



Office of the City Manager

CONSENT CALENDAR
December 11, 2018

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Mark Numainville, City Clerk
 Subject: Confirming the Results of the November 6, 2018, General Municipal Election

RECOMMENDATION

1. Adopt a Resolution:

- a) Confirming the results of the November 6, 2018, General Municipal Election; and
- b) Declaring the passage of Measure O – General Obligation Bond for Affordable Housing, Measure P – Transfer Tax Measure, Measure Q – Amendments to the Berkeley Rent Stabilization and Eviction for Good Cause Ordinance, and Measure R – Advisory Measure - Vision 2050.

2. Adopt two Ordinances amending the Berkeley Municipal Code to incorporate the passage of Measure P – Transfer Tax Measure, and Measure Q - Amendments to the Berkeley Rent Stabilization and Eviction for Good Cause Ordinance.

3. Adopt two Resolutions codifying the text of Measure O – General Obligation Bond for Affordable Housing, and Measure R – Advisory Measure - Vision 2050.

FISCAL IMPACTS OF RECOMMENDATION

None to confirm election results.

CURRENT SITUATION AND ITS EFFECTS

The Alameda County Registrar of Voters has submitted to the City Clerk the official Statement of Votes cast for the City of Berkeley General Municipal Election held on November 6, 2018, and the City Clerk has prepared the attached Certification of Election Results.

The attached Resolution confirms the results of the November 6, 2018, Election and declares candidates elected to offices of City Council Districts 1, 4, 7, and 8, Rent Stabilization Board, School Board, and City Auditor, as well as the passage and/or defeat of ballot measures.

Voters approved Measures O, P, Q, and R. Measures O and R are effective immediately. Pursuant to Election Code 9217, Measures P and Q (ordinance only) will take effect on December 21, 2018 (10 days after vote is declared by legislative body).

BACKGROUND

The City conducted its General Municipal Election on November 6, 2018. In addition to candidates for local offices, four measures were placed on the ballot by the Council.

The City Charter and the Municipal Code require that to be elected to the office of Auditor and Council, a candidate must receive a majority of votes for that office under the Ranked-Choice Voting method.

Members of the School Board and Rent Stabilization Board are elected by plurality vote.

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1: Resolution

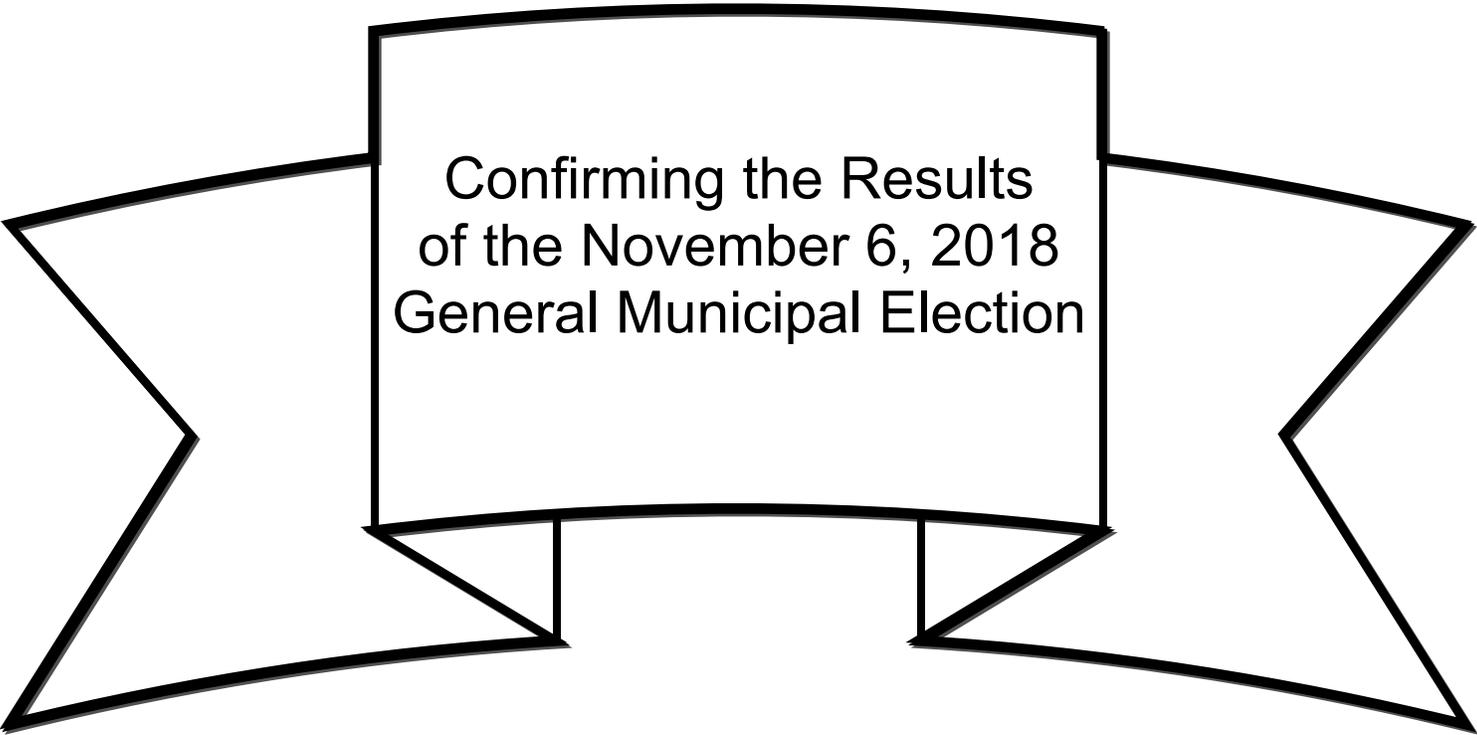
Exhibit A: City Clerk Certificate of Election (includes the Ranked Choice Voting Accumulated Results Chart for Council District 1 and the Registrar of Voters Certificate of Election and Statement of Results with precinct-by-precinct results)

