



Office of the City Manager

ACTION CALENDAR
July 26, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Mark Numainville, City Clerk

Subject: Placing a General Obligation Bond Measure on the November 8, 2022 Ballot for Affordable Housing, Climate Change Resiliency, Wildfire Protection, and Other Public Infrastructure Improvements

RECOMMENDATION

1) Adopt a Resolution determining public interest and necessity for issuing a general obligation bond in the amount of \$300 million for affordable housing, climate change resiliency, wildfire protection, and other public infrastructure improvements, submitting to the Berkeley electorate on the November 8, 2022 ballot a measure to authorize a general obligation bond in that amount, and finding that the proposed measure is not a project under the California Environmental Quality Act.

2) Designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282.

FISCAL IMPACTS OF RECOMMENDATION

No direct fiscal impacts related to the recommended action. Election services have seen a steep increase since 2018, with the City's first million-dollar election in 2020. It is uncertain at this time how recent state mandates and the pandemic will affect election costs in an ongoing basis. In addition, the number of measures placed on the ballot, and the length of the measures, are the primary driving factors in the fluctuation of election costs.

CURRENT SITUATION AND ITS EFFECTS

On April 27, 2021, City Council approved a referral to the City Manager to "explore various options for a future city bond measure in November 2022 to support the growing need for infrastructure investment, including street repaving, Complete Streets infrastructure that promotes bike and pedestrian safety, restoration of public buildings and facilities, and affordable housing citywide." On June 30, 2021, City Council adopted a budget that included Vision 2050 implementation and exploration of revenue measures for the November 2022 ballot. In partnership with dedicated Vision 2050 volunteers, staff completed meetings with 25+ City Commissions and community

organizations; conducted a scientific survey on infrastructure priorities in October 2021; updated City Council on progress on November 16, 2021; updated and gained City Council's direction at the January 20, 2022 work session; sent an informational brochure to all Berkeley residents inviting them to one of four large area public meetings; held those public meetings on March 30, April 6, April 13, and April 20; conducted this project's second scientific survey of Berkeley voters in late April; reported to City Council on the City's bond capacity on April 26, 2022; drafted a *Vision 2050 Program Plan* and incorporated public comments received between May 2 and May 12, 2022; submitted to City Council a Strategic Asset Management Plan and gained adoption of an Asset Management Policy on May 10, 2022; issued off agenda memos related to this project on October 4, 2021, December 13, 2021, March 28, 2022, and May 3, 2022; provided direction to staff at the May 31, 2022 City Council meeting; and had an in-depth discussion of the revenue measure at the June 21, 2022 City Council meeting.

At the June 21 meeting, City Council requested more details on the affordable housing component of the bond. While there are many variables to consider, staff estimate between 500-1,000 units can be produced with this level of investment. This range considers the City's experience creating new affordable housing units. For construction of new affordable housing units, the City has historically averaged loans between \$150,000-\$200,000 per unit over the past five years. For acquisition and rehabilitation (i.e., Small Sites), it has been approximately \$284,000 per unit, albeit from a sample of two projects.

Affordable housing units developed from bond funding would follow the City's Housing Trust Fund (HTF) Guidelines. The HTF Guidelines require eligible developers to designate at least 20% of new construction units for Extremely Low-Income households, which are 30% of area median income (AMI) and 40% to at least Low-Income Households (60% AMI). Projects leveraging tax credits (the most common funding source for affordable projects) must also average 60% AMI.

Historically, local new construction projects leverage additional subsidies to support Extremely-Low and Very-Low Income households, including Section 8 Project-Based Vouchers, Permanent Supportive Housing funding, and other population-specific subsidies for Transition-Aged Youth and people with disabilities. With dedicated local funding from sources such as the GO Bond, the City of Berkeley is at an advantage in competing for affordable housing funding.

While the Finance Department advises on a bond's specific disbursement schedule, staff anticipates that a bond approved in November could be allocated to support affordable housing at both the North Berkeley and Ashby BART given the current development timelines of between 10 to 15 years projected at both BART sites. The bond could also support other sites throughout the City over the course of the next ten years as the City's pipeline continues to grow.

