



ACTION CALENDAR  
October 11, 2022

To: Members of the City Council

From: Mayor Jesse Arreguín

Subject: Guidelines for Public Process, Expenditure and Oversight of \$650 Million Affordable Housing and Infrastructure Bond

RECOMMENDATION

Adopt a Resolution establishing guidelines for the allocation of the proposed \$650 Million Affordable Housing and Infrastructure Bond, if adopted by the voters, including:

- 1) Commitment to the expenditure of bond funds for affordable housing projects and specific infrastructure categories;
- 2) The proposed public process to be implemented, including plans and policies to guide the development of project plans, public meetings and the role of advisory Commissions and staff level prioritization of initial project recommendations;
- 3) Specific direction regarding required annual reporting, the role of the Bond Oversight Committee; and requirements for audits of bond expenditures.
- 4) Recommended direction regarding independent construction management and oversight of bond-funded City capital projects.

BACKGROUND

The urgent need for affordable housing, the accelerating impacts of climate change, and aging public buildings and infrastructure, create challenges for safety, equity, sustainability, and resilience, and require significant new funding to meaningfully address these priorities.

The City Council has identified critically needed investments in affordable housing; improved streets and sidewalks; green, vibrant, and well-maintained parks, streetscapes and other open spaces; pedestrian and bicycle safety improvements; public and historic buildings; recreational facilities, pools and the waterfront; and above and below-ground infrastructure.

To address the need for affordable housing and improved infrastructure, on August 3, 2022, the Berkeley City Council voted unanimously to submit to the voters, at the November 8, 2022 General Municipal Election, a measure seeking authorization to issue up to \$650 million dollars in general obligation bonds to finance "Improvements" including affordable housing, street rehabilitation, traffic safety improvements, undergrounding of utilities on evacuation routes and other infrastructure projects. If approved by the voters, the City would be able to issue one or more series of bonds to finance capital improvements for housing and infrastructure, which can also leverage federal, state, regional and private sources of funding.

If the measure passes, the attached Resolution is designed to provide supplemental guidelines on spending priorities, public participation in determining the expenditure of bond revenues, and specific oversight and accountability requirements.

State of California law authorizes the City to issue general obligation bonds for municipal improvements pursuant to certain provisions of the California Government Code including Article 1, commencing with Section 43600, of Chapter 4 of Division 4 of Title 4 or Article 4.5, commencing with Section 53506, of Chapter 3 of Part 1 of Division 2 of Title 5. State law further prohibits the use of general obligation bond revenues for maintenance of capital assets. In addition, Section 7.64 of the Berkeley Municipal Code authorizes the City to issue general obligation bonds for the acquisition, construction or completion of municipal improvements related to affordable housing. Bond revenues may only be used for new capital expenditures for specified "Improvements".

### **"Improvements" Defined**

Resolution No. 70,492-N.S. ("Bond Resolution") which placed the bond measure on the November 2022 ballot and Exhibit A, the text of the measure, specifically defined the "Improvements" to be financed to include:

- **Financing the acquisition or improvement of real property for affordable housing and social housing; and**
- **The acquisition and improvement of real property for public infrastructure and facilities including but not limited to: the City's streets (including pavement, traffic safety, pedestrian, accessibility, bicycle, and streetscape improvements), sidewalks and paths; public utilities, including the undergrounding of utilities on evacuation routes; parks, the waterfront and pier, and other natural and landscaped areas; pools, recreation, and senior facilities; camps; buildings; storm drains and green infrastructure; civic, historic, and cultural sites; and other public open spaces, buildings, infrastructure, facilities, and amenities, including construction, repair, renovation, replacement, or reconstruction, so that the public can continue to benefit from safe, more sustainable, resilient, and enjoyable Infrastructure Improvements, and the Infrastructure Improvements will include any public art integrated into the Infrastructure Improvements consistent with Berkeley Municipal Code Chapter 6.13.**

Given the legal restrictions on the use of bond funds for maintenance, the City allocate funding from its General Fund for ongoing maintenance. To that end, the City Council through Resolution No. 70,456-N.S. adopted a fiscal policy to allocate \$8 Million annually in General Fund monies for street maintenance, to be adjusted annually for inflation. The allocation is intended to augment the existing street paving budget of \$7.3 Million for a total commitment of \$15.3 Million annually. This will help prevent further deterioration of street pavement conditions.

### **Spending Priorities**

The Bond Resolution specified the Improvements to be financed by the bonds and recommendations on spending priorities. Spending recommendations are detailed on page 6 of the Resolution and specify that "Projects to be funded by \$650 million in bonds include but are not limited to:

- Estimated cost of the Affordable Housing Improvements to be funded by the bonds is \$200 Million.
- Estimated cost for the Infrastructure Improvements related to streets, sidewalks and traffic safety to be funded by the bonds is \$300 million of which \$231 million is for street paving and reconstruction and integrated traffic safety improvements if feasible, with the

remainder (\$69 million) for sidewalks, paths, traffic safety improvements including bike and pedestrian facilities and streetscape improvements.

- An estimated \$50 Million for undergrounding utilities on evacuation routes.
- The remaining \$100 million is for all other eligible infrastructure improvements including but not limited to: improvements reducing the risk and impacts of climate change including flooding through stormwater and sea level rise; improvements to City parks, pools, camps, and recreation facilities, including the Berkeley Waterfront and Municipal Pier; improvements that revitalize the historic Civic Center as a cultural and civic hub for the community; and improvements to public buildings, infrastructure, open space, and facilities.

Further the Bond Resolution states that the proceeds of the sale of the bonds will be used to finance the acquisition and construction of real property for the “Improvements” as defined in the Resolution along with any fees and costs associated with the issuance of the bonds.

The improvements will be funded and completed as needed and each project is assumed to include its share of costs including planning, program management and construction. The final cost of each Improvement/project will be determined as plans are finalized, construction bids are awarded, or projects completed. In addition, funding is expected from sources other than bonds and will be used to supplement the cost of the Improvements to ensure project delivery and maximize the number of projects funded.

While the measure does define the “Improvements” in some detail which can be funded through the issuance of bonds, it also includes language to ensure flexibility and adaptive planning as the bonds are issued and projects identified through the work of staff, advisory commissions and the public. Key to the development of project funding recommendations is the use of adopted plans and policies including the Vision 2050 Program Plan, pavement management system; and Transportation, Vision Zero, Bicycle, and Pedestrian plans, as adopted or amended by the City Council from time to time. Nevertheless, there is a need to provide greater clarity about the commitments the city is making towards funding categories of projects if the bond measure passes. Therefore, the attached resolution specifies that “The City Council hereby commits that if the measure passes, it shall allocate bond revenues towards the following categories of projects and in the amounts specified:

1. \$200 million to finance the Affordable Housing Improvements for the acquisition and improvement of real property related to affordable housing and social housing.
2. \$300 million for Infrastructure Improvements related to streets, sidewalks and traffic safety including \$231 million for street paving and reconstruction, including integrated traffic safety improvements for traffic calming and diversion where necessary to prevent paving-related increases in vehicle volume and speed.
3. \$69 million for traffic safety projects, sidewalks, and streetscapes, prioritized according to adopted city plan recommendations. Bicycle and Pedestrian Plan recommended projects will be the top priority for the allocation of funding in this category. Additional bond funding for Infrastructure Improvements may supplement project funding for traffic safety, sidewalks, and streetscapes.
4. \$50 million for undergrounding of utilities on evacuation routes.
5. \$100 million for all other eligible Infrastructure Improvements including but not limited to improvements reducing the risk and impacts of climate change including flooding through stormwater and sea level rise; improvements to City parks, pools, camps, and recreation facilities, including the Berkeley Waterfront and Municipal Pier; improvements that revitalize the historic Civic Center as a cultural and civic hub for the community; and improvements to public buildings, infrastructure, open space, and facilities.

