

CITY OF OAKLAND

STATEMENT FROM CITY ATTORNEY BARBARA J. PARKER

RE: City Clerk's Ministerial Duty to Administer the Oath of Office to Candidates
Certified by the Alameda County Registrar of Voters

DATE: January 8, 2023

The California Elections Code governs the counting, certification and declaration of results of municipal elections.

The California Elections Code imposes a mandatory, ministerial duty upon the City Clerk, who is the City of Oakland's election official, to administer the oath of office to each candidate who the Alameda County Registrar of Voters certified as receiving the majority of the votes cast.

Elections Code section 10265 provides:

The elections official shall immediately sign and deliver to each person elected a certificate of election. He or she shall also administer to each person elected the oath of office prescribed in the California Constitution.

The Alameda County Registrar of Voters sent the City Clerk a December 8, 2022 letter enclosing the Certificate of the official, certified election results for the November 2022 City of Oakland General Election. To date, the Registrar of Voters has not changed the official results that appear on their website, nor has the Registrar sent the City different, certified results. The City Clerk thus has no legal authority to proceed other than by administering the oath of office to the candidates whom the County Registrar of Voters declared the winners in their December 8, 2022 letter.

An election contest has been filed in the Alameda County Superior Court by the candidate who the County Registrar recently stated should have been declared the winner. Accordingly, the City will await the results of the election contest and will comply with any order the Alameda County Superior Court issues in that action.

Additional information is provided in the January 8, 2022 Memorandum regarding this matter that is posted on the City Attorney's website. This statement and memorandum can be accessed by clicking on the following link:

https://oaklandcityattorneyorg-my.sharepoint.com/:b:/g/personal/searly_oaklandcityattorney_org/ES2VCj2Zwm9Fiv-zYfXi2S4BTjp1y2FwBOBbRA-Z1JQgxw?e=n7YaAi