2: Resolution – Measure O

3: Ordinance – Measure P

4: Ordinance – Measure Q

5. Resolution – Measure R



Confirming the Results
of the November 6, 2018
General Municipal Election

Attachment 1 to this report will be published in a Supplemental Communications packet.

City Clerk Department
2180 Milvia Street
Berkeley, CA 94704
(510) 981-6900

The City of Berkeley, City Council's Web site:
<http://www.cityofberkeley.info/citycouncil/>

RESOLUTION NO. ##,###-N.S.

AUTHORIZING THE CITY OF BERKELEY TO ISSUE GENERAL OBLIGATION
BONDS TO FINANCE AFFORDABLE HOUSING PROJECTS

SECTION 1. Findings.

WHEREAS, the City Council of the City of Berkeley recognizes the existence of a housing crisis in the City that has caused housing to become increasingly scarce and expensive, to the point that housing is out of reach for many extremely low-, very low-, low-, median-, and middle-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 City Council has adopted a goal of achieving at least 10% reserved affordable housing by 2030; and

WHEREAS, the housing crisis is causing displacement of long-time communities, impacting local businesses' ability to retain workers, and leading to an increase in homelessness and housing insecurity among Berkeley residents, threatening the public health, peace and safety; and

WHEREAS, homelessness in the City has been increasing, and recent estimates project that there are approximately 1,000 homeless people in the City, almost 1% of the City's population, on any given night; and

WHEREAS, shelter beds are inadequate, and people experiencing homelessness are left to sleep in public spaces throughout the City; and

WHEREAS, providing additional affordable housing options will allow people to live in safe, decent, affordable homes and still have enough money for groceries, medicine, transportation and other basic necessities; and

WHEREAS, improving housing stability and security has been demonstrated to improve health, education, and employment outcomes; and

WHEREAS, the City is in need of safe and affordable housing for Berkeley residents to help extremely low-, very low-, low-, median-, and middle-income and working families and individuals purchase or rent homes and stay in the community, and provide supportive housing for people experiencing homelessness; and

WHEREAS, existing funds and funding sources are inadequate to finance affordable housing projects necessary to address the affordable housing crisis; and

WHEREAS, the City may have the opportunity to leverage state and county funds allocated for affordable housing if it issues bonds to finance affordable housing projects;

and

WHEREAS, the City intends to issue general obligation bonds to finance the acquisition and improvement of real property for affordable housing, including the application of bond proceeds by the City directly, or indirectly through third parties as loans, grants, or other disbursements to qualified individuals, not-for-profit entities acting alone or together with tax credit investors, not-for-profit corporations, partnerships, associations, and government agencies, to acquire real property for the purpose of constructing, rehabilitating or preserving affordable housing, or to construct, rehabilitate or preserve affordable housing; including but not limited to supportive housing, nonprofit rental housing, and limited-equity housing cooperatives affiliated with community land trusts, to reimburse City funds for the prior acquisition and improvement of property to be used for affordable housing; and

WHEREAS, the impact on the average Berkeley home assessed at \$425,000 is currently projected to be \$97 per year while Bonds are outstanding, currently estimated to be 36 years.

