PUBLIC DISCUSSION DRAFT Revised December 9, 2011

RESOLUTION No.

Establish as a position of the Portland City Council that corporations should not receive the same constitutional rights as natural persons do, that money is not speech and independent expenditures should be regulated.

WHEREAS, the United States Constitution and the Bill of Rights are intended to protect the rights of individual human beings ("natural persons"); and,

WHEREAS, corporations can and do make important contributions to our society, but the City Council does not consider them natural persons; and,

WHEREAS, the right to free speech is a fundamental freedom and unalienable right and free and fair elections are essential to democracy and effective self-governance; and,

WHEREAS, United States Supreme Court Justice Hugo Black in a 1938 opinion stated, "I do not believe the word 'person' in the Fourteenth Amendment includes corporations"; and,

WHEREAS, the United States Supreme Court held in *Buckley v. Valeo* (1976) that a limitation on the amount of money a supporter could contribute to a campaign or candidate was not the same as a limitation on that supporter's freedom of speech; and,

WHEREAS, the United States Supreme Court in *Buckley* overturned limits on independent expenditures because the corruption or perception of corruption rationale was only applicable to direct contributions to candidates; and.

WHEREAS, United States Supreme Court Justice Stevens observed in *Nixon v. Shrink Missouri Government PAC* (2000) that "money is property, it is not speech,"; and,

WHEREAS, the United States Supreme Court recognized in *Austin v. Michigan Chamber of Commerce* (1990) the threat to a republican form of government posed by "the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public's support for the corporations political ideas"; and

WHEREAS, the United States Supreme Court in *Citizens United v. the Federal Election Commission* (2010) reversed the decision in *Austin*, and rolled back legal limits on corporate spending in the electoral process allowing unlimited corporate spending to influence elections, candidate selection, policy decisions and sway votes; and,

WHEREAS, prior to the *Citizens United* decision unlimited independent expenditures could be made by individuals and through political action committees, though such committees did operate under contribution limits; and.

WHEREAS, because the *Citizens United* decision "rejected the argument that political speech of corporations or other associations should be treated differently" because the First Amendment

"generally prohibits the suppression of political speech based on the speaker's identity," there is a need to broaden the corruption rationale for campaign finance reform to facilitate regulation of independent expenditures regardless of the source of the money for this spending, for or against a candidate; and,

WHEREAS, a February 2010 Washington Post-ABC News poll found that 80 percent of Americans oppose the U.S. Supreme Court *Citizens United* ruling; and,

WHEREAS, the opinion of the four dissenting justices in *Citizens United* noted that corporations have special advantages not enjoyed by natural persons, such as limited liability, perpetual life, and favorable treatment of the accumulation and distribution of assets, that allow them to spend prodigious sums on campaign messages that have little or no correlation with the beliefs held by natural persons; and,

WHEREAS, although addressing corporate personhood alone is not enough to address the *Citizens United* decision, action is also needed on this topic because though corporations can make important contributions to our society, they are not natural persons; and,

WHEREAS, corporations are legally required to put profits for shareholders ahead of concerns for the greatest good of society while individual shareholders as natural persons balance their narrow self-interest and broader public interest when making political decisions; and,

WHEREAS, Oregon Senator Jeff Merkley and Oregon Representatives Peter DeFazio, Earl Blumenauer, and Kurt Schrader are pursuing campaign finance reform legislation through amendments to the United States Constitution.

NOW, THEREFORE, BE IT RESOLVED that it is the position of the Portland City Council that corporations should not receive the same constitutional rights as natural persons do and that money is not speech and independent expenditures should be regulated; and,

BE IT FURTHER RESOLVED that the City of Portland hereby includes in its 2012 Federal Legislative Agenda support for efforts to pass an Amendment to the United States Constitution related to campaign finance reform including S. J. Res. 10 introduced by Senator Tom Udall of New Mexico and Senator Jeff Merkley of Oregon and H.J. Res. 72 introduced by Representative Kurt Schrader of Oregon and co-sponsored by Representatives Blumenauer and DeFazio of Oregon; and, respectfully urges Oregon's Congressional delegation to prioritize congressional proposal of an amendment to the United States Constitution addressing the threats to representative government identified in this resolution so that the states may ratify it; and,

BE IT FURTHER RESOLVED that the City of Portland calls on Portlanders, other communities and jurisdictions and organizations like the U.S. Conference of Mayors and National League of Cities to join with us in this action by passing similar Resolutions.

Adopted by the Council:

Mayor Sam Adams

Prepared by: Clay Neal and Jennifer Yocom

Date Prepared: [Date]

LaVonne Griffin-Valade Auditor of the City of Portland By

Deputy