GUIDE TO WRITING ARGUMENTS, REBUTTALS AND ANALYSES FOR LOCAL MEASURES

Prepared for:
City of Santa Cruz
809 Center Street, Room 9
Santa Cruz, CA 95060
831-420-5038 (Voice)
831-420-5031 (Fax)
website: www.cityofsantacruz.com

Prepared by:
Santa Cruz County Clerk/Elections Department
701 Ocean St., Room 210
Santa Cruz, CA 95060
831-454-2060 (Voice)
831-454-2445 (Fax)
Website: www.votescount.com

This guide was developed in an effort to provide answers to questions frequently asked the Santa Cruz County Elections Department concerning arguments, rebuttals and analyses for local measures. It is for general information only and does not have the force and effect of law, regulation or rule. In case of conflict, the law, regulation or rule will apply. Persons using this guide must bear full responsibility to make their own determinations as to all legal standards and duties. For information on city measures, please contact your City Clerk.

OVERVIEW

(All Sections cited are from the California Elections Code)

Santa Cruz County Elections Department shall conduct the election for the following City of Santa Cruz ballot measures to be voted on at the November 6, 2012 consolidated Presidential General Election:

Measure to be voted on:

Ballot Question:

"Shall an amendment to the Charter of the City of Santa Cruz "Requiring Voter Approval for Desalination Projects" be adopted?

Yes _____ No _____"

The City Council of the City of Santa Cruz hereby submits to the registered electors of the City for their adoption or rejection in consolidated Presidential General Election to be conducted by Santa Cruz County Elections Department on Tuesday, November 6, 2012, the following proposal to amend the Santa Cruz Charter:

Petition for Submission to Voters of Proposed Amendment to the Charter of the City of Santa Cruz Requiring Voter Approval for Desalination Projects

To the City Council of the City of Santa Cruz:

We, the undersigned, registered and qualified voters of the State of California, residents of the City of Santa Cruz, pursuant to Section 3 of Article XI of the California Constitution and Chapter 2 (commencing with Section 34450) of Part 1 of Division 2 of Title 4 of the Government Code, present to the City Council of the City of Santa Cruz this petition and request that the following proposed amendment to the Charter of the City of Santa Cruz be submitted to the registered and qualified voters of the City of Santa Cruz for their adoption or rejection at the next statewide general, statewide primary, or regularly scheduled municipal election date pursuant to Section 1200, 1201, or 1301 of the California Elections Code.

The proposed Charter Amendment reads as follows:

Section 1. Purpose. The purpose of this Charter Amendment is to enact a comprehensive policy ensuring that the City of Santa Cruz does not approve, permit, or fund a desalination project without voter approval. Accordingly, this Charter Amendment would require an affirmative vote by a simple majority of Santa Cruz voters at a statewide general, statewide primary, or regularly scheduled municipal election before any such desalination project could be implemented.

Section 2. Findings. The citizens of the City of Santa Cruz find:

(a) that the proposal to construct and operate a desalination facility raises serious economic, environmental, and community concerns of such importance that a decision to approve such a project should not be made unless approved by a majority of voters at a statewide general,

statewide primary, or regularly scheduled municipal election.

(b) that the City has already spent millions of dollars in pursuit of desalination without a public vote or rate payer approval. According to the City Urban Water Management Plan, “The current estimated cost for design, permitting, property acquisition and construction of a regional desalination plant between 2010 and 2018 is approximately $116 million.” Ratepayers will pay many millions more in debt service, operation, and maintenance.

(c) that there are less costly and less environmentally damaging alternatives to desalination. These include, but are not limited to, effective water-neutral development policies, increased incentives for conservation, operational improvements to the reservoir system, infrastructure upgrades, leak detection, increased water storage capacity, water recycling, plumbing fixture and appliance retrofits, drought-tolerant landscaping, gray water irrigation, rainwater harvesting, water transfers between districts, and watershed restoration.

(d) that implementation of a comprehensive program of alternatives to desalination would provide significant public benefits by supplying water at less cost to rate payers, with less damage to the environment, using far less energy, and would also help to create local jobs and business opportunities.

