EXHIBIT "A"

ORDINANCE NO. 2020-07

AN ORDINANCE OF THE PEOPLE OF THE CITY OF ALBANY, CALIFORNIA, ADDING CHAPTER 7 TO THE ALBANY MUNICIPAL CODE TO ESTABLISH RANKED CHOICE VOTING AS THE MEANS OF ELECTING MEMBERS OF THE CITY COUNCIL AND BOARD OF EDUCATION

NOW THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

SECTION 1:

Subject to the approval of a majority of the voters of the City of Albany at the scheduled election so designated by the City Council in a separate resolution placing this proposal on the ballot for such election, Chapter 7 is hereby added to the Albany Municipal Code as provided for in Attachment "1," and is incorporated by this reference as if fully set forth herein. with the codified portion of the ordinance starting with Article IV.

SECTION 2:

If any portion of this Ordinance is declared invalid by a court of law or other legal body with applicable authority, the invalidity shall not affect or prohibit the force and effect of any other provision or application of the Ordinance that is not deemed invalid. The voters of the City hereby declare that they would have voted for the adoption of this Ordinance, and each portion thereof, regardless of the fact that any portion of the Ordinance may be subsequently deemed invalid.

SECTION 3:

To the fullest extent allowed by law, the provisions of this Ordinance shall prevail over, and supersede, all other provisions of the Municipal Code and any ordinances, resolutions or administrative policies of the City of Albany which are in conflict with any provision of this Ordinance.

SECTION 4:

This Ordinance shall not be amended or repealed, unless (1) a majority of voters vote to do so at a general municipal election, provided that the ballot measure was placed on the ballot by way of (a) initiative petition, or (b) the affirmative vote of at least four (4) members of the five-member City Council, irrespective of any absences, recusals, or vacancies at the time of such vote; or (2) the City Council votes to do so by the affirmative vote of at least four (4) members of the five-member City Council, irrespective of any absences, recusals, or vacancies at the time of such vote.

SECTION 5:

This Ordinance shall take effect only if approved by a majority of the eligible voters of the City of Albany voting at a General Municipal election to be held on November 3, 2020, and shall take effect ten (10) days after the City Council has certified the results of the General Municipal election by resolution.

SECTION 6:

The Mayor is hereby authorized to attest to the adoption of this Ordinance by the People voting thereon on November 3, 2020, by signing where indicated below.

I hereby certify that the foregoing Ordinance was passed, approved and adopted by the People of the City of Albany on the 3rd day of November, 2020.

Dated: _____   _____
                                         Nick Pilch, Mayor

ATTEST: **APPROVED AS TO FORM:**

_____   _____
Anne Hsu, City Clerk   Mala Subramanian, City Attorney

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ATTACHMENT 1

RECITALS

WHEREAS, Voter Choice Albany drafted a measure entitled the Ranked Choice Voting Initiative (the "RCV Initiative"), which adds a new chapter to the Albany Municipal Code.

WHEREAS, the Notice of Intent to circulate a Petition supporting the RCV Initiative was filed on Jan. 22, 2020.

WHEREAS, on Mar. 16, 2020, Voter Choice Albany was forced to halt its efforts to circulate the Petition, due to the Shelter-in-Place Order that was issued on that date by Alameda County.

WHEREAS, but for the outbreak of the COVID-19 pandemic, the RCV Initiative could have garnered the voter support necessary to qualify for the Nov. 3, 2020 General Municipal Election.

NOW, THEREFORE, to ensure that the voters may vote on the RCV Initiative, the City Council resolves to place the RCV Initiative on the ballot for the Nov. 3, 2020 General Municipal Election, pursuant to Section 5.01 of the City Charter and Section 306 of the Elections Code, in the following form:

THE RANKED CHOICE VOTING INITIATIVE

The people of the City of Albany do ordain as follows:

ARTICLE I   TITLE

This Initiative shall be known and referred to as "The Ranked Choice Voting Initiative".