## **Public Participation**

Key to the development of plans for bond expenditures is public participation and the input of City Boards and Commissions. Measure T1, the 2016 Infrastructure Bond, used an extensive public process involving commissions, staff, and public meetings and surveys to get input on project priorities. This resolution commits to using a similar process for the allocation of bond funds for Infrastructure Improvements. Affordable Housing Improvements will use the process outlined in the Housing Trust Fund Guidelines and the city may to the extent possible issue a consolidated solicitation combined with other housing funds to maximize the amount of funding available and projects eligible to be funded. This was the process used for the allocation of Measure O bond funds which enabled the city to finance over 800 permanently affordable units.

## **Bond Oversight**

Independent citizen oversight is critical to ensuring that bond funds are spent for the purposes called for in the ballot measure. While prior measures delegated oversight to existing Boards and Commissions, given the amount of funding proposed and breadth of the bond measure, the City Council required that a separate "Affordable Housing and Infrastructure Bond Oversight Committee" be established to provide oversight of projects funded by bonds and the expenditure of proceeds of the bonds, and whether they are spent consistent with the purposes as set forth in the measure. By decoupling the role of citizen oversight from funding recommendations, the proposed measure will increase citizen participation and provide a targeted focus to review bond expenditures to ensure consistency with legal process. This is similar to the process employed by the Berkeley Unified School District and other public agencies.

The resolution outlines the requirements for eligibility to serve on the new Bond Oversight Committee and provides more specificity on their responsibilities.

## **Accountability and Transparency**

The text of the measure also outlines other accountability measures including the process for approving bond expenditures, reporting requirements, and required annual independent audits. This proposed resolution provides more detail on these areas with input provided by City staff.

## **Independent Construction Project Management**

Some school districts and public agencies require that an independent Construction Project Manager oversee the bidding and construction process to ensure that projects stay within the amount budgeted, are delivered on time and meet legal requirements and workplace standards. Berkeley has not instituted independent construction project management in the past, but rather relies on City staff to oversee project delivery. Given the scope of this bond measure, this resolution recommends that the City Manager employ an independent construction project manager to provide oversight over the bidding and construction process for Infrastructure Improvements. Specifically, it recommends that the City Manager provide the Council with recommendations on how independent construction oversight can be delivered within existing laws and requirements overseeing public works contracts simultaneous with an implementation plan for the bond program. Independent construction management can also provide more staff capacity to deliver projects given the scope of the bond program and limited staffing resources.

## **FINANCIAL IMPLICIATIONS**

Adoption of the Resolution will not impact the amount of revenue to be generated from the issuance of bonds, but rather provide guidance to staff on the implementation of the

measure, and may lead to cost savings depending on how they are applied.

#### ENVIRONMENTAL SUSTAINABILITY

Implementing Vision 2050 would result in more resilient public infrastructure that creates fewer greenhouse gases and reduces conflict between our built and natural environment. More affordable housing in Berkeley would reduce greenhouse gas emissions caused by employees finding lower cost housing farther away from employment centers and requiring longer commutes.

#### CONTACT PERSON

Jesse Arreguín, Mayor, (510) 981-7100

#### Attachments:

1. Proposed Resolution
2. Bond Measure Resolution No. 70,492-N.S.

Links to relevant documents related to previous oversight of City and regional tax measures:

- [Resolution 69-575 \(Measure FF\) \(9/22/2020\)](#)
- [Designating the Disaster and Fire Safety Commission as the Citizens' Oversight Committee for Expenditure of the Proceeds of Fire, Emergency Services and Wildfire Prevention Tax \(Measure FF\) \(9/22/2020\)](#)
- [Public Process for Implementation of Measure T1 \(1/31/2017\)](#)
- [Process Guidelines for Prioritizing \\$100 Million Infrastructure and Facilities Bond Spending \(9/13/2016\)](#)
- [Resolution 67-522 \(Measure T1\) \(5/31/2016\)](#)
- <https://www.sfbayrestore.org/independent-citizens-oversight-committee>
- [https://www.sfbayrestore.org/sites/default/files/2022-06/Annual\\_OC\\_Letter\\_Final\\_2021\\_Signed.pdf](https://www.sfbayrestore.org/sites/default/files/2022-06/Annual_OC_Letter_Final_2021_Signed.pdf)
- [https://www.sfbayrestore.org/sites/default/files/2021-12/Oversight%20Committee%20Procedural%20Document\\_Rev12-10-21.pdf](https://www.sfbayrestore.org/sites/default/files/2021-12/Oversight%20Committee%20Procedural%20Document_Rev12-10-21.pdf)

RESOLUTION NO.

ESTABLISHING GUIDELINES FOR PUBLIC PROCESS, EXPENDITURE PRIORITIES, OVERSIGHT AND ACCOUNTABILITY OF REVENUE FROM A \$650 MILLION AFFORDABLE HOUSING AND INFRASTRUCTURE BOND MEASURE

WHEREAS, the urgent need for affordable housing, the accelerating impacts of climate change, and aging public buildings and infrastructure, create challenges for safety, equity, sustainability, and resilience, and require significant new funding to meaningfully address; and

WHEREAS, the City Council has identified critically needed investments in affordable housing; improved streets and sidewalks; green, vibrant, and well-maintained parks, streetscapes and other open spaces; pedestrian and bicycle safety improvements; public and historic buildings; recreational facilities, pools and the waterfront; and above and below-ground infrastructure; and

WHEREAS, to address the need for affordable housing and improved infrastructure, on August 3, 2022, the Berkeley City Council voted unanimously to adopt Resolution No. 70,492-N.S. submitting to the voters at the November 8, 2022 General Municipal Election a measure seeking authorization to issue up to \$650 million dollars in general obligation bonds to finance Improvements including affordable housing, street rehabilitation, traffic safety improvements, undergrounding of utilities on evacuation routes and other infrastructure projects; and

WHEREAS, if approved by the voters, the City would be able to issue one or more series of bonds to finance capital improvements for housing and infrastructure, which can also leverage federal, state, regional and private sources of funding; and

WHEREAS, Resolution No. 70,492-N.S. and Exhibit A, the text of the bond measure, defines the “Improvements” to be funded by the bonds and, and specifically states that the “Affordable Housing Improvements” are to finance the acquisition or improvement of real property for affordable and social housing including the application of bond proceeds by the City directly, or indirectly through third parties as loans, grants or other disbursements to qualified individuals, not-for-profit entities acting alone or together with tax credit investors, not-for-profit corporations, partnerships, associations, and government agencies, to acquire real property for the purpose of constructing, rehabilitating or preserving affordable and social housing, or to construct, rehabilitate or preserve affordable and social housing; including but not limited to newly constructed non-profit rental and ownership housing, supportive housing, and limited-equity housing cooperatives affiliated with community land trusts; and

WHEREAS, Resolution No. 70,492-N.S. and the bond measure text also defines the “Infrastructure Improvements” as the acquisition and improvement of real property for public infrastructure and facilities including but not limited to: the City’s streets (including pavement, traffic safety, pedestrian, accessibility, bicycle, and streetscape improvements), sidewalks and paths; public utilities, including the undergrounding of utilities on evacuation routes; parks, the waterfront and pier, and other natural and landscaped areas; pools, recreation, and senior facilities; camps; buildings; storm drains and green infrastructure; civic, historic, and cultural sites; and other public open spaces, buildings, infrastructure, facilities, and amenities, including construction, repair, renovation, replacement, or reconstruction, so that the public can continue to benefit from safe, more sustainable, resilient, and enjoyable Infrastructure Improvements, and the Infrastructure Improvements will include any public art integrated into the Infrastructure Improvements consistent with Berkeley Municipal Code Chapter 6.13; and