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, the acquisition or improvement of real property for affordable housing for extremely low-, very low-, low-, median- and middle-income and working families and individuals, including teachers, seniors, veterans, the homeless, students, people with disabilities and other vulnerable populations.

The Improvements (as defined below) 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.

Proceeds of the Bonds shall be used to finance the acquisition and improvement of real property for affordable housing (the “Improvements”), 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, to reimburse City funds for the prior acquisition and improvement of property to be used for affordable housing.

Proceeds 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 when such purchases are made prior to the availability of Bond proceeds.

SECTION 3. Estimated Cost of Improvements. The estimated cost of the portion of the costs of the Improvements to be paid for from the Bonds is \$135 million. 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, program management and construction costs.

SECTION 4. Principal Amount of Bonds. The aggregate principal amount of Bonds to be issued is not to exceed \$135 million.

SECTION 5. Maximum Interest Rate. The maximum rate of interest to be paid on the Bonds shall be 12% per annum.

SECTION 6. 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 Improvements for affordable housing; and
- (b) The proceeds from the sale of the City's 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 City Manager of the City shall file an annual report with the Berkeley City Council which report shall contain pertinent information regarding the amount of funds collected and expended, as well as the status of the Improvements; and
- (e) All expenditures will be subject to oversight by an independent oversight committee, composed of individuals appointed by the City Council, to confirm that Bond expenditures are consistent with the intent of this Measure; and
- (f) All expenditures also will be subject to an annual independent financial audit to confirm that Bond expenditures are consistent with the intent of this Measure.

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

INCREASING THE REAL PROPERTY TRANSFER TAX TO FUND GENERAL
MUNICIPAL SERVICES

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

Section 1. Findings and declarations.

The People of the City of Berkeley find and declare as follows:

A. Berkeley is facing an emergency, with homelessness rising by almost 20% from 2015 to 2017.

B. Approximately 1000 individuals experience homelessness every day in Berkeley, including almost 700 who are without shelter.

C. The growth of homelessness in Berkeley and throughout the State of California, brought about largely due to a national, statewide and regional lack of affordable housing, healthcare, mental health and other supportive services for vulnerable individuals, has provided a new sense of urgency to address this crisis.

D. The crisis of homelessness results in large numbers of people living on Berkeley's sidewalks, in parks and in other public spaces that were not designed for human habitation, creating public health and safety impacts the City must regularly address, requiring increasing expenditures from the General Fund.

E. In 2016, Berkeley declared a Homeless Shelter Crisis (Res. No. 67,357-N.S.), recently extended to January 2020 (Res. No. 68,206-N.S.), which allows the City to explore a wide variety of responses to rising homelessness, and remove obstacles to implementation.

F. The homeless crisis has created an urgent need to pay for additional services to care for and house the homeless including, but not limited to, homeless seniors, veterans, people with disabilities, transition-age youth and the long-term homeless, and for services for homeless people such as emergency shelters, navigation centers, rehousing counseling, rental subsidies, job training, mental health support, emergency transport and crisis response.

G. In April of 2017, to respond to the homeless crisis, the Berkeley City Council unanimously passed the Pathways Project, a comprehensive plan to address homelessness, focused on preventing homelessness, increasing access to permanent and supportive housing and creating an unbroken path from homelessness to housing, and rebuilt lives.

H. Berkeley is now implementing the Pathways Project's two goals: (1) to provide homeless individuals with temporary respite and relief from living on the streets and, to the extent possible given resources, permanent housing, services and support; and (2) to relieve pressure from areas of Berkeley experiencing disproportionate impacts of concentrated homeless populations, and throughout Berkeley.

I. The Pathways Project's Navigation Center, a low-barrier 24-hour shelter with on-site case management and housing counseling, opened in June of 2018 and is already helping chronically homeless individuals to obtain permanent housing.