Section 3. Charter Amendment. The City Charter of the City of Santa Cruz is amended to add a new Section 1431, as follows: Section 1431 – Voter Approval for Desalination Projects

(a) Voter Approval. Notwithstanding any other provision of this Charter, no legislative action by the City that would authorize or permit the construction, operation, and/or acquisition of a desalination project, or that would incur any bonded or other indebtedness for that purpose, shall be valid or effective unless such action is authorized by an affirmative vote of a majority of qualified electors in the City of Santa Cruz voting on the question at a statewide general, statewide primary, or regularly scheduled municipal election. Provided that it has first fully complied with the California Environmental Quality Act, Public Resources Code section 21000, et seq., the City Council may put the question of approval of such action before the voters at a statewide general, statewide primary, or regularly scheduled municipal election according to any procedure authorized by this Charter.

(b) Definitions.

(1) As used in this section, “legislative action” means adoption of or amendments to the City’s General Plan, Zoning Map, Zoning Code, Municipal Code, or approval of a development agreement, or any other act by the City Council that is legislative in nature.

(2) As used in this section, “desalination project” means any project intended to provide potable domestic, commercial, and/or industrial water supply through the removal of salts and other minerals from ocean water, regardless of the physical or chemical process used.

Section 4. Interpretation and Severability. This Charter Amendment shall be interpreted so as to be consistent with all federal and state laws, rules, and regulations. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion of this Charter Amendment is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Charter Amendment. The voters hereby declare that this Charter Amendment, and each section, subsection, paragraph,

subparagraph, sentence, clause, phrase, part, or portion thereof would have been adopted or passed even if one or more sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, parts, or portions are declared invalid or unconstitutional. If any provision of this Charter Amendment is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this Charter Amendment that can be given effect without the invalid application. This Charter Amendment shall be broadly construed in order to achieve the purposes stated in this Charter Amendment. It is the intent of the voters that the provisions of this Charter Amendment shall be interpreted by the City in a manner that facilitates the purposes set forth in Section 1 of this Charter Amendment.

Section 5. Effect of Alternative Measure on Same Ballot. This Charter Amendment adopts a comprehensive policy for protecting the City of Santa Cruzs natural environment, coastal resources, public infrastructure, and municipal finances from being utilized for a desalination project without prior approval by City voters. By voting for this Charter Amendment, the voters expressly declare that any other measure that appears on the same ballot as this Charter Amendment and conflicts with, or purports to amend, any provision of this Charter Amendment, shall be deemed to conflict with the entire set of policies adopted by this Charter Amendment. Because of this conflict, if this Charter Amendment and any such other measure receive a majority of votes by the voters voting thereon at the same election, then the measure receiving the most votes in favor shall prevail in its entirety and no provision of the other measure shall take effect.

Section 6. Retroactive Application. In the event this Charter Amendment is adopted by the voters, its provisions shall apply retroactively as of the date the measure was found to have qualified for placement on the ballot.

Measure to be voted on:

Ballot Question:

"In order to protect the quality of life in the City of Santa Cruz by supporting efforts to create jobs for local residents; investing in a vibrant local economy; and supporting police, fire, parks and recreation, and other essential city services, shall the City of Santa Cruz be authorized to augment the city's General Fund by levying an additional tax of one percent in the Transient Occupancy Tax on people staying at local hotels and motels?"

Yes _____ No _____"

The City Council of the City of Santa Cruz hereby submits to the registered electors of the City for their adoption or rejection in consolidated Presidential General Election to be conducted by Santa Cruz County Elections Department on Tuesday, November 6, 2012, the following proposal to amend the Santa Cruz Municipal Code:

BE IT ORDAINED by the electorate of the City of Santa Cruz that Section 3.28.030 of the Santa Cruz Municipal Code is hereby amended to read as follows:

3.28.030 Tax Imposed

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in an amount of nine and one-half percent of the rent charged by the operator. Effective October 1, 1991 such tax shall be at the rate of ten percent of the rent charged by the operator. Effective July 1, 2013 such tax shall be at the rate of eleven percent of the rent charged by the operator (added language). The tax constitutes a debt owed by the transient to the city which is extinguished only by payment by the operator to the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax is not paid to the operator of the hotel, the director of finance may require that such tax shall be paid directly to the director of finance.