ARTICLE II   FINDINGS AND PURPOSE

After three years of study, Albany's Charter Review Committee found Ranked Choice Voting at large to be the best method for electing Albany's City Council and Board of Education, and unanimously recommended that Albany transition to this method. Currently, members of both bodies are elected by plurality at large ("first past the post") regime. A significant body of academic research has found that the plurality at large regime acts as a

substantial barrier to representation for all groups other than the majority – or can, in certain cases, result in an outcome where a powerful minority wrests control of every single seat. As such, the plurality at large regime produces election results that do not accurately reflect the votes and preferences of Albany electors. Besides being unfair, such an election regime reduces voter turnout and weakens the effectiveness of our democracy.

In 2018 the Charter Review Committee presented its recommendation to the City Council and the Board of Education. On this basis, the Board of Education unanimously requested that the City Council place a Charter amendment on the ballot to transition to Ranked Choice Voting at large for electing the Board. Two Councilmembers supported placing this question in front of the voters, while three Councilmembers denied both the Charter Review Committee's recommendation and the Board of Education's request.

This Initiative adds a chapter to the Albany Municipal Code for the purpose of instituting Ranked Choice Voting at large for electing members of the City Council – which, pursuant to Paragraph (a) of Section 6.01 of the City Charter, will have the effect of instituting Ranked Choice Voting at large for electing members of the Board of Education. Ranked Choice Voting will make Albany's elections more representative of the votes and preferences of its voters. This will improve Albany's democracy by providing representation for a broader range of perspectives on its governing bodies, as well as reducing the chance that a powerful minority can capture control of our government. This change will also increase voter turnout. Continued inaction represents a risk to not just the quality of governance of Albany, but to members of our community whose voices are not being heard under the current regime.

ARTICLE III   SEVERABILITY.

Each provision of this Initiative is severable. If any provision is held to be invalid, that invalidity shall not affect any other provision that can be given effect without the invalid provision. This Initiative shall become effective upon passage.

ARTICLE IV   ADDITION OF CHAPTER 7 TO THE MUNICIPAL CODE.

Chapter 7 (Ranked Choice Voting Elections) is hereby added to the Albany Municipal Code, as follows:

§7.1   GENERAL PROVISIONS AND DEFINITIONS

§7-1.1   Enacted pursuant to Section 5.01 of the Albany City Charter (the "City Charter"), this Chapter provides the manner by which members ("Members") of the Albany City Council shall be elected. Specifically, Ranked Choice Voting shall be used for electing Members, at large, during each general municipal election, beginning with the November 8, 2022 general municipal election. Ranked Choice Voting shall also be used for electing Members, at large, during any special election called after November 8, 2022.

§7-1.2   This Chapter establishes procedures to be used in Ranked Choice Voting elections, and shall be liberally construed to give effect to its purposes. This Chapter may not be amended or repealed, unless (1) a majority of voters vote to do so at a general municipal election, provided that the ballot measure was placed on the ballot by way of (a) initiative petition, or (b) the affirmative vote of at least four (4) members of the five-member City Council, irrespective of any absences, recusals, or vacancies at the time of such vote; or (2) the City Council votes to do so by the affirmative vote of at least four (4) members of the five-member City Council, irrespective of any absences, recusals, or vacancies at the time of such vote.

§7-1.3   Ranked Choice Voting is a method that allows voters to rank candidates for elected office in order of preference. Elections conducted by Ranked Choice Voting shall be used for single-seat and multi-seat elections. Elections conducted by Ranked Choice Voting are tabulated in rounds, as specified in this Chapter.