J. Regionally, Berkeley is working to expand shelter, services and housing resources to address homelessness and reduce displacement, and to ensure sharing of resources and costs equitably among communities.

K. Berkeley is also working to ensure all public funds available to address homelessness and affordable housing are being maximized, from the County, State and Federal governments.

L. Even with the addition of Alameda County, State, and Federal resources, Berkeley is unable to shelter all of its homeless residents, or to meet the complex challenges of providing affordable housing, health and mental health services, job training, housing counseling and other desperately needed services.

M. The increased costs of meeting the challenges of the homeless crisis have impacted Berkeley's General Fund. The City needs new funds to pay for municipal services, including homeless services, and expert advice to determine how best to use the City's limited resources to address the crisis.

Section 2. Berkeley Municipal Code Chapter 7.52 Real Property Transfer Tax, Section 7.52.040 is hereby amended to read as follows:

7.52.040 Imposed.

A. 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, for transfers with a value at or below the threshold established in paragraph (C). 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. 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, for transfers with a value above the threshold established in paragraph (C). 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. For purposes of this paragraph, the tax reduction available

under Section 7.52.060.K shall be limited to the rebate that would be available based on the tax rate imposed pursuant to Paragraph A.

C. For purposes of the real property transfer tax imposed by this Section, the threshold is \$1,500,000, adjusted annually by the City of Berkeley on January 1 of every subsequent year to a number equal to the value of consideration for the transaction at the 67th percentile of transactions during the 12 months preceding September 1 of the preceding year, as recorded by the Alameda County Assessor, rounded to the nearest \$100,000 increment, provided that in no case shall any adjustment lower the threshold below \$1,500,000.

D. The two-and-one-half percent rate imposed in Paragraph B of this Section shall expire on January 1, 2029, unless reauthorized by the voters prior to such date.

Section 3. Section 7.52.190 of the Berkeley Municipal Code is hereby added to read as follows:

7.52.190 Homeless Services Panel of Experts.

- A. There shall be established the Homeless Services Panel of Experts to make recommendations on how and to what extent the City should establish and/or fund programs to end or prevent homelessness in Berkeley and provide humane services and support.
- B. An officer or employee of the City designated by the City Manager shall serve as secretary of the Panel.
- C. In accordance with Chapter 2.04, the Panel shall be composed of nine members appointed by the City Council.
- D. Terms shall expire and vacancies shall be filled in accordance with the provisions of Section 2.04.030 through 2.04.145 of this Code.
- E. Each member of the Panel must:
 - 1. Have experience in the development, administration, provision and/or evaluation of homeless programs in a government or non-profit capacity; or
 - 2. Have current or past lived experience with homelessness; or
 - 3. Have experience in researching the causes, impacts and solutions to homelessness; or
 - 4. Have experience with state and/or local homeless policy, funding or programs; or
 - 5. Have experience with federal homeless policy and funding administration such as the Continuum of Care Program; or
 - 6. Have experience in the development and financing of affordable housing for formerly homeless persons; or
 - 7. Have experience in the provision of mental health and/or substance use programs for homeless persons.

F. In accordance with Section 3.02.040, members of the Panel may be reappointed but shall not serve more than eight consecutive years.

G. The Panel shall, by majority vote, do each of the following:

1. Annually appoint one of its members as chair and one of its members as vice-chair;
2. Approve bylaws to facilitate the proper functioning of the Panel;
3. Establish a regular time and place of meeting. All meetings shall be noticed as required by law and shall be scheduled in a way to allow for maximum input from the public. Minutes for each meeting shall be recorded, kept, and maintained; and
4. Publish an annual report that includes the following:
 - a. recommendations on how to allocate the City's general funds to fund homeless services programs in Berkeley;
 - b. information, if available, concerning the impact of funded programs on the residents of the City; and
 - c. any additional information that the Panel deems appropriate.

H. Within 15 days of receipt of the publication of the Panel's annual report, the City Manager shall cause the report to be published on the City's Internet website and to be transmitted to the City Council.

I. The revenue raised by the tax imposed by Section 7.52.040 is available to pay the usual and current expenses of conducting the municipal government of the City, as determined by the City Council. The City Council shall consider, but need not follow, the Panel's recommendations on how and to what extent to use this revenue to establish and/or fund programs to pay for homeless services and shall annually inform the Panel as to the extent to which it has implemented the Panel's recommendations.

