



Office of the Mayor

## **REVISED AGENDA MATERIAL for Supplemental Packet 2**

**Meeting Date:** October 11, 2022

**Item Number:** #4

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

**Submitted by:** Mayor Arreguin

The attached resolution has been revised to include more detail on the public process, oversight and accountability measures with input provided by the City Manager and City staff.

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 and social housing, street rehabilitation, traffic safety improvements, undergrounding of utilities on evacuation routes and other infrastructure projects; 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, 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 its Exhibit A, the text of the bond measure (hereinafter referred to as the "Bond Resolution"), 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, ~~The Bond Resolution 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, in addition to increased capital investment, the Council recognizes the need for ongoing funding from existing sources to ensure adequate maintenance of Infrastructure Improvements financed by the bonds, and the need for General Fund allocations for infrastructure maintenance; and

WHEREAS, The State prohibits the use of bond funding for ongoing maintenance of capital assets; 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, (to Street Maintenance Fund) to be used annually for street maintenance, and the City Council has adopted a fiscal policy to allocate \$7.3 million, for a total street maintenance commitment of \$15.3 million annually, adjusted for inflation, to maintain and prevent deterioration of street pavement conditions; and~~

WHEREAS, while the measure ~~defines~~ specifies the “Improvements” to be financed by the bonds 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, 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, 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, in the event the measure passes, this Resolution ~~is designed to~~ provides supplemental guidelines and requirements 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 if the measure passes, the City will maximize public participation, accountability and oversight as follows:

### Limitations on Use of Funds

The specific purpose of the Bonds is to finance the acquisition or improvement of real property for the Improvements.

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.

As required by State Law, the Bond proceeds need to be used for long lasting capital projects and not for maintenance work. The Improvements should use durable, sustainable technologies, so that these capital investments lower future maintenance costs.

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

### Expenditure Priorities

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

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 of the \$300 million for Infrastructure Improvements related to streets, sidewalks and traffic safety will be allocated 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. In addition, some of the \$100 million for other eligible Infrastructure Improvements (see #5 below) may provide additional funding for traffic safety, sidewalks, and streetscapes. ~~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, streetscapes, open space, and facilities.

### **Public Participation**

There will be active public participation in determining the projects recommended to be funded through the bonds, and citizen oversight of bond expenditures.

The process for selection of the ~~for~~ Infrastructure Improvements to be financed by the bonds will involve ~~will include~~ an extensive public process, similar to what was established for the implementation of Measure T1—the 2016 general obligation bond authorization for the repair, renovation, replacement, or reconstruction of the City's aging infrastructure and facilities, Infrastructure Bond, involv-gathering input from boards and commissions, staff, public meetings and surveys to get input on project priorities.

The Public Works Department, the Parks, Recreation and Waterfront Department, Health Housing and Community Services Department, Office of Energy and Sustainability and the Fire Department, using adopted City plans and policies, will develop initial recommendations for the highest priority projects, including funding for projects beyond the funds authorized by the bond and proposed additional funding sources. The recommendations will be presented to the authorized commissions, who will engage in a robust public process to development recommendations to the City Council for projects to be funded.

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.

To identify the Affordable Housing Improvements to be financed by the bonds, the City 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

All funds received from any Bonds authorized by this Measure are subject to review, allocation, and approval by the City Council, providing another important forum for public participation.

### **Use of Adopted Plans and Policies**

Funding from the Bonds will be guided by the City Council's plans and policies, as may be amended from time to time, including the Bicycle, Pedestrian, and Stormwater Management Plans, Street Rehabilitation Policy, Undergrounding Report and *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

### **Reporting**

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.

Staff Reports: Staff will provide two formal reports to the City Council each year. The reports will include program status updates, community engagement, project status updates, coordination, important issues, bond program management, grants, and planning activities. Reports to be submitted to the City Council no later than July 1 and January 1 reporting.

~~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.~~

### **Bond Oversight**

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"), with each member that will be appointed nominated - by the Mayor and each members 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.