§7-1.4   For purposes of this Chapter, the following terms have the following meanings:

a.   "City Clerk" means the City Clerk of the City of Albany, or his or her designee.

b.   "Continuing candidate" means a candidate who has not yet been designated as elected or defeated.

c.   "Election threshold" means the number of votes sufficient for a candidate to be elected in a multi-seat contest. The election threshold

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equals the total votes counted for candidates in the first round of tabulation, divided by the sum of one plus the number of seats to be filled, then adding one, disregarding any fractions. Expressed as a formula, the election threshold = [(Total votes cast)/(Seats to be elected+1)] + 1, with any fraction disregarded.

d. "Exhausted ballot" means a ballot with a ranking marked for at least one candidate but that does not contain a ranking for any continuing candidate, making the ballot unable to be transferred to another continuing candidate.

e. "Exhausted by overvote" means an instance in which a voter has ranked more than one candidate at the same ranking.

f. "Highest ranked continuing candidate" means the continuing candidate on a voter's ballot with the lowest numerical ranking.

g. "Multi-seat election" means an election in which two or more candidates can be designated as elected in a single contest to fill multiple seats in the same publicly elected office. This may also be referred to as a multi-winner election.

h. "Ranking" means the number assigned to a candidate by a voter that establishes the order in which that voter's ballot is transferred at the transfer value to that candidate during tabulation.

i. "Seat" means an elected position occupied by one person, one or more of which form a publicly elected office.

j. "Single-seat election" means an election in which only one continuing candidate can be designated as elected in the contest. This may also be referred to as a single-winner election.

k. "Skipped ranking" means a voter has left a ranking order unassigned but ranks a candidate at a subsequent ranking order.

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l.   "Special election" means any election that may be called to fill vacancies or unexpired terms pursuant to the City Charter.

m.   "Surplus fraction" means a number equal to the quotient of the difference between an elected candidate's vote total and the election threshold, divided by the candidate's vote total (or, expressed as a formula, $(V-T)/V$, in which "V" is the elected candidate's vote total and "T" is the election threshold), rounded down to four decimal places.

n.   "Transfer value" means the proportion of a vote that a ballot will contribute to its highest ranked continuing candidate. If a ballot contributes to the election of a candidate, it receives a new transfer value pursuant to Subparagraph (3) of Paragraph (a) of Section §7-3.6.

§7-1.5   Ballots with Skipped Rankings and Overvotes

a.   If a ballot contains a skipped ranking, the ballot shall be transferred to the highest ranked continuing candidate. *Just as one example, suppose that a ballot contains rankings for a voter's second choice, third choice, and fourth choice (i.e., the voter skipped his or her first-choice ranking). Assuming that the voter's second choice is a continuing candidate, the ballot shall be transferred to the voter's second choice.*

b.   If a ballot contains an overvote, it shall count as an exhausted ballot when the overvote is reached.

§7-1.6   There shall be no nomination of candidates and no write-in candidates to succeed any Member who is the subject of a recall petition. If a Member is recalled, his or her successor shall be determined pursuant to the procedures set forth to fill vacancies under the City Charter.

§7-1.7   Any special election called for the same date as a general municipal election must be consolidated with the general municipal election. If they are not consolidated

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with a general municipal election, two or more special elections to elect Members must themselves be consolidated, provided that those special elections have been called for the same date.

§7-1.8   All consolidated elections of Members will be combined into one multi-seat election. Any longer terms to be filled shall be awarded to the candidates who are first to be declared or designated as elected, and any shorter terms shall be awarded to the candidates who are last to be declared or designated as elected.

§7-1.9   If any special election is not consolidated pursuant to Section 7-1.8, it shall be held using Ranked Choice Voting in a single-seat election, on the date of the next regularly established election to be held throughout the City of Albany at least 114 days from the call of the special election.

§7.2   VOTING

§7-2.1   The ballot shall allow voters to assign a different ranking to every candidate, as well as to write-in candidates. If the voting equipment used by the City Clerk cannot feasibly accommodate that number of rankings on the ballot, the City Clerk may limit the number of candidates that a voter may rank to the maximum number allowed by the equipment.

§7-2.2   Voters may rank as few candidates as they prefer or as many as they prefer subject to any limitation on the maximum number of candidates established by the City Clerk pursuant to Section §7-2.1.

