

Office of the City Manager

## REVISED AGENDA MATERIAL

**Meeting Date:** June 26, 2018

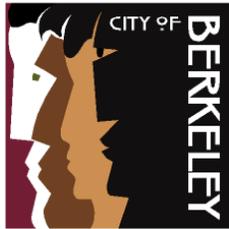
**Item Number:** 43

**Item Description:** Placing a Measure on the November 6, 2018 Ballot to Increase the Transfer Tax on Property Sales to Fund General Municipal Services Including Homeless Services

**Supplemental/Revision Submitted By:** Farimah Brown, City Attorney

Technical Revisions to Ballot Measure Regarding General versus Special Taxes and Taking into Account Potential "Tax Fairness" Measure

Supplements or Revisions submitted pursuant to BMC § 2.06.070 may only be revisions of the original report included in the Agenda Packet.



Office of the City Manager

ACTION CALENDAR  
June 26, 2018

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Mark Numainville, City Clerk

Subject: Placing a Measure on the November 6, 2018 Ballot to Increase the Transfer Tax on Property Sales to Pay for General Municipal Services Including Funding Homeless Services ~~to Fund Homeless Services~~

RECOMMENDATION

1. Adopt a Resolution submitting a special-general tax ordinance measure on the November 6, 2018 general municipal ballot to increase the transfer tax from 1.5% to 2.5% on properties that sell for over \$1 million to pay for general municipal services, including homeless services, including shelters, rental subsidies, and supportive services, and staffing to implement these programs.

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

The table below shows the year-by-year costs for elections since 2008. The dramatic cost increase that occurred in 2012 and 2014 is due primarily to general year-over-year increases, and the addition of two more required languages (Vietnamese and Tagalog). The cost increase in 2016 is due to a surcharge from the Registrar of Voters to pay for replacement of the voting machines in 2020 or 2022. This surcharge will continue for several more election cycles.

<b>City of Berkeley Election Costs by Year</b>							
	Nov. 2008	Jun. 2010	Nov. 2010	Nov. 2012	Nov. 2014	Nov. 2016	Mar. 2017
<b>No. of Measures</b>	7	1	3	10	7	11	0
<b>No. of Candidates</b>	25	0	31	26	23	29	2
<b>General Costs</b>	\$224,576	\$191,732	\$164,816	\$367,884	\$392,331	\$706,901	-
<b>RCV Costs</b>	N/A	N/A	\$257,956*	\$101,041	\$189,148	\$181,954	-
<b>Total Costs</b>	\$224,576	\$191,732	\$422,772	\$468,925	\$581,479	\$888,855	\$85,628

### CURRENT SITUATION AND ITS EFFECTS

At the May 29, 2018 City Council meeting, the City Council acted to move forward with placing a measure on the ballot to increase the transfer tax from 1.5% to 2.5% on properties that sell for over \$1 million ~~to fund services, shelter, and rental subsidies for homeless people, including but not limited to seniors, transition age youth, the long term homeless, and disabled homeless; and services for homeless persons including but not limited to mental health support, emergency transports, and crisis response as well as staffing to implement these programs; subject to independent audits.~~

If adopted, the attached resolution will request that the Registrar of Voters place the matter on the ballot for consideration by Berkeley voters.

### BACKGROUND

This item is being presented based on the previous discussions and direction by the City Council.

### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

### RATIONALE FOR RECOMMENDATION

The City Clerk is presenting this action in accordance with the direction given by the City Council at the May 29, 2018 meeting.

### ALTERNATIVE ACTIONS CONSIDERED

None.

### CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

### Attachments:

- 1: Resolution
- Exhibit A: Text of Measure

## RESOLUTION NO. -N.S.

SUBMITTING TO THE BERKELEY ELECTORATE AN ORDINANCE MEASURE ON THE NOVEMBER 6, 2018 BALLOT TO INCREASE THE TRANSFER TAX FROM 1.5% TO 2.5% ON PROPERTIES THAT SELL FOR OVER \$1 MILLION TO PAY FOR GENERAL MUNICIPAL SERVICES, INCLUDING HOMELESS SERVICES, INCLUDING SHELTERS, AND SUPPORTIVE SERVICES.