WHEREAS, the measure authorizes the issuance of general obligation bonds, the object and purpose of which is to finance, by the City of Berkeley or a third party, the acquisition or improvement of real property for the “Improvements” as defined; and

WHEREAS, the City Council recognizes the importance of ensuring adequate maintenance funding from existing sources for Infrastructure Improvements financed by the Bonds and not supplanting existing City infrastructure funding with proceeds of the Bonds; and

WHEREAS, the City Council through Resolution No. 70,456-N.S. has adopted a fiscal policy to allocate \$8 million annually in General Fund monies for street maintenance (the “Street Maintenance Funding Policy”), to be adjusted annually for inflation. The allocation is intended to augment the existing street paving budget of \$7.3 million, for a total street maintenance commitment of \$15.3 million annually, adjusted for inflation; and

WHEREAS, while the measure defines the “Improvements” eligible to be funded and the amounts allocated for Affordable Housing Improvements (\$200 million) and Infrastructure Improvements (\$450 million), there is a need for more specificity about the commitments the city is making towards funding categories of projects if the bond measure passes; and

WHEREAS, in the event the measure passes, this Resolution is designed to provide supplemental guidelines on spending priorities, public participation in determining the expenditure of bond revenues, and specific oversight and accountability requirements.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley:

That the City Council hereby commits that, if the measure passes:

- A. Funding Allocation of bond revenues will be directed toward the following categories of projects and in the amounts specified:
  1. \$200 million to finance the Affordable Housing Improvements for the acquisition and improvement of real property related to affordable housing and social housing.
  2. \$300 million for Infrastructure Improvements related to streets, sidewalks and traffic safety including \$231 million for street paving and reconstruction, including integrated traffic safety improvements for traffic calming and diversion where necessary to prevent paving-related increases in vehicle volume and speed.
  3. \$69 million for traffic safety projects, sidewalks, and streetscapes, prioritized according to adopted city plan recommendations. Bicycle and Pedestrian Plan recommended projects will be the top priority for the allocation of funding in this category. Additional bond funding for Infrastructure Improvements may supplement project funding for traffic safety, sidewalks, and streetscapes.
  4. \$50 million for undergrounding of utilities on evacuation routes.
  5. \$100 million for all other eligible Infrastructure Improvements including but not limited to improvements reducing the risk and impacts of climate change including flooding through stormwater and sea level rise; improvements to City parks, pools, camps, and recreation facilities, including the Berkeley Waterfront and Municipal Pier; improvements that revitalize the historic Civic Center as a cultural and civic hub for the community; and improvements to public buildings, infrastructure, open space, and facilities.
- B. Public Participation for Infrastructure Improvements will include an extensive public process, similar to what was established for the implementation of Measure T1 the 2016 Infrastructure Bond, involving input from boards and commissions, staff, public meetings

and surveys to get input on project priorities. Affordable Housing Improvements will use the process outlined in the Housing Trust Fund Guidelines and for the allocation of Measure O bond funding and the city will issue a consolidated solicitation combined with other housing funding to maximize the amount of funding allocated to projects.

- C. Oversight of projects funded by bonds and the expenditure of proceeds of the bonds, will be conducted by a newly established “Affordable Housing and Infrastructure Bond Oversight Committee” (“Oversight Committee”), that will be appointed by each member of the City Council and approved by the entire body, to ensure funds are spent consistent with the purposes of the bonds as set forth in the measure. The Oversight Committee shall establish a similar process employed by the Berkeley Unified School District and other public agencies. Members of the Oversight Committee shall demonstrate expertise in one or more of the following categories: affordable housing development or management, governmental grant funding, public works project management or construction, climate change and environmental resiliency, adaptive planning, architecture, engineering, finance, transportation including pedestrian and bicycle safety, disaster preparedness and emergency response or management, communications and technology infrastructure, park or public space design, waterfront design or management
- D. Accountability and Transparency. Annual reports will be provided to City Council regarding the amount of bond funds collected and expended, the amount of leveraged funding applied to projects and the status of the Improvements and impact on infrastructure need in each category. An annual independent financial audit of the receipts and expenditures of bond funds will be provided to City Council. The City Manager will provide a website, specific to the measure, updated at least quarterly, and dedicated to the on-going progress, fiscal management and implementation of the bond funds and projects. The City Manager will also publish an annual report that will be mailed to the public dedicated to fiscal management and implementation of the measure.
- E. Independent Construction Project Management. The City Manager shall employ an independent construction project manager to provide oversight over the bidding and construction process for Infrastructure Improvements. The City Manager will provide the Council with recommendations on how independent construction oversight can be delivered within existing laws and requirements overseeing public works contracts simultaneous with an implementation plan for the bond program.



RESOLUTION NO. 70,492-N.S.

DETERMINING THAT PUBLIC INTEREST AND NECESSITY DEMAND THE ISSUANCE OF GENERAL OBLIGATION BONDS TO FINANCE THE ACQUISITION OR IMPROVEMENT OF REAL PROPERTY FOR AFFORDABLE HOUSING, STREET AND SIDEWALK REPAIR, TRAFFIC SAFETY, UNDERGROUNDING OF UTILITIES, CLIMATE CHANGE RESILIENCE, AND OTHER PUBLIC INFRASTRUCTURE AND FACILITIES, AND SUBMITTING TO THE BERKELEY ELECTORATE ON THE NOVEMBER 8, 2022 BALLOT A MEASURE TO AUTHORIZE GENERAL OBLIGATION BONDS FOR SUCH PROJECTS

WHEREAS, the City of Berkeley (the “City”) is committed to creating and maintaining an equitable, affordable, and resilient City with housing opportunities for all, safe and well-maintained infrastructure, and a public commons that welcomes and supports people of all ages, abilities, and backgrounds; and

WHEREAS, the urgent need for affordable housing and preventing homelessness, the accelerating impacts of climate change, and aging public buildings and infrastructure create challenges for safety, equity, sustainability, and resilience; and

WHEREAS, the Berkeley City Council (the “City Council”) has identified critically needed investments in affordable housing; improved streets and sidewalks; green, vibrant, and well-maintained parks, streetscapes and other open spaces; pedestrian and bicycle safety improvements; public and historic buildings; recreational facilities, pools and the waterfront; and above and below-ground infrastructure as integral to protecting the quality of life of all Berkeleyans and to the City’s long-term vitality; and

WHEREAS, the City Council recognizes the existence of an acute housing crisis that has caused housing to become increasingly scarce, expensive, and out of reach for teachers, seniors, people with disabilities, students, veterans, the homeless, and for families and individuals with incomes at extremely low-, very low-, low-, and middle-income levels; and

WHEREAS, successful programs initiated in recent years have decreased overall homelessness in Berkeley, but estimates project there are still roughly 1,000 homeless people in the City on any given night; and

WHEREAS, providing affordable housing for low-income and unhoused persons is important to alleviate the housing crisis and reduce the impacts of unsheltered homelessness on our streets, parks, and other public spaces; and

WHEREAS, in November 2018, Berkeley voters overwhelmingly approved Measure O, authorizing the City to issue \$135 million dollars in general obligation bonds for the purpose of building and preserving affordable housing; and

WHEREAS, leveraging Measure O funds with County, State, and Federal dollars, the City has provided 20 affordable housing projects with pre-development or development funding, supporting the construction and rehabilitation of approximately 800 affordable housing units citywide; and