Staff are confident there is sufficient demand for the bond. Measure O was completely allocated within three years of its adoption. In 2015, the City had eight projects in predevelopment or development. There are currently 20 projects in predevelopment or development at least in part due to Measure O.

Staff anticipates this bond will mirror the requirements of the Measure O Bond, which appropriated funding for the construction and acquisition of new construction affordable housing. The HTF Guidelines also establish standards for sustainability, accessibility, and labor in addition to the affordability requirements.

As to the question of affirmatively furthering fair housing and equitably locating projects in higher income and resource neighborhoods, it is often too difficult to control project locations as so much is reflective of the housing market. However, the scoring for competitive tax credit financing, the primary driver of new construction affordable projects, incentivizes development in high resourced areas. City Council may consider adopting a priority or tiebreaker for site locations according to such criteria. Staff also consider other factors in determining site locations including proximity to transit and other amenities including schools, community centers, and grocery stores.

As to the detail regarding the climate change resiliency, wildfire protection, and other public infrastructure improvements, staff updated the *Vision 2050 Program Plan* to include the detail provided by staff at the June 21 City Council meeting.

If this bond measure were placed on the ballot and approved by two-thirds of the voters, additional funds would be generated for affordable housing and climate change resiliency, wildfire protection, and other public infrastructure improvements. The average annual amount collected over the projected period the bonds are outstanding would be approximately \$130 for a home with the City's mean assessed valuation of \$647,972.

The measure permits the City to issue general obligation bonds to finance the acquisition and improvement of real property for affordable housing, including by the City directly, or indirectly through third parties, and to reimburse City funds for the prior acquisition and improvement of property to be used for affordable housing.

With respect to who can author arguments for measures placed on the ballot by the Council, Elections Code Section 9282(b) provides that the legislative body may submit an argument in favor of the measure. The City Council may authorize the Council as a whole, or certain members of the Council, to submit an argument in favor of the measure.

Staff recommends that the City Council make a finding that the proposed bond measure is not a project under the California Environmental Quality Act (California Public Resources Code, Sections 21000 et seq.) ("CEQA") or the related CEQA Guidelines (15 Cal. Code Regs. Title 14, Sections 15000 et seq.) ("CEQA Guidelines") because, as

contemplated by Section 15378(b)(4) of the CEQA Guidelines, the proposed bond measure involves the creation of a government funding mechanism and does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. The use of bond proceeds 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.

BACKGROUND

The City Manager is presenting this measure for addition to the November 8, 2022 ballot pursuant to the direction provided by the City Council at the May 31 and June 21, 2022 City Council meetings.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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.

RATIONALE FOR RECOMMENDATION

The City Clerk is presenting this action in accordance with the direction given by the City Council at the May 31 and June 21, 2022 meetings.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Mark Numainville, City Clerk, (510) 981-6900

Attachments:

1: Resolution

Exhibit A: Text of Measure

Exhibit B: Tax Rate Statement

RESOLUTION NO. -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, AND CLIMATE CHANGE RESILIENCY, WILDFIRE PROTECTION, 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 accelerating impacts of climate change and growing need for affordable housing create new challenges for safety, resiliency, and sustainability within the City; and

WHEREAS, the City has identified over \$1 billion in infrastructure needs, including to reduce the City's environmental footprint, adapt to climate change, reduce the risk of flooding and wildfires, and better withstand the consequences of flooding and fires when they do occur; make the City's public spaces more attractive, vibrant, and green; and otherwise improve the City's infrastructure and make it more sustainable and resilient; and

WHEREAS, the *Vision 2050 Framework* and *Program Plan* are long-term plans to build, upgrade and repair Berkeley's aging infrastructure to be more sustainable and resilient in order to meet the serious challenges of the future, including climate change, and, to these ends, the City Council has determined that affordable housing and infrastructure are connected; and

WHEREAS, a regional housing needs assessment showed the City needed an additional 3,854 affordable housing units, a crisis affecting unhoused, low-income and working families and individuals, including, but not limited to, teachers, seniors, veterans, the homeless, students, people with disabilities, and other vulnerable populations; and