WHEREAS, the Berkeley City Council has elected to submit to the voters at the November 6, 2018 General Municipal Election, a special-general tax measure to increase the transfer tax from 1.5% to 2.5% on properties that sell for over \$1 million to fund general municipal services, shelters, and rental subsidies for homeless people, including but not limited to seniors, transition age youth, the long-term homeless, and disabled homeless; and services for homeless persons including but not limited to mental health support, emergency transports, and crisis response; and staffing costs associated with implementing these programs, subject to independent audits; and

WHEREAS, in accordance with the provisions of Section 10002 and 10403 of the Elections Code of the State of California, the Alameda County Board of Supervisors is requested to consolidate the City of Berkeley General Municipal Election with the Statewide General Election to be held November 6, 2018; and

WHEREAS, 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 are 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; and

WHEREAS, the Council desires to submit this measure to be placed upon the ballot at said consolidated election.

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

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 above enumerated measure requires a majority two-thirds vote threshold for passage.

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.

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 pursuant to Elections Code Section 9285 (b), the City Council hereby adopts the provisions of Elections Code Section 9285 (a) providing for the filing of rebuttal arguments for city ballot measures.

BE IT FURTHER RESOLVED that said proposed Ordinance measure shall appear and be printed upon the ballots to be used at said election as follows:

CITY OF BERKELEY <del>SPECIAL</del> <u>GENERAL</u> TAX ORDINANCE MEASURE	
Shall an ordinance permanently increasing the real property transfer tax for <del>all</del> taxable property sold for over \$1,000,000 from 1.5% to 2.5%, with certain exceptions, whereby the additional 1% <del>increase will</del> <u>can be spent for unrestricted general revenue purposes, including, but not limited to, fund</u> homeless services, including shelters, rental subsidies, supportive services, mental health support, emergency transports, crisis response, and implementation costs be adopted?  <u>Financial Implications:</u> This ordinance is estimated to raise approximately \$6 to \$8 million annually.	YES
	NO

BE IT FURTHER RESOLVED that the text of the measure be shown as Exhibit A, attached hereto and made a part hereof.

- Exhibits
- A: Text of Measure

ORDINANCE NO. #,###-N.S.

**INCREASING THE REAL PROPERTY TRANSFER TAX TO FUND ~~SHELTER AND SERVICES FOR HOMELESS PERSONS~~GENERAL MUNICIPAL SERVICES**

BE IT ORDAINED by the people of the City of Berkeley as follows:

Section 1. Findings and declarations.

The people of Berkeley find and declare as follows:

A. Berkeley is facing an emergency, with homelessness rising by 17% from 2015 to 2017.

B. Approximately 1000 individuals experience homelessness every day in Berkeley, with almost 70% unsheltered.

C. Increases in the scope and duration of homelessness in Berkeley, and throughout the State of California, have provided a new sense of urgency to address the crisis.

D. The Berkeley City Council is implementing the Pathways Project, a comprehensive plan to address homelessness, focused on prevention, access to permanent and supportive housing, and creating an unbroken path from homelessness to housing and rebuilt lives.

E. In 2016, Berkeley declared a Homeless Shelter Crisis (Res. No. 67,357-N.S.), which allowed the City to explore a wide variety of response options to address the crisis, and to remove obstacles to their implementation, and recently extended the crisis until January 19th, 2020 (Res. No. 68,206–N.S.); and

F. It is estimated that Berkeley spends \$72 per resident, per year on homeless services and housing; and

G. Even with the addition of Alameda County resources, Berkeley is unable to shelter all of its homeless residents, or to meet the complex and costly challenges of providing affordable housing, health and mental health services, job training, housing counselling and other desperately needed services to those in need.