WHEREAS, in 2022 Berkeley's first Measure O-funded affordable housing projects opened their doors at 1601 Oxford Street in North Berkeley and 2012 Berkeley Way in the Downtown, welcoming seniors, working families, veterans, and formerly homeless individuals into new homes with on-site supportive services; and

WHEREAS, the pace of affordable housing production has exceeded expectations and all Measure O funds have been allocated through commitments to existing and pending affordable housing projects; and

WHEREAS, the Regional Housing Needs Allocation for the San Francisco Bay Area requires that Berkeley plan for and incentivize the production of over 3,800 affordable housing units over the next eight years, and current funding is insufficient to finance this volume of affordable homes; and

WHEREAS, funds available through this bond measure can support production of over 1,000 additional affordable housing units citywide, providing urgently needed housing for extremely low-, very low-, low-, and middle-income families and individuals, and helping the City achieve its goal of at least 10% reserved affordable housing citywide by 2030; and

WHEREAS, the City's *Vision 2050 Framework* and *Program Plan* are comprehensive plans to build, upgrade, and repair Berkeley's infrastructure and facilities to be more sustainable, safe, and resilient and to meet the needs of future generations, including addressing climate and environmental challenges; and

WHEREAS, much of Berkeley's public infrastructure was built over 75 years ago and is in need of refurbishment, modernization, and repair; and

WHEREAS, over \$1 billion dollars in infrastructure needs have been identified citywide, including improvements needed for street pavement, sidewalks, paths, and bikeways; bike, pedestrian and other traffic safety projects; undergrounding of utilities on evacuation routes; measures to reduce the risk and impacts of climate change, including flooding through stormwater and sea level rise; improvements to City parks, camps and pools, including a proposed pool at San Pablo Park; revitalization of Berkeley's historic Civic Center as a cultural and civic hub for the community; improvements to the Berkeley waterfront and pier; improvements to public buildings; measures to make the City's streetscapes and other public spaces more attractive, vibrant, and green; and other improvements to the City's infrastructure to make it more sustainable, enjoyable, and resilient; and

WHEREAS, in addition to hundreds of millions in infrastructure needs, the City has identified approximately \$248 million in necessary street repairs, Berkeley's pavement condition is currently classified as "at risk" by the Metropolitan Transportation Commission; and failure to make urgently needed street repairs in a timely manner will result in the need for more costly repairs in the future; and

WHEREAS, building climate-resilient infrastructure, including undergrounding of utilities on evacuation routes and managing stormwater runoff and sea level rise, will reduce the risks from flooding, earthquakes and wildfires and make Berkeley a safer and more sustainable place to live; and

WHEREAS, in 2016 Berkeley voters overwhelmingly approved Measure T1, a \$100 million general obligation bond whose proceeds are being used to rehabilitate parks, infrastructure, and facilities citywide, including at the Frances Albrier Community Center, Live Oak Community Center, Strawberry Creek Park, Tom Bates Regional Sports Complex, Willard Park, George Florence Park, North Berkeley Senior Center, the Rose Garden, San Pablo Park, Harrison Park, the Marina, Aquatic Park, John Hinkel Park, King Pool, Grove Park, Civic Center Park, Ohlone Park, and Cazadero Camp; and streets, sidewalks, storm drains, and other infrastructure; and

WHEREAS, the full \$100 million of Measure T1 bond monies has already been allocated or committed to identified projects and the City has successfully leveraged regional, County, State, and Federal funds for these improvements, representing a significant gain for Berkeley; and

WHEREAS, to build on the success of projects funded through Measures O and T1 and to continue financing affordable housing and necessary improvements to facilities and infrastructure citywide, the City requires additional funds, which may be leveraged with regional, County, State, and Federal funds; and

WHEREAS, Section 7.64 of the Berkeley Municipal Code authorizes the City to issue general obligation bonds to finance the acquisition, construction, or completion of any municipal improvements and the acquisition, rehabilitation, preservation or construction of affordable housing; and

WHEREAS, the City is authorized to issue general obligation bonds pursuant to certain provisions of the California Government Code, including Article 1, commencing with Section 43600, of Chapter 4 of Division 4 of Title 4 or Article 4.5, commencing with Section 53506, of Chapter 3 of Part 1 of Division 2 of Title 5 (each, the "Bond Law"); and

WHEREAS, under the Bond Law and Chapter 7.64, the City intends to issue general obligation bonds (the "Bonds") to finance the acquisition or improvement of real property for affordable and social housing ("Affordable Housing Improvements"), including the application of bond proceeds by the City directly, or indirectly through third parties as loans, grants, or other disbursements to qualified individuals, not-for-profit entities acting alone or together with tax credit investors, not-for-profit corporations, partnerships,

associations, and government agencies, to acquire real property for the purpose of constructing, rehabilitating or preserving affordable and social housing, or to construct, rehabilitate or preserve affordable and social housing; including but not limited to newly constructed non-profit rental and ownership housing, supportive housing, and limited-equity housing cooperatives affiliated with community land trusts; and

WHEREAS, under the Bond Law and Chapter 7.64, the City further intends to issue the Bonds to finance the acquisition or improvement of real property for public infrastructure and facilities (“Infrastructure Improvements”; together with Affordable Housing Improvements, “Improvements”), including but not limited to the City’s streets (including pavement, traffic safety, pedestrian, accessibility, bicycle, and streetscape improvements), sidewalks and paths; public utilities, including the undergrounding of utilities on evacuation routes; parks, the waterfront and pier, and other natural and landscaped areas; pools, recreation, and senior facilities; camps; buildings; storm drains and green infrastructure; civic, historic, and cultural sites; and other public open spaces, buildings, infrastructure, facilities, and amenities, including construction, repair, renovation, replacement, or reconstruction, so that the public can continue to benefit from safe, more sustainable, resilient, and enjoyable Infrastructure Improvements, and the Infrastructure Improvements will include any public art integrated into the Infrastructure Improvements consistent with Berkeley Municipal Code Chapter 6.13; and

WHEREAS, fiscal accountability protections including public disclosure of all spending and annual independent audits and oversight will help ensure funds are spent as promised; and

WHEREAS, funding from the Bonds should be guided by the City Council’s plans and policies, as may be amended from time to time, including the *Vision 2050 Framework* and *Program Plan* whose vision for a renewed City includes safe and enjoyable community facilities; safe, sustainable streets; resilient and climate-friendly infrastructure; and open space, parks, and recreation facilities that improve Berkeley’s quality of life; and

WHEREAS, funding from the Bonds should be applied to create attractive, green streetscapes that invite walking and biking and support the vitality of local businesses and commercial districts; spaces for community gathering and enjoyment; and native, drought-resistant, and habitat-restoring landscaping with trees for cooling, improved air quality, and shade; and

WHEREAS, by law, all funds must remain under local control in the City and cannot be taken away by the State or the County or used for other purposes; and

WHEREAS, the City Council recognizes the importance of ensuring adequate maintenance funding from existing sources for Infrastructure Improvements financed by the Bonds and not supplanting existing City infrastructure funding with proceeds of the Bonds; and

WHEREAS, the City Council through Resolution No. 70,456-N.S. has adopted a fiscal policy to allocate \$8 million annually in General Fund monies for street maintenance (the "Street Maintenance Funding Policy"), to be adjusted annually for inflation. The allocation is intended to augment the existing street paving budget of \$7.3 million, for a total street maintenance commitment of \$15.3 million annually, adjusted for inflation; and

WHEREAS, the Street Maintenance Funding Policy will help ensure that street maintenance is supported by adequate ongoing General Fund contributions as one-time infusions of paving resources provide only temporary improvement to pavement conditions, which deteriorate again without appropriate funding for maintenance; and