**Timing:** Annual. No later than March 1.

**Content of Report:** Annual Conformance Review to include, but not limited to the following components:

1. Financial management to include the review of the annual independent financial audit and a determination on the appropriate use of bonds.
2. Review of project selection to ensure projects have been selected in accordance with measure goals.
  - a. Committees would create, and the Committee approves, a policy and procedures manual that would include project goals and projection selection and prioritization criteria
3. Review of project management and implementation for adherence to procedures outlined within the policy and procedures manual.
  - a. Elements may include a review of project sequencing, project schedule, project estimating guidelines, performance indicators (outcomes and expenditures) and adherence to City and State procurement rules as applicable.
4. Review of project tracking and communications for adherence to communications protocols (to community, Commissions, Committee and City Council) in terms of receiving input and communicating the measure's progress as outlined within the policy and procedures manual.
5. Recommendations pertaining to items 1-4 noted above.

The Oversight Committee will be staffed by the Budget Office, who shall assist the Committee in performing its oversight functions and shall meet at least four times per fiscal year to ensure multiple opportunities for public input, and full consideration of all oversight elements in the Committee's purview. These meetings may but are not required to begin prior to delivery of the independent auditor's report (due by January 31 of the year after the Fiscal Year being audited) but at least two must take place after the delivery of the Auditor's report.

~~All expenditures will be subject to an annual independent financial audit to confirm that Bond expenditures are consistent with the intent of this Measure.~~  
All expenditures will be subject to an annual independent financial audit to confirm that Bond expenditures are consistent with the intent of this Measure.

An annual independent financial audit of the receipts and expenditures of bond funds will be provided to City Council.

1. Completed by an independent financial auditing firm under the direction of the Finance Director.

2. Scope of the audit to be determined and incorporated into the policy and procedures manual to include, but not limited to, the following activities:

- a. Verify that measure funds were accounted for separately in accounting records.
- b. Verify that bond proceeds and accrued interest were deposited into the dedicated account.
- c. Selection of an appropriate sample size of expenditures and examine the supporting documentation to ensure that expenditures were related to projects selected for funding and are listed on the measure's project list.
- d. Review the projects selected for funding to ensure that selection and prioritization considerations were given in accordance with the policies and procedures manual.
- e. Review program controls regarding reporting; adherence to procurement standards; and that projects and changes were approved by Council.
- f. Evaluate the City's financial reports for effectiveness and accuracy in tracking expenditures at both the project and overall program level and recommend financial reporting best practices.
- g. Determine scope and timing of compliance audit(s) of any third-party that receives City funding.

3. The audit will be presented to the Affordable Housing and Infrastructure Bond Oversight Committee.

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.

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.

~~By the following signatures of the City Council members on this date: \_\_\_\_\_~~





## 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 and social housing, street rehabilitation, traffic safety improvements, undergrounding of utilities on evacuation routes and other infrastructure projects; 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, Resolution No. 70,492-N.S. and its Exhibit A, the text of the bond measure (hereinafter referred to as the “Bond Resolution), defines the “Improvements” to be funded by the bonds and 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, The Bond Resolution 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, in addition to increased capital investment, the Council recognizes the need for ongoing funding from existing sources to ensure adequate maintenance of Infrastructure Improvements financed by the bonds, and the need for General Fund allocations for infrastructure maintenance; and

WHEREAS, State prohibits the use of bond funding for ongoing maintenance of capital assets; and

WHEREAS, 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, adjusted annually for inflation, 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, to maintain and prevent deterioration of street pavement conditions; and

WHEREAS, while the measure specifies the "Improvements" to be financed by the bonds and amounts 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, 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, 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, in the event the measure passes, this Resolution provides supplemental guidelines and requirements 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 if the measure passes, the City will maximize public participation, accountability, and oversight as follows:

### **Limitations on Use of Funds**

The specific purpose of the Bonds is to finance the acquisition or improvement of real property for the Improvements.

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.

As required by State Law, the Bond proceeds need to be used for long lasting capital projects and not for maintenance work. The projects should use durable, sustainable technologies, so that these capital investments lower future maintenance costs.

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.

### **Expenditure Priorities**

The City Council hereby commits that if the measure passes:

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 of the \$300 million for Infrastructure Improvements related to streets, sidewalks and traffic safety will be allocated 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. In addition, some of the \$100 million for other eligible Infrastructure Improvements (see #5 below) may provide additional 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**

There will be active public participation in determining the projects recommended to be funded through the bonds, and citizen oversight of bond expenditures.