H. The increased costs of the homeless crisis has impacted the City's General Fund and created an urgent need to fund additional services, provide shelter, rental subsidies for homeless people, including but not limited to seniors, transition age youth, the long term homeless, and disabled homeless, and services for homeless persons including but not limited to mental health support, emergency transport, and crisis response.

~~Section 2. Section 7.52.020 of the Berkeley Municipal Code is hereby amended to read as follows:~~

**7.52.020 Purpose.**

~~A. The one and one-half percent tax imposed under Section 7.52.040.A and Section 7.52.040.B this chapter is solely for the purpose of raising income and revenue which is necessary to pay the usual and current expenses of conducting the municipal government of the City.~~

~~B. The one percentage point above the one-and-one-half percent of the tax authorized by Section 7.52.040.B shall be allocated to fund services, shelter, and rental subsidies for homeless people, including but not limited to seniors, transition age youth, the long-term homeless, and disabled homeless; and services for homeless persons including but not limited to mental health support, emergency transports, and crisis response; and staffing costs to implement the programs associated with these services, subject to independent audits.~~

Section 32. Section 7.52.040 of the Berkeley Municipal Code is hereby amended to read as follows:

**7.52.040 Imposed.**

A. For all taxable property sold for \$1,000,000 or less, there is hereby imposed on all transfers of lands, tenements, or other interests in real property located in the City of Berkeley a real property transfer tax at the rate of one-and one-half percent of the value of consideration. Except as set forth in section 7.52.060, this tax applies regardless of the method by which the transfer is accomplished or the relationship of the parties to the transfer.

B. For all taxable property sold for over \$1,000,000, there is hereby imposed on all transfers of lands, tenements, or other interests in real property located in the City of Berkeley a real property transfer tax at the rate of two-and one-half percent of the value of consideration. Except as set forth in section 7.52.060, this tax applies regardless of the method by which the transfer is accomplished or the relationship of the parties to the transfer.

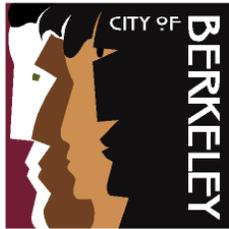
Section 34. Use of Tax Revenues.

The additional one percentage point of tax above the one-and-one-half percent for taxable property sold for over \$1,000,000 that would be imposed by this ordinance can may be spent for unrestricted general revenue purposes.

Section 45. Severability.

If any word, phrase, sentence, part, section, subsection, or other portion of this ordinance, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part,

section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The People of the City of Berkeley hereby declare that they would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.



Office of the City Manager

**ACTION CALENDAR**

July 10, 2018

*(Continued from June 26, 2018)*

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Mark Numainville, City Clerk

Subject: Placing a Measure on the November 6, 2018 Ballot to Increase the Transfer Tax on Property Sales to Fund Homeless Services

**RECOMMENDATION**

1. Adopt a Resolution submitting a special tax ordinance measure on the November 6, 2018 general municipal ballot to increase the transfer tax from 1.5% to 2.5% on properties that sell for over \$1 million to pay for homeless services, including shelter, rental subsidies, supportive services, and staffing to implement these programs.

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**

The table below shows the year-by-year costs for elections since 2008. The dramatic cost increase that occurred in 2012 and 2014 is due primarily to general year-over-year increases, and the addition of two more required languages (Vietnamese and Tagalog). The cost increase in 2016 is due to a surcharge from the Registrar of Voters to pay for replacement of the voting machines in 2020 or 2022. This surcharge will continue for several more election cycles.

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CURRENT SITUATION AND ITS EFFECTS

At the May 29, 2018 City Council meeting, the City Council acted to move forward with placing a measure on the ballot to increase the transfer tax from 1.5% to 2.5% on properties that sell for over \$1 million to fund services, shelter, and rental subsidies for homeless people, including but not limited to seniors, transition age youth, the long-term homeless, and disabled homeless; and services for homeless persons including but not limited to mental health support, emergency transports, and crisis response as well as staffing to implement these programs; subject to independent audits.