WHEREAS, the City's plans and policies, including but not limited to the Vision 2050 Program Plan; pavement management system; and Transportation, Vision Zero, Bicycle, and Pedestrian plans, as adopted or amended by the City Council from time to time, will guide how Bond proceeds are spent; and

WHEREAS, United States Income Tax Regulations section 1.150-2 provides generally that proceeds of tax-exempt debt are not deemed to be expended when such proceeds are used for reimbursement of expenditures made prior to the date of issuance of such debt unless certain procedures are followed, one of which is a requirement that prior to the payment of any such expenditure, the issuer declares an intention to reimburse such expenditure; and

WHEREAS, it is in the public interest and for the public benefit that the City declares its official intent to reimburse certain of the proposed expenditures referenced herein; and

WHEREAS, proceeds from the sale of the Bonds will be used to finance the Improvements, and all expenditures will be subject to annual independent financial audits and oversight by a Bond Oversight Committee; and

WHEREAS, the Council desires to submit the measure described herein to be placed upon the ballot at the November 8, 2022 Statewide General Election, consistent with the Council's Resolution No. 70,336-N.S., adopted on May 10, 2022, calling for a General Municipal Election to be consolidated with said statewide election; and

WHEREAS, the Council's Resolution No. 70,336-N.S., adopted on May 10, 2022, adopted the provisions of Elections Code Section 9285(a) providing for the filing of rebuttal arguments for city ballot measures, pursuant to Elections Code Section 9285(b).

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the public interest and necessity require the issuance of one or more series of general obligation bonds in the amount of \$650 million to fund the Improvements, subject to completion of the proceedings required by the Bond Law.

BE IT FURTHER RESOLVED that this resolution is adopted pursuant to and in conformance with Chapter 7.64 of the Berkeley Municipal Code.

BE IT FURTHER RESOLVED that:

- A. A ballot measure authorizing the City to issue general obligation bonds to finance the acquisition and improvement of real property for the Improvements (the "Measure"), a copy of which is attached hereto as Exhibit A, shall be placed before the voters at the election on November 8, 2022.
  
- B. Projects to be funded by \$650 million in Bonds include but are not limited to the following. All dollar amounts included are estimates at the time of adoption of this Resolution and are not a commitment or guarantee that any specific amounts will be spent on particular projects or categories of projects.
  - 1. The estimated cost of the Affordable Housing Improvements to be funded by the Bonds is \$200 million.
  
  - 2. The estimated cost for the Infrastructure Improvements related to streets, sidewalks and traffic safety to be funded by the Bonds is \$300 million of which approximately \$231 million is for street paving and reconstruction, and integrate traffic safety improvements if feasible, to reach a good pavement condition with the balance for sidewalks and paths, traffic safety improvements including bike and pedestrian facilities and streetscape improvements.
  
  - 3. The estimated cost of other Infrastructure Improvements funded by the Bonds, including those related to public safety and climate resiliency, is \$150 million, of which:
    - an estimated \$50 million is for undergrounding utilities on evacuation routes; and
  
    - the remaining approximately \$100 million is for all other eligible Infrastructure Improvements including but not limited to, improvements reducing the risk and impacts of climate change including flooding through stormwater and sea level rise; improvements to City parks, pools, camps, and recreation facilities, including the Berkeley Waterfront and Municipal Pier; improvements that revitalize the historic Civic Center as a cultural and civic hub for the community; and improvements to public buildings, infrastructure, open space, and facilities.
  
- C. The maximum rate of interest on the Bonds shall not exceed the maximum interest rate permitted by law, in accordance with Government Code Section 53531.

- D. The estimated cost of the Improvements may include legal and other fees, and the cost of printing the Bonds, and other costs and expenses incidental to or connected with the issuance and sale of the Bonds.
- E. Proceeds of the Bonds shall be used to finance the acquisition and construction of real property for the Improvements, and to pay any fees and costs in connection with issuance of the Bonds, including but not limited to, legal fees and bond printing costs.
- F. The Improvements will be completed as needed, and each is assumed to include its share of costs, including planning, program management and construction costs. The final cost of each Improvement will be determined as real property is purchased, plans are finalized, construction bids are awarded, or projects are completed. In addition, certain acquisition or improvement funds are expected from sources other than the Bonds, including funds which have not yet been secured. Therefore, the City Council cannot guarantee that the Bonds will provide sufficient funds to allow completion of all needed Improvements.
- G. For the Affordable Housing Improvements, proceeds of the Bonds shall be used to finance the acquisition or improvement of real property for affordable or social housing, including the application of bond proceeds for the City directly, or indirectly through third parties as loans, grants, or other disbursements to qualified individuals, not-for-profit entities acting alone or together with tax credit investors, not-for-profit corporations, partnerships, associations and government agencies, to acquire real property for the purpose of constructing, rehabilitating or preserving affordable and social housing, or to construct, rehabilitate or preserve affordable and social housing; including but not limited to newly constructed non-profit rental and ownership housing, supportive housing, and limited-equity housing cooperatives affiliated with community land trusts.
- H. All funds received from any Bonds authorized by this Measure are subject to review, allocation, and approval by the City Council. At least annually, as part of the process to adopt a budget and any budget updates, the City Manager shall provide to the City Council a comprehensive report of funds received from any Bonds authorized by this Measure, of previous appropriations and expenditures of such funds, the status of the Improvements, and a proposal for expenditure of funds expected to be received from Bonds, if any, for review and approval by the City Council.
- I. The City Council shall appoint an Affordable Housing and Infrastructure Bond Oversight Committee which will provide oversight by reporting to the City Council on an annual basis regarding projects funded by the Bonds and the expenditure of

proceeds of the Bonds (as determined by the City Council) and whether those expenditures are consistent with the purposes of the Bonds set forth in this Resolution.

J. The following commissions or their successors shall make recommendations on projects proposed to be funded by the Bonds and proposed expenditures of the proceeds of the Bonds:

1. The Housing Advisory Commission shall be advisory to the City Council and shall provide recommendations on projects and expenditures for the Affordable Housing Improvements.
2. The Parks, Recreation, and Waterfront Commission shall be advisory to the City Council and shall provide recommendations on projects and expenditures for Infrastructure Improvements related to properties and facilities identified in Municipal Code Section 3.26.040.A, including all parks, recreation, and waterfront improvements.
3. The Transportation and Infrastructure Commission shall be advisory to the City Council and shall make recommendations on projects and expenditures for the Infrastructure Improvements related to transportation, traffic safety and other public infrastructure.

K. All expenditures will be subject to an annual independent financial audit to confirm that expenditures of proceeds of the Bonds are consistent with the intent of this Resolution.

BE IT FURTHER RESOLVED that the City hereby declares that it reasonably expects (i) to pay certain costs of the acquisition and improvement of real property for the Improvements prior to the date of execution, delivery or issuance of the Bonds, and (ii) to use a portion of the proceeds of the Bonds for reimbursement of such expenditures that are paid before the date of execution, delivery or issuance of the Bonds.

BE IT FURTHER RESOLVED that, pursuant to California Elections Code sections 10002 and 10403, this City Council does hereby call an election on Tuesday, November 8, 2022, and requests that the Alameda County Board of Supervisors consolidate said election with the Statewide General Election on that same date and conduct the election in the manner prescribed in Elections Code Section 10418 and in the manner and schedule established by Resolution No. 70,336-N.S., adopted on May 10, 2022, and submit to the qualified voters of the City, at said consolidated election, the Measure, such approval to constitute the authorization to issue the Bonds.

