



Office of the City Manager

39c

ACTION CALENDAR

June 26, 2012

To: Honorable Mayor and Members of the City Council
From:  Christine Daniel, City Manager
Submitted by: Zach Cowan, City Attorney
Subject: General Obligation Bond Measure for Watershed and Related Street Improvements

RECOMMENDATION

- 1) Adopt a Resolution Determining Public Interest and Necessity for Issuing a General Obligation Bond in the Amount of \$30 Million for Watershed and Related Street Improvements and Submitting to the Berkeley Electorate a Measure to Authorize a General Obligation Bond for Those Improvements.
- 2) Adopt a Resolution Authorizing the City of Berkeley to Incur Bonded Debt and Issue a General Obligation Bond for Watershed and Related Street Improvements for Environmental Quality and Flood Mitigation.
- 3) Determine whether to 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

If this bond measure were placed on the ballot and approved by two thirds of the voters, additional funds would be generated that would be used to fund watershed improvements, including related street work. The average annual amounts collected over the 30-year period the bonds are outstanding would be approximately \$38, \$82, and \$116, respectively, for homes with assessed valuations of \$330,500, \$700,000 and \$1 million.

The cost to submit the measure to the voters at the November 2012 General Election is estimated to be approximately \$26,000.

CURRENT SITUATION AND ITS EFFECTS

At its meeting of May 29, 2012, the Council directed staff to bring this bond measure to the Council so that it can be placed on the ballot for voter approval.

The proposed bond measure would authorize the issuance of \$30 million in general obligation bonds. These funds would be used to implement various improvements identified in the Watershed Management Plan, which would mitigate flooding in West Berkeley and protect the environment by improving the water quality of storm water runoff. Funds would also be spent on related street work as the streets are an interrelated part of the system. No funds could be spent until any required environmental review of specific projects was completed.

Specific projects that would be eligible for funding include improvements in the Codornices and Potter Creek watersheds. Modeling indicates that these are areas where improvements are critically needed and could significantly enhance storm drainage and water quality.

For example, Green Infrastructure (GI) improvements could include strategically located surface level bio-retention measures (rain gardens, swales, bio-retention cells, permeable paving, etc.) within the parking strip, planter area of sidewalks, red zone curb-extensions, and in street medians as feasible. These GI features would drain into large underground storage pipes, which would fill during storm events and discharge metered flows into the existing storm drain pipelines through small openings. Modeling results indicate that this approach will be much more effective in locations east of Adeline/Shattuck, and installation will result in flood reductions throughout the watershed.

Additionally, with respect to Codornices Park storage, modeling results indicate that large volume detention can reduce flow volumes and velocities within the creek corridor. This can be accomplished by offloading peak flows from the existing creek culverts within Codornices Park through the installation of 8 inline storage pipes, each 5-feet in diameter. Three storage pipes 224-feet long would capture high flows from the North Fork culvert; while five storage pipes 95-feet long would capture high flows from the South Fork culvert. The proposed pipes would be located under existing basketball courts, lawn area, and pathways. These amenities would be replaced atop the buried pipes.

A new Eunice Pipeline with GI Storage under Henry Street would route stormwater collected by the Cragmont-Euclid storm drain pipeline branch into a new 30" diameter pipeline running down Eunice Street. This new storm drain pipe would turn south at Henry and discharge into four storage pipes (equivalent to 8-foot diameter by 550-feet long each) under Henry between Eunice and Berryman St. These pipes would discharge directly into the Codornices Creek culvert below Henry Street. Re-routing the stormwater at Eunice further relieves hydraulic loading on the open watercourse below Euclid. This approach in conjunction with the Codornices Park storage retrofits would decrease maximum discharge by 71 cubic feet per second.

The measure would require the City Manager, as a part of the annual budget process, to provide comprehensive information to the Public Works Commission concerning expenditure of bond proceeds , listing all specific projects, and requiring the Public Works Commission to review that report and provide any findings and recommendations to the Council.