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.

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

AN ORDINANCE OF THE CITY OF BERKELEY AMENDING BERKELEY MUNICIPAL CODE CHAPTER 13.76 TO ACCOUNT FOR POTENTIAL REPEAL OF THE COSTA-HAWKINS RENTAL HOUSING ACT BY PRESERVING EXISTING VACANCY RENT ADJUSTMENTS AND UPDATE NEW CONSTRUCTION EXEMPTION FROM RENT STABILIZATION TO A ROLLING 20-YEAR PERIOD; AND TO EXEMPT LAWFULLY PERMITTED ACCESSORY DWELLING UNITS

The People of the City of Berkeley ordain as follows:

Section 1. Section 13.76.040 of the Berkeley Municipal Code is amended to read as follows:

13.76.040 Definitions.

A. "Board" refers to the elected Rent Stabilization Board established by this chapter and Article XVII of the Charter of the City of Berkeley.

B. "Commissioners" means the members of the board who are denominated commissioners.

C. "Housing services" include but are not limited to repairs, maintenance, painting, providing light, hot and cold water, elevator service, window shades and screens, storage, kitchen, bath and laundry facilities and privileges, janitor services, refuse removal, furnishing, telephone, parking and any other benefit, privilege or facility connected with the use or occupancy of any rental unit. Services to a rental unit shall include a proportionate part of services provided to common facilities of the building in which the rental unit is contained.

D. "Landlord" means an owner of record, lessor, sublessor or any other person or entity entitled to receive rent for the use or occupancy of any rental unit, or an agent, representative or successor of any of the foregoing.

E. "Rent" means the consideration, including any deposit, bonus, benefit or gratuity demanded or received for or in connection with the use or occupancy of rental units and housing services. Such consideration shall include, but not be limited to, monies and fair market value of goods or services rendered to or for the benefit of the landlord under the rental agreement.

F. "Rental agreement" means an agreement, oral, written or implied, between a landlord and a tenant for use or occupancy of a rental unit and for housing services.

G. "Rental unit" means any unit in any real property, including the land appurtenant thereto, rented or available for rent for residential use or occupancy (including units covered by the Berkeley Live/Work Ordinance No. 5217-NS), located in the City of Berkeley, together with all housing services connected with use or occupancy of such property such as common areas and recreational facilities held out for use by the tenant.

H. "Property" means a parcel of real property which is assessed and taxed as an undivided whole.

I. "Tenant" means any renter, tenant, subtenant, lessee, or sublessee of a rental unit, or successor to a renter's interest, or any group of tenants, subtenants, lessees, or

sublessees of any rental unit, or any other person entitled to the use or occupancy of such rental unit.

J. "Skilled nursing facility" means a health facility or a distinct part of a hospital which provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis. It provides 24-hour inpatient care and, as a minimum, includes medical, nursing, dietary, pharmaceutical services and an activity program. The facility shall have effective arrangements, confirmed in writing, through which services required by the patients, but not regularly provided within the facility can be obtained promptly when needed.

K. "Health facility" means any facility, place or building which is organized, maintained and operated for the diagnosis, care and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which such persons are admitted for a 24-hour stay or longer.

L. "Recognized tenant organization" means any group of tenants, residing in rental units in the same building or in different buildings operated by the same management company, agent or landlord, which requests to be so designated.

M. "Rent ceiling" means the maximum allowable rent which a landlord may charge on any rental unit covered by this chapter.

N. "Base rent ceiling" means the maximum allowable rent established under Section 13.76.100 of this chapter.

O. "Fees" means for the purpose of this chapter, a charge fixed by law for services of public officers or for use of a privilege under control of government.

P. "Nonprofit, accredited institution of higher education" means a post secondary educational institution whose legal status under the California Education Code is verified by an annual validation receipt from the California State Department of Education, and which is accredited by the Western Association of Schools and Colleges or the Association of Theological Schools and which is exempt from taxation under Section 501 (c)(3) of the United States Internal Revenue Code and under Section 23701(d) of the Revenue and Taxation Code, and which, if otherwise required by law to do so, has obtained a valid unrevoked letter or ruling from the United States Internal Revenue Service or from the Franchise Tax Board which states that the organization so qualifies for exemption from taxation.