BE IT FURTHER RESOLVED that the City of Berkeley hereby requests that the Alameda County Board of Supervisors permit the Registrar of Voters of Alameda County to perform services in connection with said election at the request of the City Clerk. These services



to include all necessary services related to official ballot creation, sample ballot and voter information pamphlet preparation, vote-by-mail, polling places, poll workers, voter registration, voting machines, canvass operations, and any and all other services necessary for the conduct of the consolidated election.

BE IT FURTHER RESOLVED that the City proposes to issue and sell general obligation bonds of the City, in one or more series, in the maximum amount and for the objects and purposes set forth above, payable from and secured by ad valorem taxes levied and collected in the manner prescribed by laws of the State of California, all equally and ratably secured, without priority, by the taxing power of the City, if two-thirds of all qualified voters voting on the Measure vote in favor thereof.

BE IT FURTHER RESOLVED that said proposed Measure shall be placed on the ballot for the November 8, 2022 election with the statement of the Measure to be printed in the ballot in the following form:

<b>CITY OF BERKELEY GENERAL OBLIGATION BOND MEASURE</b>	
Shall the measure to create affordable housing; repair streets and sidewalks; underground utilities; and enhance buildings, infrastructure, and safety, authorizing the issuance of \$650 million in general obligation bonds, subject to independent oversight and audits, be adopted?	BONDS YES
<u>Financial Implications</u> Median annual cost over the projected 48-year period bonds are outstanding is approximately \$40.91 for every \$100,000 or \$265 for the average assessed home value of \$647,000; raising approximately \$25,000,000/year.	BONDS NO

BE IT FURTHER RESOLVED that at this time, the best estimate of the average and highest tax rates expected to be levied for debt service on the Bonds is set forth in the Tax Rate Statement attached hereto as Exhibit B.

BE IT FURTHER RESOLVED that the Board of Supervisors of Alameda County is hereby requested to include on the ballots and sample ballots the Measure enumerated above to be voted on by the voters of the qualified electors of the City of Berkeley, and that ballots for the election shall be provided in the form and in the number provided by law. Voters shall be provided an opportunity to vote for or against the Measure on the ballot, in accordance with procedures to be adopted by the authorized officers of the County.

BE IT FURTHER RESOLVED that the full text of the Measure shall be printed in the Voter Information Pamphlet mailed to all voters in the City of Berkeley.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to cause the posting, publication and printing of notices, pursuant to the requirements of the Charter of the City of Berkeley, the Government Code and the Elections Code of the State of California, and

to file a certified copy of this Resolution, including all exhibits, no later than the close of business on August 12, 2022, with the County Registrar of Voters and the Clerk of the County Board of Supervisors.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to obtain printing, supplies and services as required.

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized to enter into any contracts necessary for election consulting services, temporary employment services, printing services, and any such other supplies and services as may be required by the statutes of the State of California and the Charter of the City of Berkeley for the conduct of the November General Municipal Election.

BE IT FURTHER RESOLVED that the City will reimburse the Registrar of Voters for the costs associated with placing the Measure on the ballot.

BE IT FURTHER RESOLVED that the Mayor, the City Manager, the Finance Director, the City Attorney and the City Clerk, and any of their designees, are hereby authorized to execute any documents and to perform all acts necessary to place the Measure on the ballot, and to make any changes to the text of the Measure, the statement of the measure or the Tax Rate Statement to conform to any legal requirements of the County Registrar, in order to cause the election to be held and conducted in the City.

BE IT FURTHER RESOLVED that the City Council directs the City Clerk to transmit a copy of the Measure to the City Attorney, who shall prepare an impartial analysis of the Measure showing the effect of the Measure on the existing law and the operation of the Measure. The impartial analysis shall be filed by the date set by the City Clerk for the filing of primary arguments.

BE IT FURTHER RESOLVED that the filing of ballot arguments shall conform to the manner and schedule established by Resolution No. 70,336-N.S., adopted on May 10, 2022.

BE IT FURTHER RESOLVED that the City Council, having reviewed the Measure, hereby finds that this action is not subject to the California Environmental Quality Act ("CEQA") because it involves the establishment of a government financing mechanism that does not involve any commitment to specific projects to be constructed with proceeds of the Bonds. The use of the proceeds of the Bonds to finance any project or portion of any project will be subject to approval of the applicable decision-making body at that time, upon completion of planning and any further required environmental review under CEQA.

BE IT FURTHER RESOLVED that this Resolution shall take effect from and after the date of its passage and adoption.

BE IT FURTHER RESOLVED that the City Clerk shall certify to the passage and adoption thereof.

The foregoing Resolution was adopted by the Berkeley City Council on August 3, 2022 by the following vote:

Ayes: Bartlett, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: Droste.

  
\_\_\_\_\_  
Jesse Arreguin, Mayor

Attest:   
\_\_\_\_\_  
Mark Numainville, City Clerk

**EXHIBIT A**

**MEASURE TO BE SUBMITTED TO THE VOTERS AUTHORIZING THE CITY OF BERKELEY TO ISSUE GENERAL OBLIGATION BONDS TO FINANCE THE ACQUISITION OR IMPROVEMENT OF REAL PROPERTY FOR AFFORDABLE HOUSING, STREET AND SIDEWALK REPAIR, TRAFFIC SAFETY, UNDERGROUNDING OF UTILITIES, CLIMATE CHANGE RESILIENCE, AND OTHER PUBLIC INFRASTRUCTURE AND FACILITIES**

**Section 1. Title**

This measure shall be known as the Affordable, Safe and Sustainable Berkeley Bond Act.

**Section 2. Findings.**

WHEREAS, the City of Berkeley (the “City”) is committed to creating and maintaining an equitable, affordable, and resilient City with housing opportunities for all, safe and well-maintained infrastructure, and a public commons that welcomes and supports people of all ages, abilities, and backgrounds; and

WHEREAS, the urgent need for affordable housing and preventing homelessness, the accelerating impacts of climate change, and aging public buildings and infrastructure create challenges for safety, equity, sustainability, and resilience; and

WHEREAS, the Berkeley City Council (the “City Council”) has identified critically needed investments in affordable housing; improved streets and sidewalks; green, vibrant, and well-maintained parks, streetscapes and other open spaces; pedestrian and bicycle safety improvements; public and historic buildings; recreational facilities, pools, and the waterfront; and above- and below-ground infrastructure as integral to protecting the quality of life for all Berkeleyans and to the City’s long-term vitality; and

WHEREAS, the City Council recognizes the existence of an acute housing crisis that has caused housing to become increasingly scarce, expensive, and out of reach for teachers, seniors, people with disabilities, students, veterans, the homeless, and for families and individuals with incomes at extremely low-, very low-, low-, and middle-income levels; and

WHEREAS, successful programs initiated in recent years have decreased overall homelessness in Berkeley, but estimates project there are still roughly 1,000 homeless people in the City on any given night; and

WHEREAS, providing affordable housing for low-income and unhoused persons is important to alleviate the housing crisis and reduce the impacts of unsheltered homelessness on our streets, parks, and other public spaces; and

WHEREAS, in November 2018, Berkeley voters overwhelmingly approved Measure O,

authorizing the City to issue \$135 million dollars in general obligation bonds for the purpose of building and preserving affordable housing; and

WHEREAS, leveraging Measure O funds with County, State, and Federal dollars, the City has provided 20 affordable housing projects with pre-development or development funding, supporting the construction and rehabilitation of approximately 800 affordable housing units citywide; and

WHEREAS, in 2022 Berkeley's first Measure O-funded affordable housing projects opened their doors at 1601 Oxford Street in North Berkeley and 2012 Berkeley Way in the Downtown, welcoming seniors, working families, veterans, and formerly homeless individuals into new homes with on-site supportive services; and

WHEREAS, the pace of affordable housing production has exceeded expectations and all Measure O funds have been allocated through commitments to existing and pending affordable housing projects; and