The 5 year street repaving plan and the Watershed Management Plan are interrelated for multiple reasons which include:

- streets, with their curbs and gutters, guide the flow of surface water from storms to inlets which discharge to storm drains and to creeks;
- any work on pavement needs to be done after work to underground facilities is completed, and
- achieving Watershed Management Plan goals of improving water quality and flow capacity issues is heavily determined by how streets are reconstructed to apply Low Impact Development techniques.

The bond would require that any street work that is related to the watershed improvements would be consistent with “Complete Streets” principles and promote safe streets. For purposes of this measure, a “complete street” is one that accommodates all travelers, particularly public transit users, bicyclists, pedestrians (including individuals of all ages and individuals with mobility, sensory, neurological, or hidden disabilities), and motorists, to enable all travelers to use the roadway safely and efficiently.

Finally, with respect to who can author arguments about ballot measures, Elections Code Section 9282(b) provides that “the legislative body, or any member or members of the legislative body authorized by that body...may file a written argument for or against any city measure.” The City Council may authorize the Council as a whole, or members of the Council, to submit arguments in favor of any measure placed on the ballot by the Council.

BACKGROUND

See “Current Situation and its Effects”.

RATIONALE FOR RECOMMENDATION

See “Current Situation and its Effects”.

ALTERNATIVE ACTIONS CONSIDERED

See companion report including further analysis of the draft bond measures.

CONTACT PERSON

Zach Cowan, City Attorney, 981-6998

Attachments:

- 1: Resolution Placing the Measure on the Ballot
Exhibit A: Resolution Authorizing the City to Incur Bonded Indebtedness
- 2: Resolution Authorizing the City to Incur Bonded Indebtedness
- 3: City Attorney’s Impartial Analysis

RESOLUTION NO. #,### –N.S.

DETERMINING PUBLIC INTEREST AND NECESSITY FOR ISSUING A GENERAL OBLIGATION BOND FOR WATERSHED AND RELATED STREET IMPROVEMENTS FOR ENVIRONMENTAL QUALITY AND FLOOD MITIGATION AND SUBMITTING TO THE BERKELEY ELECTORATE A MEASURE TO AUTHORIZE A GENERAL OBLIGATION BOND FOR THOSE IMPROVEMENTS

WHEREAS, a the City Council has proposed for voter approval a general obligation bond measure to pay for street and watershed improvements; and

WHEREAS, the Council has requested that the Alameda County Board of Supervisors consolidate the General Municipal Election with the Presidential General Election; and

WHEREAS, the Council desires to submit all measures to be placed upon the ballot at said consolidated election; and

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

WHEREAS, the City has developed a Watershed Management Plan that represents an overall strategy to manage and improve overall watershed health within the City's boundaries through improving creek habitat and water quality, coordinating with the Aquatic Park Improvement Program, and identifying and prioritizing infrastructure needs associated with aging facilities and capacity needs, and in particular utilizing Low Impact Development elements within the public right-of-way or streets, including various combinations of permeable pavement, rain gardens, and flow detention to reduce pollutants through settling, filtering, and biological treatment within existing footprint of the City's streets; and

WHEREAS, the 5 year street repaving plan and Watershed Management Plan are interrelated for multiple reasons which include:

- streets, with their curbs and gutters, guide the flow of surface water from storms to inlets which discharge to storm drains and to creeks;
- any work on pavement needs to be done after work to underground facilities is completed, and
- achieving WMP goals of improving water quality and flow capacity issues are heavily determined by how streets are reconstructed to apply Low Impact Development techniques; and

WHEREAS, the City's storm drain system and related street infrastructure is in need of significant repairs and rehabilitation in order to protect the environment and avoid future liability and damage to private property; and

WHEREAS, existing funds and funding sources are inadequate to permit implementation of the and Watershed Management Plan and related street improvements sufficient to improve the environment and avoid future liability and damage to private property.