§7.3   VOTE COUNTING

§7-3.1   This Subchapter (§7-3) establishes the procedures for electing candidates in single-seat and multi-seat elections using Ranked Choice Voting.

§7-3.2   In an election conducted by Ranked Choice Voting, the City Clerk shall provide ballot instructions that make clear the proper voting procedures for voting in a Ranked Choice Voting election.

§7-3.3   Each ballot's vote is initially assigned to the highest ranked candidate on that ballot at a transfer value of one.

1   §7-3.4   If the number of candidates is equal to or less than the seats to be filled,

2 each candidate is declared elected. The number of votes for each candidate is counted and

3 tabulation is complete. Otherwise tabulation proceeds in accord with Section 7-3.5 for a single-

4 seat election or Section 7-3.6 for a multi-seat election.

5   §7-3.5   Single-Seat Election Tabulation

6   a.   Vote tabulation proceeds in rounds as follows:

7   1.   Each ballot is counted for the highest ranked continuing

8   candidate on that ballot. If there are only two continuing

9   candidates, the candidate with more votes is declared the

10   winner of the election, and tabulation is complete. Otherwise,

11   tabulation proceeds pursuant to Subparagraph (2) immediately

12   below.

13   2.   The candidate with the fewest votes is defeated, and votes for

14   the defeated candidate are transferred to the highest ranked

15   continuing candidate of each affected ballot. If two or more

16   candidates are tied with the fewest number of votes, the

17   candidate to be defeated shall be determined by lot. A new

18   round of tabulation starts again pursuant to Subparagraph (1)

19   immediately above.

20   §7-3.6   Multi-Seat Election Tabulation

21   a.   Vote tabulation proceeds in rounds as follows:

22   1.   Each ballot is counted, at its current transfer value, for the

23   highest ranked continuing candidate on that ballot. If there is

24   at least one candidate with more votes than the election

25   threshold, each candidate with more votes than the election

26   threshold is designated as elected. If the number of elected

27   candidates is equal to the number of seats to be filled, the

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1		tabulation is complete. Otherwise, tabulation proceeds
2		pursuant to Subparagraph (2) immediately below.
3	2.	If any ballot counted for a candidate who has been designated
4		as elected and who has surplus fraction greater than zero has
5		not been assigned a new transfer value after that candidate was
6		designated as elected, the tabulation proceeds pursuant to
7		Subparagraph (3) immediately below. Otherwise, the
8		tabulation proceeds pursuant to Subparagraph (4) below.
9	3.	Of the candidate or candidates who have been designated as
10		elected, the candidate with the greatest number of votes (with
11		any tie decided by lot) is deemed to have a number of votes
12		equal to the election threshold for the contest in all subsequent
13		rounds. Each ballot counted for that candidate is assigned a
14		new transfer value, by multiplying the ballot's current transfer
15		value by the surplus fraction for the elected candidate, rounded
16		down to four decimal places. Tabulation continues pursuant to
17		Subparagraph (1) above.
18	4.	If the total number of elected and continuing candidates is
19		equal to the number of seats to be filled, the continuing
20		candidates are designated as elected and the tabulation is
21		complete. Otherwise, the continuing candidate with the fewest
22		votes is defeated, and a new round of tabulation begins
23		pursuant to Subparagraph (1) above.

§7.4   REPORTING

§7-4.1   For purposes of this Chapter, the following terms have the following meanings:

a.   "Ballot report" means a report in plain text electronic format that lists all of the following for each ballot counted in the tabulation:

1.   The candidate indicated at each ranking.

2.   The precinct in which the ballot was cast.

3.   Whether the ballot was cast by mail.

b.   "Summary report" means a report that lists all of the following:

1.   The number of ballots counted.

2.   The votes received by each candidate in each round of the tabulation.

3.   In each round of tabulation, the cumulative number of all exhausted ballots and all ballots exhausted by overvotes.

4.   Any other information that the City Clerk chooses to include.

§7-4.2   Reporting Limitations

a.   A ballot report generated pursuant to this Section (§7-4.2) shall not permit the order in which the votes were cast in each precinct to be reconstructed or the identification of the voter that cast the ballot.

b.   This Section (§7-4.2) does not prohibit the City Clerk from providing additional reports or including additional information in any report except for the limitations expressed in Paragraph (a) immediately above.