WHEREAS, the Regional Housing Needs Allocation for the San Francisco Bay Area requires that Berkeley plan for and incentivize the production of over 3,800 affordable housing units over the next eight years, and current funding is insufficient to finance this volume of affordable homes; and

WHEREAS, funds available through this bond measure can support production of over 1,000 additional affordable housing units citywide, providing urgently needed housing for extremely low-, very low-, low-, and middle-income families and individuals, and helping the City achieve its goal of at least 10% reserved affordable housing citywide by 2030; and

WHEREAS, the City's *Vision 2050 Framework* and *Program Plan* are comprehensive plans to build, upgrade, and repair Berkeley's infrastructure and facilities to be more sustainable, safe, and resilient and to meet the needs of future generations, including addressing climate and environmental challenges; and

WHEREAS, much of Berkeley's public infrastructure was built over 75 years ago and is in need of refurbishment, modernization, and repair; and

WHEREAS, over \$1 billion dollars in infrastructure needs have been identified citywide, including improvements needed for street pavement, sidewalks, paths, and bikeways; bike, pedestrian and other traffic safety projects; undergrounding of utilities on evacuation routes; measures to reduce the risk and impacts of climate change, including flooding through stormwater and sea level rise; improvements to City parks, camps and pools, including a proposed pool at San Pablo Park; revitalization of Berkeley's historic Civic Center as a cultural and civic hub for the community; improvements to the Berkeley waterfront and pier; improvements to public buildings; measures to make the City's streetscapes and other public spaces more attractive, vibrant, and green; and other improvements to the City's infrastructure to make it more sustainable, enjoyable, and resilient; and

WHEREAS, in addition to hundreds of millions in infrastructure needs, the City has identified approximately \$248 million in necessary street repairs; and Berkeley's pavement condition is currently classified as "at risk" condition by the Metropolitan Transportation Commission; and failure to make urgently needed street repairs in a timely manner will result in the need for more costly repairs in the future; and

WHEREAS, building climate-resilient infrastructure, including undergrounding of utilities on evacuation routes and managing stormwater runoff and sea level rise, will reduce the risk of flooding, earthquakes and wildfires and make Berkeley a safer and more sustainable place to live; and

WHEREAS, in 2016 Berkeley voters overwhelmingly approved Measure T1, a \$100 million general obligation bond whose proceeds are being used to rehabilitate parks, infrastructure, and facilities citywide, including at the Frances Albrier Community Center, Live Oak Community Center, Strawberry Creek Park, Tom Bates Regional Sports Complex, Willard Park, George Florence Park, North Berkeley Senior Center, The Rose Garden, San Pablo Park, Harrison Park, the Marina, Aquatic Park, John Hinkel Park, King Pool, Grove Park, Civic Center Park, Ohlone Park, and Cazadero Camp; and at streets, sidewalks, storm drains, and other infrastructure; and

WHEREAS, the full \$100 million of Measure T1 bond monies has already been allocated or committed to identified projects and the City has successfully leveraged regional, County, State, and Federal funds for these improvements, representing a significant gain for Berkeley; and

WHEREAS, to build on the success of projects funded through Measures O and T1 and to continue financing affordable housing and necessary improvements to facilities and infrastructure citywide, the City requires additional funds, which may be leveraged with regional, County, State, and Federal funds; and

WHEREAS, Section 7.64 of the Berkeley Municipal Code authorizes the City to issue general obligation bonds to finance the acquisition, construction, or completion of any municipal improvements and the acquisition, rehabilitation, preservation or construction of affordable housing; and

WHEREAS, the City is authorized to issue general obligation bonds pursuant to certain provisions of the California Government Code, including Article 1, commencing with Section 43600, of Chapter 4 of Division 4 of Title 4 or Article 4.5, commencing with Section 53506, of Chapter 3 of Part 1 of Division 2 of Title 5 (each, the "Bond Law"); and

WHEREAS, under the Bond Law and Chapter 7.64, the City intends to issue general obligation bonds (the "Bonds") to finance the acquisition or improvement of real property for affordable and social housing ("Affordable Housing Improvements"), including the application of bond proceeds by the City directly, or indirectly through third parties as loans, grants, or other disbursements to qualified individuals, not-for-profit entities acting

alone or together with tax credit investors, not-for-profit corporations, partnerships, associations, and government agencies, to acquire real property for the purpose of constructing, rehabilitating or preserving affordable and social housing, or to construct, rehabilitate or preserve affordable and social housing; including but not limited to newly constructed non-profit rental and ownership housing, supportive housing, and limited-equity housing cooperatives affiliated with community land trusts; and

WHEREAS, under the Bond Law and Chapter 7.64, the City further intends to issue the Bonds to finance the acquisition or improvement of real property for public infrastructure and facilities (“Infrastructure Improvements”; together with Affordable Housing Improvements, “Improvements”), including but not limited to the City’s streets (including pavement, traffic safety, pedestrian, accessibility, bicycle, and streetscape improvements), sidewalks and paths; public utilities, including the undergrounding of utilities on evacuation routes; parks, the waterfront and pier, and other natural and landscaped areas; pools, recreation, and senior facilities; camps; buildings; storm drains, streetscapes, and green infrastructure; civic, historic, and cultural sites; and other public open spaces, buildings, infrastructure, facilities, and amenities, including construction, repair, renovation, replacement, or reconstruction, so that the public can continue to benefit from safe, more sustainable, resilient, and enjoyable Infrastructure Improvements, and the Infrastructure Improvements will include any public art integrated into the Infrastructure Improvements consistent with Berkeley Municipal Code Chapter 6.13; and

WHEREAS, funding from the Bonds should be guided by the City Council’s plans and policies, as may be amended from time to time, including the *Vision 2050 Framework and Program Plan* whose vision for a renewed City includes safe and enjoyable community facilities; safe and sustainable streets; resilient and climate-friendly infrastructure; and open space, parks, and recreation facilities that improve Berkeley’s quality of life; and

WHEREAS, the City Council recognizes the importance of ensuring adequate maintenance funding from existing sources for Infrastructure Improvements financed by the Bonds and not supplanting existing City infrastructure funding with proceeds of the Bonds; and

WHEREAS, the City Council through Resolution No. 70,456-N.S. has adopted a fiscal policy to allocate \$8 million annually in General Fund monies for street maintenance (the “Street Maintenance Funding Policy”), to be adjusted annually for inflation. The allocation is intended to augment the existing street paving budget of \$7.3 million, for a total street maintenance commitment of \$15.3 million annually, adjusted for inflation; and

WHEREAS, the Street Maintenance Funding Policy will help ensure that street maintenance is supported by adequate ongoing General Fund contributions as one-time infusions of paving resources provide only temporary improvement to pavement conditions, which deteriorate again without appropriate funding for maintenance; and

WHEREAS, the City’s plans and policies, including but not limited to the *Vision 2050 Program Plan*; pavement management system; and Transportation, Vision Zero, Bicycle,

and Pedestrian plans, as adopted or amended by the City Council from time to time, will guide how proceeds of the Bonds are spent; and

WHEREAS, fiscal accountability protections including public disclosure of all spending and annual independent audits and oversight will help ensure funds will be spent as promised; and

WHEREAS, by law, all funds must remain under local control in the City and cannot be taken away by the State, County, or Federal governments or used for other purposes; and

WHEREAS, this measure is adopted pursuant to and in conformance with Chapter 7.64 of the Berkeley Municipal Code; and

WHEREAS, the City Council has therefore determined that the public interest requires additional funding for the Improvements; and

WHEREAS, the People of the City of Berkeley find that the public interest requires the issuance of the Bonds in the amount of \$650,000,000 to fund the Improvements.