Q. "Newly Constructed" means a rental unit created after June 30, 1980. For purposes of this definition, the date a unit was created is based upon the date of the first certificate of occupancy issued for the subject unit. However, in the event of the repeal or amendment of Civil Code Section 1954.52, such that "certificate of occupancy" is no longer the operative standard set forth under state law, the date a unit was created shall be determined by the final inspection approval by the City.

Section 2. Section 13.76.050 of the Berkeley Municipal Code is amended to read as follows:

13.76.050 Applicability.

This chapter shall apply to all real property that is being rented or is available for rent for residential use in whole or in part, except for the following:

A. Rental units which are owned by any government agency. However, the exemption of units owned by the Berkeley Housing Authority from the terms of this chapter shall be limited to their exemption from the terms of Section 13.76.080, Rent Registration; Section 13.76.100, Establishment of Base Rent Ceiling and Posting; Section 13.76.110, Annual General Adjustment of Rent Ceilings; and Section 13.76.120, Individual Adjustments of Rent Ceilings, of this chapter.

B. Rental units which are rented primarily to transient guests for use or occupancy less than fourteen consecutive days in establishments such as hotels, motels, inns, tourist homes, and rooming and boarding houses. However, the payment of rent every fourteen days or less shall not by itself exempt any unit from coverage by this chapter.

C. Rental units in nonprofit cooperatives owned and controlled by a majority of the residents.

D. Rental units leased to tenants assisted under the Section 8 program (42 U.S.C. Section 1437f) or the Shelter Plus Care Program (42 U.S.C. 11403 et. seq.) or similar federally funded rent subsidy program. Except as may be preempted by state or federal law, the exemption of such rental units from the terms of this chapter shall be limited to Section 13.76.080, Rent Registration; Section 13.76.100, Establishment of Base Rent Ceiling and Posting; Section 13.76.110, Annual General Adjustment of Rent Ceilings and Section 13.76.120, Individual Adjustments of Rent Ceilings, of this chapter. However, the exemption from Sections 13.76.080, 13.76.110 and 13.76.120 shall apply only for so long as the rent demanded does not exceed the authorized Payment Standard, which, for purposes of this subsection, is the maximum monthly rental assistance potentially available to an assisted household before deducting the household share of income paid for rent and utilities as established by the Berkeley Housing Authority or successor agency. For units where the rent demanded exceeds the Payment Standard, the Payment Standard or an initial rent above the Payment Standard if approved by the Berkeley Housing Authority, as reported to the board by the Berkeley Housing Authority or successor agency, shall become the unit's base rent ceiling and the reference point from which the rent ceiling shall be adjusted in accordance with Sections 13.76.110 and 13.76.120.

E. Rental units in any hospital, skilled nursing facility, health facility, asylum, or non-profit home for the aged.

F. Rental units in a residential property which is divided into a maximum of four units where one of such units is occupied by the landlord as his/her principal residence. Any exemption of rental units established under this subsection (13.76.050 F.) shall be limited to rental units that would have been exempt under the provisions of this chapter had this chapter been in effect on December 31, 1979. After July 1, 1982, this exemption shall no longer apply to rental units in a residential property which is divided into three or four units. It shall continue to apply to rental units in a residential property which is divided into two units, and which meet all the other requirements of this subsection (13.76.050F). Rental units which become non-exempt under this provision shall have the provisions of Subsections 13.76.080I and 13.76.100C. applied to them.

G. A rental unit in a residential property where the landlord shares kitchen or bath facilities with the tenant(s) of such rental unit and where the landlord also occupies a unit in the same property as his/her principal residence.

H. For the purposes of Subsections 13.76.050 F., G., and N., the term landlord shall be defined only as the owner of record holding at least 50% interest in the property.

I. Newly constructed rental units, as defined in Section 13.76.040. However, the exemption of such newly constructed units shall be limited to their exemption from the terms of Section 13.76.080, Rent Registration; Section 13.76.100, Establishment of Base Rent Ceiling and Posting; Section 13.76.110, Annual General Adjustment of Rent Ceilings; and Section 13.76.120, Individual Adjustments of Rent Ceilings, of this chapter. To the extent that state law permits, the exemption of such newly constructed units shall be limited to the first 20 years after completion of construction.

J. A rental unit which is rented by a nonprofit, accredited institution of higher education to a tenant or tenants who are student(s), faculty, or staff of the institution or of a member school of the Graduate Theological Union, provided, however, that the institution owned the unit as of January 1, 1988.