##

FIXING TIME FOR SUBMISSION OF ARGUMENTS

The deadline for Measures has been established as follows:

Arguments:	August 14, 2012
End of 10-day public inspection:	August 25, 2012
Rebuttals:	August 21, 2012
End of 10-day public inspection:	September 2, 2012
Impartial Analysis (City Attorney):	August 21, 2012
Fiscal Analysis (Finance Director):	August 21, 2012
End of 10-day public inspection:	September 2, 2012

Arguments for and against:

- **Filers:** The governing board (i.e., City Council) or member(s) of the legislative body authorized by the legislative body, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of these voters and associations may **file** a written argument for or against the measures placed on the ballot by the governing body or city initiatives placed on the ballot through the petition process. (§9120, 9162, 9282, 9501)

  The **filer** does not have to be a **signer** of the argument.

- **Signers** of arguments for or against a city measure do not have to meet the criteria listed above. The **filer** of the argument must meet the criteria above; however, **anyone may sign the argument**.

- Ballot arguments for **city measures** must be accompanied by the name or names of the person or persons filing it, or if filed on behalf of an organization, the name of the organization and the name of at least one of its principal officers. No more than five signatures shall appear with any argument submitted for or against a measure. (§9164)

- If more than one argument for or against any measure is submitted, the elections official shall select one for printing in the Voter's Information Pamphlet pursuant to the following priority:
  1. The City Council, or persons authorized by the Council;
  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 association of citizens; filing a 410 for the purpose of creating a bona fide association of citizens will not be acceptable;
  4. Individual voters who are eligible to vote on the measure. (§9167, 9503)

- Arguments must not exceed 300 words. (§9162, 9315, 9501)

Rebuttals:

- Rebuttals must be signed with original signatures by the same authors of the primary argument unless the filer of the direct argument authorizes in writing (see form attached) for another person or persons to sign the rebuttal. (Allowed pursuant to §9069, even though it pertains specifically to state measures.) An "Authorization for Another Person or Persons to Sign the Rebuttal" should be filed with the rebuttal; however, they may be accepted after the filing deadline.

  Pursuant to a County Counsel opinion dated 4-21-97, a person does not need to be eligible to vote on a particular ballot measure in order to be one of the signers of a rebuttal argument.

- Rebuttals must not exceed 250 words. (§9167, 9220, 9285, 9317, 9504)

Impartial Analysis:

- The City Attorney shall prepare an impartial analysis of a city measure. (§9280)

- The impartial analysis must not exceed 500 words. (§9160, 9313, 9314, 9500, Water Code Appendix §124-415)

Fiscal Analysis:

- The Director of Finance may be requested by the City Council to prepare a fiscal analysis of a city measure. (§9160)

- The fiscal impact statement shall not exceed 500 words. (§9160)

Tax Rate Statement:

- Each bond measure proposed by a county, city, district or other political subdivision or by any agency, department, or board thereof, the security of which constitutes a lien on the property within the jurisdiction, shall mail a tax rate statement with the Sample Ballot. (§9400, 9401) The statement shall be filed with the elections official not later than the 88th day prior to the election. The law does not specify a word limit for such statements.

Order of Appearance in Voter's Information Pamphlet:

- Arguments, rebuttals, and analyses are printed in the Voter's Information Pamphlet and mailed to all registered voters in the jurisdiction eligible to vote for the particular measure. The arguments will appear in the following order:
  1. Impartial Analysis
  2. Fiscal Analysis or Tax Rate Statement
  3. Argument For
  4. Rebuttal to Argument For
  5. Argument Against
  6. Rebuttal to Argument Against

