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FOR IMMEDIATE RELEASE

Dec. 2, 2008

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Santa Clara County Election Results Certified Today *Judge Denies Measure B Opponents' Petition for Restraining Order*

SAN JOSE, CALIF.-- Consistent with the California Elections Code, today County Registrar Jesse Durazo certified the results of the November 4, 2008 Election, including the successful passage of Measure B to bring BART to San Jose.

"The Election Code requires that all jurisdictions certify election results within 28 days," said County Counsel Ann Ravel. "We have met that requirement."

Today the Superior Court also refused to grant a temporary restraining order to bar the certification of the election results. The Court's ruling was in response to a petition for writ of mandate filed by a voter in Santa Clara County and Transportation Solutions Defense and Educational Fund. The petition filed on Wednesday, November 26th sought a temporary restraining order against the Secretary of State and the Registrar of Voters to prevent the Registrar from certifying the vote today, the statutory deadline to do so. Superior Court Judge Peter Busch opined that the subject was moot, given the County's timely certification of the election.

The petitioners had alleged that the Registrar of Voters failed to undertake a manual tally, or audit, of 10% of the precincts reporting in the November election in accordance with emergency regulations issued by the Secretary of State on October 20, 2006. These regulations are referred to as the post-election manual tally regulations and were issued in conjunction with the Secretary of State's conditional recertification of the voting machines.

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Santa Clara County Election Results Certified Today – page 2 of 2

The purpose of the regulations is to require audit in any election involving the use of electronic voting machines in which there is a “narrow margin of victory” in order to ensure the accuracy of the machines. The Judge did, however, rule that the petitioners are free to proceed with their complaint and, laying out their legal case for court review, after the fact.

The County asserted that the post-election manual tally regulations defining a “narrow margin of victory” for purposes of a measure race, are not worded to capture supermajority races which require 66.67% of the vote. The County argued that the difference between the votes for and against Measure B was 33.56% and could hardly be considered a narrow margin of victory.

“The County's election count and certification process complied with the law,” Ravel said. “The petitioners have the right to ask for a recount at their own expense, but instead they wanted the County to spend its scarce resources for their political purposes.”

The County also argued that the petitioners should have filed their petition for a manual tally after the November 5 semifinal canvass of the vote was posted. By waiting until the day before the election results were due to be certified, the petitioners delayed too long.

“We always want to ensure that the democratic process is upheld,” Ravel continued. “If the petitioners choose to do so, they can request and pay for the cost of a recount now that the election has been certified.”

Complete election results can be found at the following link:

<http://www.sccgov.org/elections/results/nov2008/>

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