K. A rental unit in a residential property owned by an organization exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code that is rented to a low income tenant and subject to a regulatory agreement with a governmental agency that controls the unit's rent levels. However, the exemption for such rental units from the terms of this chapter shall be limited to Section 13.76.080, Rent Registration; Section 13.76.100, Establishment of Base Rent Ceiling and Posting; Section 13.76.110, Annual General Adjustment of Rent Ceilings; and Section 13.76.120, Individual Adjustments of Rent Ceilings of this chapter and shall apply only for so long as the regulatory agreement is in effect. This exemption shall not apply to rental units at the property that are not subject to a regulatory agreement with a governmental agency or that are rented by a tenant who occupied the unit prior to the property's acquisition by the tax-exempt organization.

L. Rental units in a facility owned or leased by an organization exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code that has the primary purpose of operating a treatment, recovery, therapy, sanctuary or shelter program for qualified clients, where such rental units are provided incident to the client's participation in the primary program and where the client has been informed in writing of the temporary or transitional nature of the housing at the inception of his or her participation in the program. However, except as may be preempted by the Transitional Housing Participant Misconduct Act (California Health and Safety Code Sections 50580 et. seq.) or other state or federal law, such rental units shall not be exempted from the terms of Section 13.76.130, Good Cause Required for Eviction. For purposes of Section 13.76.130.A.2, the client's continued eligibility for participation in the treatment, recovery, therapy, sanctuary or shelter program shall be deemed a material term of the client's rental agreement with the program's operator.

M. A rental unit or room which is rented by an active member of a fraternity or sorority recognized by the University of California Berkeley, or a rental unit or room which is rented by an active member of a fraternity or sorority identified by Rent Board Resolution. To qualify for the exemption, the rental unit must be owned by the fraternity or sorority or by an entity whose sole purpose is the maintenance and operation of the fraternity or

sorority's rental units for the benefit of the members in order to provide housing to said members at cost.

N. A rental unit in a residential property containing a lawfully established and fully permitted Accessory Dwelling Unit where the landlord also occupies a unit in the same property as his/her principal residence. This subsection shall only apply to properties containing a single Accessory Dwelling Unit, shall only apply to units compliant with all applicable requirements of Chapter 23C.24 ("Accessory Dwelling Units"), and shall only apply to tenancies created after November 7, 2018.

Section 3. Section 13.76.100 of the Berkeley Municipal Code is amended to read as follows:

13.76.100 Establishment of base rent ceiling and posting.

A. Base Rent Ceiling. Upon adoption of this chapter, no landlord shall charge rent for any rental unit covered by the terms of this chapter affecting rents in an amount greater than the lawful rent which was actually due and payable on, or last preceding, May 31, 1980, under the periodic term of the rental agreement, in accordance with the provisions of the Temporary Rent Stabilization Ordinance, No. 5212-N.S., except as permitted by the board under Sections 13.76.110 and 13.76.120 of this chapter. Such lawful rent in effect on May 31, 1980, is the base rent ceiling and is a reference point from which the rent ceiling shall be adjusted in accordance with Sections 13.76.110 and 13.76.120. For such rental units where no rent was in effect on May 31, 1980, the base rent ceiling shall be the most recent lawful periodic rent in effect for that rental unit during the six months preceding that date. For such rental units where no periodic rent was in effect on May 31, 1980, or during the six months preceding that date and no other rent has been certified or determined by the board after hearing, the base rent ceiling shall be the first periodic rent charged following May 31, 1980.

B. Posting. The board may establish reasonable rules and regulations for the posting of rent ceiling and other relevant information to further the purposes of this chapter.

C. Previously Exempt Units. For rental units specified in Section 13.76.050.F., the base rent ceiling shall be the rent in effect on December 31, 1981. For such rental units where no rent was in effect on December 31, 1981, the base rent ceiling shall be the most recent lawful periodic rent in effect for that rental unit during the six months preceding that date. For such rental units where no periodic rent was in effect on December 31, 1981, or during the six months preceding that date and no other rent has been certified or determined by the board after hearing, the base rent ceiling shall be the first periodic rent charged following December 31, 1981.