Lettering of Measures

- Letters designating measures will be assigned by the elections official pursuant to Elections Code §13116. Letters will be assigned after the close of consolidations, which occurs 88 days before the election. Measures will be assigned in alphabetical order beginning with the letter following the last letter assigned in the previous election and continuing through Z, or as close to the end of the alphabet as possible to accommodate all measures filed for the current election. For example, if the previous election ended with measure V, and five measures are on the next ballot, the measures will be assigned A, B, C, D, E rather than W, X, Y, Z, A.
- For districts that overlap into other counties, the counties will mutually agree to use a letter designation for the measure that will not conflict or confuse the voter. The letters assigned to these measures may not be in alphabetical order.
- Measures will appear on the ballot in the following order pursuant to Elections Code §13109: County Board of Education, College, Unified Schools, High Schools, Elementary Schools, County, Cities, Districts. In order to allow for the most efficient use of space, the county elections official may vary the order of the measures.

Signature Statement

- Each **argument** and **rebuttal** must be accompanied by the two-page Signature Statement included in this Guide. (Elections Code §9600)
- There is a distinction between a "filer" and a "signer or author." The filer of the argument or rebuttal must be either the governing board of the district, a bona fide association of citizens or an individual voter who is eligible to vote on the measure. The "signers or authors" of the argument or rebuttal can be any person or any organization accompanied by a signature of a principal officer. Filers do not have to be signers.

DEADLINES – ELECTION

FIXING TIME FOR SUBMISSION OF ARGUMENTS

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End of 10-day public inspection:	September 2, 2012

Arguments: Arguments are due by 5 p.m. on the deadline date above. Once an argument for and against a measure is chosen, a copy will be provided to the Opposing authors for the purpose of writing a rebuttal. Arguments are available to the public after the 5 p.m. deadline.

Tax Rate Statement: Tax Rate Statements must be supplied for each bond issue proposed by a county, city, district or other political subdivision. The statement shall be filed with the elections official not later than the 88th day prior to the election. Statements are available to the public after the 5 p.m. deadline.

Rebuttals: 10 days after the argument is due, rebuttals are due by 5 p.m. Rebuttals are available to the public after the 5 p.m. deadline.

Analysis: The City Attorney prepares an impartial analysis of each measure and it is filed on the same day as rebuttals are due. The Director of Finance will also submit an analysis. Analyses are public after the 5 p.m. deadline.

Place to File: City Clerk's Department, 809 Center Street, Room 9, Santa Cruz, CA 95060. Phone: 831-420-5038.

Filing by Fax: Signatures on arguments, rebuttals and analyses must appear on the same page as the text of the argument, rebuttal or analysis. Original signatures must be presented to the elections official within 48 hours of transmission or the item(s) will not be considered as filed (weekends and holidays excepted). Faxing must be started prior to 5 p.m. on deadline days to be accepted as filed. The Fax number is 831-420-5031.

Confidentiality: Arguments, rebuttals and analyses shall remain confidential until 5 p.m. on the date they are due.

Withdrawal/Changes: Arguments, rebuttals and analyses may be changed or withdrawn until and including the date fixed for final submission to the City Clerk. (§9163, 9316, 9601)

Public Inspection: The elections official will establish a 10-day public inspection period immediately following the filing of each election document, including ballot questions, ordinances, analyses, arguments and rebuttals. During this time, the elections official shall make a copy of the materials available for public inspection. A writ of mandate or injunction may be sought during the 10-day public inspection period to require amendments or deletions to any or all of the materials. (§9190, 9295, 9380, 9509)

HOW TO WRITE YOUR ARGUMENT, REBUTTAL OR ANALYSIS

- Be accurate. **Documents will be printed as submitted.** Spelling, punctuation, and grammatical errors will not be corrected by City Clerk's Administrator.
- An argument, rebuttal, analysis or tax rate statement must be written to address a single measure on the ballot. A document combining statements pertaining to more than one measure will not be accepted.
- All arguments and rebuttals must be accompanied by a Signature Statement. See attached. (§9600)
- No more than five signatures will appear with any argument. If more than five are submitted, the first five will be printed. (§9164, 9501)
- Arguments, rebuttals, analyses and tax rate statement, including the names and titles of the signers, must be typed to ensure quality and accuracy.
- Do not use profanity or other objectionable language.
- The heading is standardized. See "Standardized Headings" in this Guide. Subheadings and deviations from the standardized heading will not be accepted.
- Arguments, rebuttals, analyses and tax rate statements are printed in the Voter's Information Pamphlet in 9.5 point Arial or Arial Narrow font – no exceptions.
- Limited use of **bolding**, CAPITALIZING, <u>underlining</u>, *italics*, centering text, and bullets (small solid circle only) is permitted.