WHEREAS, the size and scale of local infrastructure need and affordable housing need show the challenge ahead despite the proactive steps taken to address these issues over the last decade; and

WHEREAS, existing funds and funding sources are inadequate for these infrastructure and affordable housing needs; and

WHEREAS, the City is authorized to issue general obligation bonds to finance 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 (each, the "Bond Law"); and

WHEREAS, the City is authorized to issue general obligation bonds for the acquisition or

improvement of affordable housing projects, pursuant to the provisions of Section 7.64 of the Berkeley Municipal Code; 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 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 housing, or to construct, rehabilitate or preserve affordable housing; including but not limited to supportive housing, nonprofit rental 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 the City’s storm drains; above or on ground utilities, especially those that can be undergrounded; green infrastructure; retaining walls; park, recreation, and senior facilities; parks, natural areas, waterfront, marina, and other open space; public buildings; and other public infrastructure, including repair, renovation, replacement, or reconstruction so that the public can continue to benefit from Infrastructure Improvements as they become more resilient and sustainable, 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 City may have the opportunity to leverage State and County of Alameda (“County”) funds allocated for these affordable housing and infrastructure needs if it issues the Bonds to address these needs; and

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

WHEREAS, funding from the Bonds should be guided by the City’s adopted plans and policies, including the *Vision 2050 Framework* and *Program Plan*; and

WHEREAS, funding from the Bonds should be attentive to creating attractive, green spaces that invite walking and biking, and support community gathering; 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, 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 multiple City commissions; 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 \$300,000,000 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. The estimated cost of the Affordable Housing Improvements to be funded by the Bonds is \$150,000,000, and the estimated cost for the Infrastructure Improvements to be funded by the Bonds is an additional \$150,000,000.

- C. The maximum rate of interest on the indebtedness shall not exceed twelve percent (12%) 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 non-bond sources, 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 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 housing, or to construct, rehabilitate or preserve affordable housing; including but not limited to supportive housing, nonprofit rental housing, and limited-equity housing cooperatives affiliated with community land trusts.
- H. As part of the process to adopt a budget, the City Manager shall provide to the City Council a comprehensive report of funds received from any Bonds authorized by this Measure.
- I. The following commissions or their successors shall 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, whether those expenditures are consistent with the purposes of the Bonds set forth in this Resolution, and recommendations on projects proposed to be funded by the Bonds and proposed expenditures of the proceeds of the Bonds:

1. The Parks, Recreation, and Waterfront Commission shall provide oversight on Infrastructure Improvements related to properties and facilities identified in Municipal Code Section 3.26.040.A, including all parks, recreation, and waterfront improvements.
 2. The Transportation and Infrastructure Commission shall provide oversight on the Infrastructure Improvements related to transportation and other public infrastructure.
 3. The Housing Advisory Commission shall provide oversight on the Affordable Housing Improvements.
- J. 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 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:

CITY OF BERKELEY GENERAL OBLIGATION BOND MEASURE	
Shall the measure authorizing the City of Berkeley to issue \$300 million in general obligation bonds to fund affordable housing and improvements to public infrastructure, including utilities, parks, waterfront, marina, public buildings, and other improvements to increase sustainability and climate change resiliency, subject to oversight by City commissions and independent audits, be adopted? Projected levy over expected 45-year period bonds are outstanding is approximately \$0.02 per \$100 of assessed value; raising approximately \$11,600,000 annually.	BONDS YES
	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.

Exhibits

A: Text of Measure

B: Tax Rate Statement

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, AND CLIMATE CHANGE RESILIENCY, WILDFIRE PROTECTION, AND OTHER PUBLIC INFRASTRUCTURE IMPROVEMENTS AND FACILITIES

Section 1. Findings.