D. Vacancy Rent Increases Preserved. This subdivision shall apply to the extent that state law no longer mandates that a landlord may establish the initial rental rate for any tenancy in a unit that is otherwise subject to a residential rent control ordinance. For such rental units where the landlord lawfully established a new initial rent under the Costa-Hawkins Rental Housing Act (Civil Code Section 1954.50 et seq.), the Base Rent Ceiling shall be the most recent lawfully established periodic rent. For such rental units that were exempt from rent stabilization pursuant to the Costa-Hawkins Rental Housing Act, the Base Rent Ceiling shall be the most recent lawfully established periodic rent.

RESOLUTION NO. ##,###-N.S.

EXPRESSING THE PEOPLE’S GOAL OF ACHIEVING MORE RESILIENT AND CLIMATE-SMART INFRASTRUCTURE AND ADVISING THE MAYOR TO WORK WITH THE COMMUNITY TO DEVELOP VISION 2050, A 30-YEAR SUSTAINABLE INFRASTRUCTURE PLAN FOR COUNCIL ADOPTION THAT IDENTIFIES AND GUIDES THE IMPLEMENTATION OF CLIMATE-SMART, TECHNOLOGICALLY-ADVANCED, INTEGRATED AND EFFICIENT INFRASTRUCTURE

WHEREAS, infrastructure comprises the physical assets and networks necessary to provide essential services including transportation, technology, energy, water, sewer, storm water, clean air, watersheds, and parks and waterfront; and

WHEREAS, the City of Berkeley is deeply committed to sustainability and addressing climate change; and

WHEREAS, voters overwhelmingly approved Measure G in 2006, and the Berkeley Climate Action Plan was adopted in 2009 - setting the goal of reducing greenhouse gas emissions by 33% of 2000 levels by 2020, and 80% by 2050; and

WHEREAS, the award-winning Resilience Strategy was developed in 2016, building upon one of the Climate Action Plan goals to ensure Berkeley is “resilient and prepared for the impacts of global warming”; and

WHEREAS, despite efforts and achievements informed by these plans, much of our infrastructure – streets, roads, sidewalks, storm drains, parks, the marina and waterfront – that is foundational to these advancements were constructed more than 70 years ago during the Works Projects Administration; and

WHEREAS, many cities across the United States, including Berkeley, are faced with infrastructure that is approaching the end of its useful life and in need of repair or replacement; and

WHEREAS, the American Society of Civil Engineers (ASCE) released their Infrastructure Scorecard for 2017 and gave American infrastructure a grade of D+; and

WHEREAS, although the \$100 million-dollar Measure T1 General Obligation Bond was approved by voters on November 8, 2016, and will be used to repair, renovate, replace or reconstruct aging infrastructure and facilities, our restoration needs far exceed what this bond can fund; and

WHEREAS, we are faced with rapidly changing technologies and exponentially worsening predictions of climate change impacts; and

WHEREAS, by 2050, the California Natural Resources Council projects San Francisco Bay water levels will rise at least one foot; and

WHEREAS, the scientific consensus is the San Francisco Bay and its eastern shoreline, which includes Berkeley, can expect extensive changes to our built and natural environment, such as massive erosion, inundated freeway sections, and habitat destruction; and

WHEREAS, sea level rise coupled with new weather patterns, increased storm surges and intensity, and water table rise will create a greater total impact of climate induced flooding within much of our lowland community; and

WHEREAS, in the face of these challenges we need to have infrastructure that is more sustainable and resilient; and

WHEREAS, we also have technology that is rapidly changing and infrastructure systems must be flexible and adaptable to future needs. Emerging technologies are becoming available that will affect the way we build and use our future infrastructure; and

WHEREAS, Berkeley needs integrated and long-lasting infrastructure to provide multiple benefits, and be environmentally and financially sustainable; and

WHEREAS, our community will benefit from having an integrated long-range plan that will provide a reliable and safe infrastructure system to ensure a healthy economy, public safety, and quality of life in Berkeley.

NOW THEREFORE, BE IT RESOLVED that the People of the City of Berkeley hereby establish the goal of achieving more resilient and climate-smart infrastructure.

BE IT FURTHER RESOLVED that the Mayor should work with the community to develop Vision 2050, a 30-year sustainable infrastructure plan for Council adoption that identifies and guides the implementation of climate-smart, technologically-advanced, integrated and efficient infrastructure to support a safe, vibrant and resilient future for Berkeley.