The process for selection of the Infrastructure Improvements to be financed by the bonds will involve an extensive public process, similar to what was established for the implementation of Measure T1 - the 2016 general obligation bond authorization for the repair, renovation, replacement, or reconstruction of the City's aging infrastructure and facilities - gathering input from boards and commissions, staff, public meetings and surveys to get input on project priorities.

The Public Works Department, the Parks, Recreation and Waterfront Department, Health Housing and Community Services Department, Office of Energy and Sustainability and the Fire Department, using adopted City plans and policies, will develop initial recommendations for the highest priority projects, including funding for projects beyond the funds authorized by the bond and proposed additional funding sources. The recommendations will be presented to the authorized commissions, who will engage in a robust public process to development recommendations to the City Council for projects to be funded.

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.

To identify the Affordable Housing Improvements to be financed by the bonds, the City 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

All funds received from any Bonds authorized by this Measure are subject to review, allocation, and approval by the City Council, providing another important forum for public participation.

### **Use of Adopted Plans and Policies**

Funding from the Bonds will be guided by the City Council's plans and policies, as may be amended from time to time, including the Bicycle, Pedestrian, and Stormwater Management Plans, Street Rehabilitation Policy, Undergrounding Report and *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

### **Reporting**

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.

Staff Reports: Staff will provide two formal reports to the City Council each year. The reports will include program status updates, community engagement, project status updates, coordination, important issues, bond program management, grants, and planning activities. Reports to be submitted to the City Council no later than July 1 and January 1 reporting.

### **Bond Oversight**

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"), with each member nominated by the Mayor and members 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.

**Timing:** Annual. No later than March 1.

**Content of Report:** Annual Conformance Review to include, but not limited to the following components:

1. Financial management to include the review of the annual independent financial audit and a determination on the appropriate use of bonds.
2. Review of project selection to ensure projects have been selected in accordance with measure goals.
  - a. Committees would create, and the Committee approves, a policy and procedures manual that would include project goals and project selection and prioritization criteria
3. Review of project management and implementation for adherence to procedures outlined within the policy and procedures manual.
  - a. Elements may include a review of project sequencing, project schedule, project estimating guidelines, performance indicators (outcomes and expenditures) and adherence to City and State procurement rules as applicable.
4. Review of project tracking and communications for adherence to communications protocols (to community, Commissions, Committee and City Council) in terms of receiving input and communicating the measure's progress as outlined within the policy and procedures manual.
5. Recommendations pertaining to items 1-4 noted above.

The Oversight Committee will be staffed by the Budget Office, who shall assist the Committee in performing its oversight functions and shall meet at least four times per fiscal year to ensure multiple opportunities for public input, and full consideration of all oversight elements in the Committee's purview. These meetings may but are not required to begin prior to delivery of the independent auditor's report (due by January 31 of the year after the Fiscal Year being audited) but at least two must take place after the delivery of the Auditor's report.

### **Annual Audits and Transparency**

All expenditures will be subject to an annual independent financial audit to confirm that Bond expenditures are consistent with the intent of this Measure.

An annual independent financial audit of the receipts and expenditures of bond funds will be provided to City Council.

1. Completed by an independent financial auditing firm under the direction of the Finance Director.
2. Scope of the audit to be determined and incorporated into the policy and procedures manual to include, but not limited to, the following activities:
  - a. Verify that measure funds were accounted for separately in accounting records,

- b. Verify that bond proceeds and accrued interest were deposited into the dedicated account,
- c. Selection of an appropriate sample size of expenditures and examine the supporting documentation to ensure that expenditures were related to projects selected for funding and are listed on the measure's project list.
- d. Review the projects selected for funding to ensure that selection and prioritization considerations were given in accordance with the policies and procedures manual.
- e. Review program controls regarding reporting; adherence to procurement standards; and that projects and changes were approved by Council.
- f. Evaluate the City's financial reports for effectiveness and accuracy in tracking expenditures at both the project and overall program level and recommend financial reporting best practices.
- g. Determine scope and timing of compliance audit(s) of any third-party that receives City funding.

3. The audit will be presented to the Affordable Housing and Infrastructure Bond Oversight Committee.

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.

#### **Independent Construction Project Management**

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.