OPENS - CANDIDATE NOMINATION PAPERS
60	March 29, 2024	Close of candidate filing period at 5pm.
60 50	March 29, 2024 April 8, 2024	Review period for nomination documents - candidate statements, Code of Fair Campaign Practices, and nomination petitions. (Nomination petitions may be viewed only, not copied)
57 14	April 1, 2024 May 14, 2024	Filing Period - Candidate Nomination Papers for Write-in Candidates. EC 8601
56	April 2, 2024	Secretary of State to conduct Random Alpha Draw for candidate name order on ballot. EC 13112 & 13113
40 21	April 18, 2024 May 7, 2024	Voter Information & Sample Ballot Pamphlet mailing period. EC §13303 - 13304, 13306
40	April 18, 2024	First Pre-Election Campaign Statement due. Covers 1/1/24 - 4/13/24
29 0	April 29, 2024 May 28, 2024	Vote-by-Mail Ballot period begins. All voters in District 4 will be sent a ballot in the mail.
29	April 29, 2024	End of In-lieu filing period for write-in candidates (started E-78)
16	May 12, 2024	Start of BERA Late Reporting Period - \$100-\$999 (Form 497s)
15	May 13, 2024	Last Day to Register to Vote. EC §§2102, 2107
14	May 14, 2024	Close of write-in candidate filing period
14	May 14, 2024	Last day to qualify for public financing program
12	May 16, 2024	Second Pre-Election Campaign Statement due. Covers period 4/14/24 - 5/11/24
7	May 21, 2024	Notice of campaign contributions published online and at designated physical locations. BMC 2.12.065
Election Day	May 28, 2024	Election Day - Charter Art. III, Section 4.

<u>DAYS AFTER ELECTION</u>	<u>DATE</u>	<u>ACTION TAKEN</u>
15	June 12, 2024	Letter to committees regarding removal of campaign signs
30	June 27, 2024	Last day for County to certify election results to city. EC §15372
30	June 27, 2024	Deadline to submit matching funds requests
60	July 27, 2024	Deadline to return unspent campaign funds to the City (PubFi)
	July 31	Semi-Annual Campaign Report Due. Covers period 5/12/24 - 6/30/24

RESOLUTION NO. – N.S.

CALLING FOR A SPECIAL MUNICIPAL ELECTION ON MAY 28, 2024 TO FILL THE
CITY COUNCIL DISTRICT 4 VACANCY

WHEREAS, the City Charter of the City of Berkeley provides the right and authority for the City to exercise control over its municipal affairs; and

WHEREAS, the City Charter prescribes certain specific processes and timelines for the conduct of a special election; and

WHEREAS, the processes and timelines for a special election in the City Charter are different and unique from those prescribed for general law cities in the Elections Code.

WHEREAS, a Special Municipal Election is required to be held on Tuesday, May 28, 2024, in and for the political subdivision of City of Berkeley, City Council District 4; 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 Special Municipal Election to be held in the City of Berkeley in District 4 on May 28, 2024 is hereby called.

BE IT FURTHER RESOLVED as follows:

1. In accordance with the provisions of Section 10002 of the Elections Code of the State of California, the Alameda County Board of Supervisors is requested to permit the county elections official to render specified election services for the City of Berkeley Special Municipal Election to be held May 28, 2024.
2. If any other jurisdiction holds an election on the same date, and with overlapping boundaries, the City of Berkeley requests consolidation of the election pursuant to Elections Section 10403.
3. 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, vote centers, drop boxes, vote center workers, voter registration, voting machines, canvass operations, and any and all other services necessary for the conduct of the special election.
4. The City hereby requests that the Registrar of Voters conduct the election for City Council District 4 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.

5. The office of council member requires a 50%+1 majority in the ranked choice voting system to be elected.
6. The City Council of the City of Berkeley approves and endorses the use of five (5) voting choices for candidates on the Ranked-Choice Voting ballot.
7. That the City of Berkeley acknowledges that the election will be held and conducted in the manner prescribed in Elections Code Section 10418, if applicable.
8. The election will be conducted by vote-by-mail only.
9. The office to be voted upon at the Special Municipal Election shall be:
 - a) One council member seat, District 4, term ending November 30, 2026
10. 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.
11. 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 May Special Municipal Election.
12. The nomination period for candidates will open at 8:30 a.m. on Monday, March 11, 2024 and close at 5:00 p.m. on Friday, March 29, 2024.
13. 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 of 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, submission in electronic format, in addition to the required hard copy, is required.
 - 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 in the format provided by the City Clerk when filed.
 - i. Statements are limited to 200 words. The word counting guidelines in Elections Code Section 9 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. Candidates may submit a photograph of themselves to be printed with their statement. Hard copy or electronic photo must be submitted at the same time the candidate statement is filed in order to be included in the voter pamphlet.
14. The City of Berkeley agrees to reimburse the County of Alameda in full for the cost of election services performed.