**Section 3. Object and Purpose of Bonds.**

This measure (the “Measure”) authorizes the issuance of general obligation bonds (the “Bonds”), the object and purpose of which is to finance, by the City of Berkeley or a third party, as applicable, the acquisition or improvement of real property for the Improvements.

The Improvements will be completed as needed, and each is assumed to include its share of costs, including planning, program management and construction costs. The final cost of each Improvement will be determined as real property is purchased, plans are finalized, construction bids are awarded, or projects are completed. In addition, certain acquisition or improvement funds are expected from sources other than proceeds of the Bonds, including funds which have not yet been secured. Therefore, the City Council cannot guarantee that the Bonds will provide sufficient funds to allow completion of all needed Improvements.

For the Affordable Housing Improvements, proceeds of the Bonds shall be used to finance the acquisition or improvement of real property for affordable and social housing, including the application of bond proceeds by the City directly, or indirectly through third parties as loans, grants, or other disbursements to qualified individuals, not-for-profit entities acting alone or together with tax credit investors, not-for-profit corporations, partnerships, associations, and government agencies, to acquire real property for the purpose of constructing, rehabilitating or preserving affordable housing, or to construct, rehabilitate or preserve affordable housing; including but not limited to newly constructed non-profit rental and ownership housing, supportive housing, and limited-equity housing cooperatives affiliated with community land trusts.



Proceeds of the Bonds may be used to reimburse the City for expenditures on the Improvements that are paid before the date of execution, delivery or issuance of the Bonds.

**Section 4. Estimated Cost of Improvements.**

The estimated cost of the Affordable Housing Improvements to be funded by the Bonds is \$200 million. The estimated cost for the Infrastructure Improvements is \$450 million, of which \$300 million may be allocated to Infrastructure Improvements related to street, sidewalk and traffic safety and \$150 million may be allocated to other Infrastructure Improvements, including those related to public safety and climate resiliency. These dollar amounts are estimates and are not a commitment or guarantee that any specific amounts will be spent on particular projects or categories of projects.

The estimated cost includes legal and other fees and the cost of printing the Bonds and other costs and expenses incidental to or connected with the authorization, issuance or sale of the Bonds. The cost of the Improvements includes planning, programs management and construction costs.

**Section 5. Principal Amount of Bonds.**

The aggregate principal amount of Bonds to be issued shall not exceed \$650 million.

**Section 6. Maximum Interest Rate.**

The maximum rate of interest to be paid on the Bonds shall not exceed the maximum interest rate permitted by law, in accordance with Government Code Section 53531.

**Section 7. Accountability Requirements.**

The following accountability measures apply to the issuance of Bonds pursuant to this Measure:

- A. The specific purpose of the Bonds is to finance the acquisition or improvement of real property for the Improvements; and
- B. The proceeds from the sale of the Bonds will be used only for the purposes specified in this Measure, and not for any other purpose; and
- C. The proceeds of the Bonds will be deposited into an account to be created and held by the City; and
- D. The proceeds from the sale of the Bonds may be used to reimburse the City for amounts advanced from the general fund or other funds or accounts to acquire real property for Improvements, when such purchases are made prior to the availability of Bond proceeds; and

- E. All funds received from any Bonds authorized by this Measure are subject to review, allocation, and approval by the City Council. At least annually, as part of the process to adopt a budget and any budget updates, the City Manager shall provide to the City Council a comprehensive report of funds received from any Bonds authorized by this Measure, of previous appropriations and expenditures of such funds, the status of the Improvements, and a proposal for expenditure of funds expected to be received from Bonds, if any, for review and approval by the City Council.
- F. The City Council shall appoint an Affordable Housing and Infrastructure Bond Oversight Committee which will provide oversight by reporting to the City Council on an annual basis regarding projects funded by the Bonds (as determined by the City Council) and whether those bond expenditures are consistent with the purposes of the Bonds set forth in this Measure.
- G. The following commissions or their successors shall make recommendations to the City Council on projects proposed to be funded by the Bonds and proposed expenditures of the proceeds of the Bonds:
  - 1. The Housing Advisory Commission shall be advisory to the City Council and shall provide recommendations on projects and expenditures for the Affordable Housing Improvements.
  - 2. The Parks, Recreation, and Waterfront Commission shall be advisory to the City Council and shall provide recommendations on projects and expenditures for Infrastructure Improvements related to properties and facilities identified in Municipal Code Section 3.26.040.A, including all parks, recreation, and waterfront improvements.
  - 3. The Transportation and Infrastructure Commission shall be advisory to the City Council and shall provide recommendations on projects and expenditures for the Infrastructure Improvements related to transportation, traffic safety and other public infrastructure.
- H. All expenditures will be subject to an annual independent financial audit to confirm that Bond expenditures are consistent with the intent of this Measure.

## EXHIBIT B

### TAX RATE STATEMENT

An election will be held in the City of Berkeley (the "City") on November 8, 2022, to authorize the sale of up to \$650 million in bonds of the City to finance the specific projects listed in the measure. If such bonds are authorized, the City expects to sell the bonds in one or more series. Principal and interest on the bonds will be payable solely from the proceeds of ad valorem tax levies made upon the taxable property in the City. The following information is provided in compliance with Sections 9400-9404 of the California Elections Code. Such information is based upon the best estimates and projections presently available from official sources, upon experience within the City, and other demonstrable factors.

Based upon the foregoing and projections of the City's assessed valuation:

1. The best estimate of the average annual tax rate that would be required to be levied to fund the bond issue over the entire duration of the bond debt service, based on a projection of assessed valuations available at the time of filing of this statement is 39 cents per \$100 (or \$39.00 per \$100,000) of assessed valuation of all property to be taxed. The best estimate of the final fiscal year in which the tax is anticipated to be collected is 2070/71. For purposes of this paragraph, the term "average annual tax rate" refers to the mean annual tax rate.
2. The best estimate of the highest tax rate that would be required to be levied to fund the bond issue, based on a projection of assessed valuations available at the time of filing this statement is 71 cents per \$100 (or \$71.00 per \$100,000) of assessed valuation of all property to be taxed. The best estimate of the first year in which the highest tax rate will apply is 2041/42.
3. The best estimate of the total debt service, including the principal and interest, that would be required to be repaid if all the bonds are issued and sold is \$1,125,000,000.

Voters should note that such estimated tax rates are specific to the repayment of bonds issued under this authorization and will be in addition to tax rates levied in connection with other bond authorizations approved or to be approved by the City or any other overlapping public agency.

Voters should note that the estimated tax rate is based on the ASSESSED VALUE of taxable property on Alameda County's official tax rolls, not on the property's market value. In addition, taxpayers eligible for a property tax exemption, such as the homeowner's exemption, will be taxed at a lower effective tax rate than described above. Property owners should consult their own property tax bills to determine their property's assessed value and any applicable tax exemptions.

Attention of all voters is directed to the fact that the foregoing information is based upon projections and estimates only, which amounts are not maximum amounts or durations and are not binding upon the City. The actual debt service amounts, tax rates and the years in which they will apply may vary from those presently estimated, due to variations from these estimates in the timing of bond sales, the amount of bonds sold and market interest rates at the time of each sale, and actual assessed valuations over the term of repayment of the bonds. The dates of sale and the amount of bonds sold at any given time will be determined by the City based on need for funds and other factors. The actual interest rates at which the bonds will be sold will depend on the bond market at the time of each sale. Actual future assessed valuation will depend upon the amount and value of taxable property within the City as determined by the Alameda County assessor in the annual assessment and the equalization process.

Dated: August 4, 2022

/s/ DEE WILLIAMS-RIDLEY  
City Manager, City of Berkeley