WHEREAS, the accelerating impacts of climate change and growing need for affordable housing create new challenges for safety, resiliency, and sustainability within the City; and

WHEREAS, the City has identified over \$1 billion in infrastructure needs, including to reduce the City's environmental footprint, adapt to climate change, reduce the risk of flooding and wildfires, and better withstand the consequences of flooding and fires when they do occur; make the City's public spaces more attractive, vibrant, and green; and otherwise improve the City's infrastructure and make it more sustainable and resilient; and

WHEREAS, the *Vision 2050 Framework* and *Program Plan* are long-term plans to build, upgrade and repair Berkeley's aging infrastructure to be more sustainable and resilient in order to meet the serious challenges of the future, including climate change, and, to these ends, the City Council has determined that affordable housing and infrastructure are connected; 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, a regional housing needs assessment showed the City needed an additional 3,854 affordable housing units, a crisis affecting the unhoused, low-income and working families and individuals, including, but not limited to, teachers, seniors, veterans, the homeless, students, people with disabilities, and other vulnerable populations; and

WHEREAS, the size and scale of local infrastructure need and affordable housing need show the challenge ahead despite the proactive steps taken to address these issues over the last decade; and

WHEREAS, existing funds and funding sources are inadequate for these infrastructure and affordable housing needs; and

WHEREAS, the City is authorized to issue general obligation bonds to finance 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 (each, the “Bond Law”); and

WHEREAS, the City is authorized to issue general obligation bonds for the acquisition or improvement of affordable housing projects, pursuant to the provisions of Section 7.64 of the Berkeley Municipal Code; 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 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 housing, or to construct, rehabilitate or preserve affordable housing; including but not limited to supportive housing, nonprofit rental housing, and limited-equity housing cooperatives affiliated with community land trusts;

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 the City’s storm drains; above or on ground utilities, especially those that can be undergrounded; green infrastructure; retaining walls; park, recreation, and senior facilities; parks, natural areas, waterfront, marina, and other open space; public buildings; and other public infrastructure, including repair, renovation, replacement, or reconstruction so that the public can continue to benefit from Infrastructure Improvements as they become more resilient and sustainable, 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 City may have the opportunity to leverage State and County of Alameda (“County”) funds allocated for these affordable housing and infrastructure needs if it issues the Bonds to address these needs; and

WHEREAS, fiscal accountability protections including public disclosure of all spending, annual audits and independent oversight 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 or the County or used for other purposes; and

WHEREAS, this resolution 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 \$300,000,000 to fund the Improvements.

Section 2. 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 non-bond sources, 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 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 housing, or to construct, rehabilitate or preserve affordable housing; including but not limited to supportive housing, nonprofit rental 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 3. Estimated Cost of Improvements.

The estimated cost of the Affordable Housing Improvements to be funded by the Bonds is \$150,000,000, and the estimated cost for the Infrastructure Improvements to be funded by the Bonds is an additional \$150,000,000.

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 include planning, programs management and construction costs.

Section 4. Principal Amount of Bonds.

The aggregate principal amount of Bonds to be issued shall not exceed \$300,000,000.

Section 5. Maximum Interest Rate.

The maximum rate of interest to be paid on the Bonds shall not exceed twelve percent (12%) per annum.

Section 5. 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. As part of the process to adopt a budget, the City Manager shall provide to the City Council a comprehensive annual report of funds received from any bonded indebtedness authorized by this Measure, funds expended, and the status of the Improvements.
- F. The following commissions or their successors shall provide oversight by reporting to the City Council on an annual basis regarding projects funded by the bond and bond expenditures, whether those bond expenditures are consistent with the purposes of the bond, and recommendations on projects proposed to be funded by the bond and bond expenditures:
 - 1. The Parks, Recreation, and Waterfront Commission shall provide oversight on Infrastructure Improvements related to properties and facilities identified in Municipal Code Section 3.26.040.A, including all parks, recreation, and waterfront improvements.

2. The Transportation and Infrastructure Commission shall provide oversight on the Infrastructure Improvements related to transportation and other public infrastructure.
3. The Housing Advisory Commission shall provide oversight on the Affordable Housing Improvements.

G. 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 \$300 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 2.00 cents per \$100 (or \$20.00 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 2067/68.
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 3.68 cents per \$100 (or \$36.77 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 2038/39.
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 \$520,000,000.

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: July __, 2022

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