If adopted, the attached resolution will request that the Registrar of Voters place the matter on the ballot for consideration by Berkeley voters.

BACKGROUND

This item is being presented based on the previous discussions and direction by the City Council.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

The City Clerk is presenting this action in accordance with the direction given by the City Council at the May 29, 2018 meeting.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1: Resolution

Exhibit A: Text of Measure

RESOLUTION NO. -N.S.

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WHEREAS, the Berkeley City Council has elected to submit to the voters at the November 6, 2018 General Municipal Election, a special tax measure to increase the transfer tax from 1.5% to 2.5% on properties that sell for over \$1 million to fund services, shelter, and rental subsidies for homeless people, including but not limited to seniors, transition age youth, the long-term homeless, and disabled homeless; and services for homeless persons including but not limited to mental health support, emergency transports, and crisis response; and staffing costs associated with implementing these programs, subject to independent audits; and

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<b>CITY OF BERKELEY SPECIAL TAX ORDINANCE MEASURE</b>	
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	NO

BE IT FURTHER RESOLVED that the text of the measure be shown as Exhibit A, attached hereto and made a part hereof.

Exhibits

A: Text of Measure

**ORDINANCE NO. #,###-N.S.**

**INCREASING THE REAL PROPERTY TRANSFER TAX TO FUND SHELTER AND SERVICES FOR HOMELESS PERSONS**

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E. In 2016, Berkeley declared a Homeless Shelter Crisis (Res. No. 67,357-N.S.), which allowed the City to explore a wide variety of response options to address the crisis, and to remove obstacles to their implementation, and recently extended the crisis until January 19th, 2020 (Res. No. 68,206–N.S.); and

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G. Even with the addition of Alameda County resources, Berkeley is unable to shelter all of its homeless residents, or to meet the complex and costly challenges of providing affordable housing, health and mental health services, job training, housing counselling and other desperately needed services to those in need.

Section 2. Section 7.52.020 of the Berkeley Municipal Code is hereby amended to read as follows:

**7.52.020 Purpose.**

A. The one and one-half percent tax imposed under Section 7.52.040.A and Section 7.52.040.B this chapter is solely for the purpose of raising income and revenue which is

necessary to pay the usual and current expenses of conducting the municipal government of the City.

B. The one percentage point above the one-and-one-half percent of the tax authorized by Section 7.52.040.B shall be allocated to fund services, shelter, and rental subsidies for homeless people, including but not limited to seniors, transition age youth, the long-term homeless, and disabled homeless; and services for homeless persons including but not limited to mental health support, emergency transports, and crisis response; and staffing costs to implement the programs associated with these services, subject to independent audits.

Section 3. Section 7.52.040 of the Berkeley Municipal Code is hereby amended to read as follows:

**7.52.040 Imposed.**

A. For all taxable property sold for \$1,000,000 or less, there is hereby imposed on all transfers of lands, tenements, or other interests in real property located in the City of Berkeley a real property transfer tax at the rate of one-and one-half percent of the value of consideration. Except as set forth in section 7.52.060, this tax applies regardless of the method by which the transfer is accomplished or the relationship of the parties to the transfer.

B. For all taxable property sold for over \$1,000,000, there is hereby imposed on all transfers of lands, tenements, or other interests in real property located in the City of Berkeley a real property transfer tax at the rate of two-and one-half percent of the value of consideration. Except as set forth in section 7.52.060, this tax applies regardless of the method by which the transfer is accomplished or the relationship of the parties to the transfer.

Section 4. Severability.

If any word, phrase, sentence, part, section, subsection, or other portion of this ordinance, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The People of the City of Berkeley hereby declare that they would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.