SUBMITTING ARGUMENTS/ANALYSES BY E-MAIL:

To help us cut costs and to ensure arguments are printed exactly as filed, we encourage you to submit arguments/analyses via e-mail to blehr@cityofsantacruz.com

- Word or another compatible format is preferred,
- Provide one hard copy of how you want the text to look in the Sample Ballot with original signatures.
- Input signatures as:
  s/ First Last
  Title

  Unless, the person is signing on behalf of an association. Then, the Association name appears on the first line, followed by the Name and title. Example:

  Chamber of Commerce
  s/ First Last, President

HOW TO COUNT WORDS

(Pursuant to Elections Code Section 9)

Each word is counted as one word except:

PUNCTUATION: Punctuation is not counted.

TITLES: Words used in the title of the document, such as "Argument in Favor of Measure A" are not counted.

CITIES/COUNTIES: All geographical names shall be counted as one word. Areas that have political boundaries with an elected or appointed board are considered geographic areas by this office. For example, "County of Santa Cruz" and "Pajaro Valley Unified School District" shall each be counted as one word.

ABBREVIATIONS: Each abbreviation for a word, phrase, or expression shall be counted as one word.

HYPHENATIONS: Hyphenated words that appear in any generally available dictionary shall be considered as one word. Each part of all other hyphenated words shall be counted as a separate word.

DATES: Dates consisting of a combination of words and digits shall be counted as two words. Dates consisting of only a combination of digits shall be counted as one word. January 1, 2000 shall be counted as two words, whereas 1/1/00 shall be counted as one word.

NUMBERS: Any number consisting of a digit or digits shall be considered as one word. Any number that is spelled shall be considered as a separate word. "100" shall be counted as one word, whereas "one hundred" shall be counted as two words.

PHONE & INTERNET: Website addresses and telephone numbers shall be counted as one word.

PERCENT SIGNS (%), NUMBER SIGNS (#), ETC.: It is department policy to count numbers consisting of a digit or digits used with a dollar sign ($), cent sign (¢), percentage sign (%), or number sign (#) as one word.

STANDARDIZED HEADINGS

Headings will be centered, and printed using all caps in 9-point, bold Arial font.

BALLOT QUESTION: (Voter's Pamphlet)	**Z TITLE OF BALLOT QUESTION (IF PROVIDED).** If there is no title, the 75-word ballot question will be printed in upper and lower case. Bullets, italics, underlining, and bolding beyond the title, are not permitted in the ballot question.
ANALYSES:	**IMPARTIAL ANALYSIS BY COUNTY COUNSEL (or CITY ATTORNEY) MEASURE Z** If the full text of a county or city measure is not printed in the Voter's Information Pamphlet, pursuant to §9160 and 9280, following the text of the impartial analysis insert in 10-pt. bold and centered: **The above statement is an impartial Analysis of Measure Z. If you desire a copy of the ordinance or measure, please visit our website at www.votescount.com or call the Elections Department at 831-454-2060 [or City Clerk] and a copy will be mailed at no cost to you.**
	FISCAL IMPACT STATEMENT BY COUNTY AUDITOR-CONTROLLER MEASURE Z
	TAX RATE STATEMENT FOR BOND MEASURE Z
MEASURE: (Voter's Pamphlet)	**SANTA CRUZ COUNTY MEASURE Z** **MEASURE TITLE** (Full Text of Ordinance, Resolution, Charter Amendment) Text.....
INITIATIVE: (Voter's Pamphlet)	**SANTA CRUZ COUNTY INITIATIVE MEASURE Z** **INITIATIVE TITLE** (Full Text of Proposed Initiative) Text.....
ARGUMENTS:	**ARGUMENT IN FAVOR OF MEASURE Z** **ARGUMENT AGAINST MEASURE Z**
REBUTTALS:	**REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE Z** **REBUTTAL TO ARGUMENT AGAINST MEASURE Z**
BALLOT:	**MEASURES SUBMITTED TO THE VOTERS** **COUNTY** **Z** 75-word ballot question... (§13247) — Yes / No If the measure is a school bond, the ballot would read: "Bonds Yes" and "Bonds No" (Education Code §15122)