§7-4.3   Vote Tabulation and Report Publication Timing and Posting

a.   The City Clerk, in coordination with the Alameda County Registrar of Voters, shall do all of the following:

1.   Tabulate the results as soon as the City Clerk determines it is feasible after the close of the polls, and publish the corresponding summary report.

2.   Tabulate the results for the last preliminary count of the ballots on election night and publish a corresponding summary report.

1   b.   The City Clerk shall publish a summary report and ballot report for the

2   final tabulation of the official canvass in conjunction with the certified

3   statement of the results.

4   §7-4.4   The City Clerk shall promptly post links to reports pursuant to Section

5 7-4.2 on the internet website of the City Clerk's Office.

6   §7.5   VOTER EDUCATION

7   §7-5.1   For purposes of this Chapter, the following terms have the following

8 meanings:

9   a.   "Additional supported language" means a language for which a

10   jurisdiction is required to provide voting materials and assistance

11   under the Federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10101 et

12   seq.) or for which the Secretary of State has determined that it is

13   necessary to provide facsimile ballots at a precinct within the

14   jurisdiction pursuant to subdivision (c) of Section 14201 of the State

15   Elections Code.

16   b.   "Additional supported language community" means a community that

17   speaks an additional supported language.

18   §7-5.2   Education Planning and Execution

19   a.   The City Clerk shall conduct a voter education and outreach campaign

20   before each election conducted pursuant to this division, until the

21   conclusion of the second general election conducted in this manner. A

22   campaign conducted pursuant to this chapter shall include public

23   meetings and public service announcements through different media,

24   including media serving additional supported language communities,

25   if available, to familiarize voters with that election method. Materials

26   and information disseminated as part of the campaign shall be

27   provided in all additional supported languages and shall be accessible

28   to individuals with disabilities.

b.   The City Clerk shall, in collaboration with the Alameda County Registrar of Voters, develop a plan describing how they will conduct the voter education and outreach campaign required by this Section (§7-5.2). The plan shall include all of the following information:

    1.   How the City Clerk will use media, which may include digital media, newspapers, radio, and television, to inform voters about an upcoming election.

    2.   What information will be publicly available on the City Clerk's internet website.

    3.   What information will be included in the sample ballot and vote by mail materials.

    4.   How the City Clerk will conduct direct outreach to voters, including voters with disabilities.

    5.   How the City Clerk will have a community presence to educate voters, including voters with disabilities.

    6.   How the City Clerk will educate voters within each additional supported language community.

c.   Before finalizing its plan, the City Clerk shall publish a draft plan and hold, at least 10 days after publication of its plan, at least one regular public meeting to discuss the plan. The City Clerk shall also make a good faith effort to invite each of the following to at least one of those public meetings:

    1.   Representatives, advocates, and other stakeholders representing each additional supported language community.

    2.   Representatives from the disability community and community organizations and individuals that advocate on behalf of, or provide services to, individuals with disabilities.

1 d. All materials provided by the voter education and outreach campaign,

2 including materials provided on the internet website of the elections

3 official, sample ballots and vote by mail materials, and materials

4 provided through direct outreach and community presence, shall be

5 provided in the additional supported languages and shall be accessible

6 to individuals with disabilities.

7 e. If multiple jurisdictions within the same county are conducting ranked

8 choice voting elections, the City Clerk may combine or coordinate his

9 or her voter education plans and voter education and outreach

10 campaigns.

11 f. The City Clerk may partner or coordinate resources with

12 nongovernmental organizations to conduct its voter education and

13 outreach campaign.

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