SIGNATURE STATEMENT

(Elections Code Section 9600)

All arguments concerning measures filed pursuant to Division 9 of the Elections Code shall be accompanied by the following statement to be signed by each author of the argument. Names and titles listed will be printed in the Voter's Information Pamphlet in the order provided below and will appear as indicated below.

"The undersigned author(s) of the:

- ❑ argument in favor of
- ❑ argument against
- ❑ rebuttal to the argument in favor of
- ❑ rebuttal to the argument against

ballot Measure (insert letter) ____ at the Consolidated Presidential General Election for the City of Santa Cruz to be held on November 6, 2012, hereby state that such argument is true and correct to the best of _____ knowledge and belief."
(his/her/their)

ARGUMENT/REBUTTAL FILED BY (check any of the following that apply):

❑ **City Council**
Contact Person's Printed Name: _____
Contact Person's Signature: _____
Title: _____
Phone: _____ Fax: _____
E-Mail: _____

❑ **Bona Fide Association of Citizens or Filers of Special District Initiative**
Name of Association: _____
Principal Officer's Printed Name: _____
Principal Officer's Signature: _____
Title: _____
Phone: _____ Fax: _____
E-Mail: _____
Attach list of officers if document relates to a school district measure

❑ **Individual voter who is eligible to vote on the measure**
Printed Name: _____
Signature of Voter: _____
Address Where You Live: _____
Phone: _____ Fax: _____
E-Mail: _____

SIGNATURE STATEMENT - PAGE 2

CHECK ONE OF THE FOLLOWING & RECORD LETTER:

- ❑ **Argument in Favor of Measure _____**
- ❑ **Argument Against Measure _____**
- ❑ **Rebuttal to Argument in Favor of Measure _____**
- ❑ **Rebuttal to Argument Against Measure _____**

The signatures of the following persons will be printed **as submitted** below following the argument or rebuttal.

SIGNATURE	PRINT NAME as it will appear in the Voter's Information Pamphlet	PRINT TITLE AND NAME OF ASSOCIATION (IF APPLICABLE) as it will appear in the Voter's Information Pamphlet.	Are you signing on behalf of an association? YES or NO*	DATE
1.				
2.				
3.				
4.				
5.				

***If the argument or rebuttal is being signed by a principal officer on behalf of an association that is supporting or opposing the measure, the name of the association will appear on the first line, followed by the principal officer's name and title on the second line as the example illustrates:**

Santa Cruz County Citizens Group
s/ Jill Citizen, Chair

AUTHORIZATION FOR ANOTHER PERSON OR PERSONS TO SIGN REBUTTAL ARGUMENT

I, _____ authorize the following person(s) to sign
(print name of **FILER** of the argument)

the rebuttal to the argument

❑ in favor

❑ against

Measure _____ for the November 6, 2012 election.
(Letter)

(One or more people who signed the argument may be replaced with different people to sign the rebuttal)

1. _____ to sign instead of _____.
(print name of rebuttal signer) (print name of argument signer)

2. _____to sign instead of _____.
(print name of rebuttal signer) (print name of argument signer)

3. _____to sign instead of _____.
(print name of rebuttal signer) (print name of argument signer)

4. _____to sign instead of _____.
(print name of rebuttal signer) (print name of argument signer)

5. _____to sign instead of _____.
(print name of rebuttal signer) (print name of argument signer)

Signature of **Filer**: _____ Date: _____

Attach this form to the 2-page "Signature Statement" submitted with the rebuttal argument.