WHEREAS, the City Council has therefore determined that the public interest requires additional funding for construction of the physical improvements called for in the Watershed Management Plan as well as related street improvements; and

WHEREAS, the full implementation of the Watershed Management Plan and construction of all required Improvements is estimated to cost well in excess of \$30,000,000; and

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 full text of the measure and the City Attorney's analysis 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 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 Registrar of Voters of Alameda County is required to perform necessary services in connection with said election.

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 provide such other services and supplies in connection with said election as may be required by the Statutes of the State of California and the Charter of the City of Berkeley.

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

CITY OF BERKELEY BALLOT MEASURE	
Shall the City of Berkeley issue general obligation bonds not exceeding \$30,000,000 to fund watershed and related street improvements, subject to prior environmental review under state law, with annual review of expenditures by the Public Works Commission?	YES
<u>Financial Implications:</u> The average annual cost over the 30-year period the bonds are outstanding would be approximately \$38, \$82, and \$116, respectively, for homes with assessed valuations of \$330,500, \$700,000 and \$1,000,000.	<hr/> NO

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

RESOLUTION NO. ##,### – N.S.

AUTHORIZING THE CITY OF BERKELEY TO INCUR BONDED DEBT AND ISSUE A GENERAL OBLIGATION BOND FOR WATERSHED AND RELATED STREET IMPROVEMENTS FOR ENVIRONMENTAL QUALITY AND FLOOD MITIGATION

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

WHEREAS, the City has developed a Watershed Management Plan that represents an overall strategy to manage and improve overall watershed health within the City's boundaries through improving creek habitat and water quality, coordinating with the Aquatic Park Improvement Program, and identifying and prioritizing infrastructure needs associated with aging facilities and capacity needs, and in particular utilizing Low Impact Development elements within the public right-of-way or streets, including various combinations of permeable pavement, rain gardens, and flow detention to reduce pollutants through settling, filtering, and biological treatment within existing footprint of the City's streets; and

WHEREAS, the 5 year street repaving plan and Watershed Management Plan are interrelated for multiple reasons which include:

- streets, with their curbs and gutters, guide the flow of surface water from storms to inlets which discharge to storm drains and to creeks;
- any work on pavement needs to be done after work to underground facilities is completed, and
- achieving Watershed Management Plan goals of improving water quality and flow capacity issues is heavily determined by how streets are reconstructed to apply Low Impact Development techniques; and

WHEREAS, the City's storm drain system and related street infrastructure is in need of significant repairs and rehabilitation in order to protect the environment and avoid future liability and damage to private property; and

WHEREAS, existing funds and funding sources are inadequate to permit implementation of the Watershed Management Plan and related street improvements sufficient to improve the environment and avoid future liability and damage to private property.

WHEREAS, the City Council has therefore determined that the public interest requires additional funding for construction of the physical improvements called for in the Watershed Management Plan; and

WHEREAS, the full implementation of the Watershed Management Plan and construction of all required Improvements is estimated to cost well in excess of \$30,000,000.

NOW THEREFORE, BE IT RESOLVED by the People of the City of Berkeley that the public interest requires the issuance of a general obligation bond in the amount of \$30,000,000 to fund construction of the Improvements described below.

BE IT FURTHER RESOLVED the People of the City of Berkeley that:

A. Proceeds of bonded indebtedness shall be used to construct the following facilities ("Improvements"):

1. Installation of Green Infrastructure (GI), as it is defined in the Watershed Management Plan. GI includes, but is not limited to: (a) surface level bio-retention measures (rain gardens, swales, bio-retention cells, permeable paving, etc.) within the parking strip, planter area of sidewalks, red zone curb-extensions, and in street medians as feasible; and (b) large underground storage pipes, which would fill during storm events and then discharge metered flows into the existing storm drain pipelines.

2. Installation of inline storage pipes.

3. New pipelines and storage pipes.

4. Street work related to the Improvements.

For purposes of this measure, "Improvements" shall also include design, permitting, administrative and overhead costs.

B. No Improvements may be constructed, and no funds may be spent for construction, until the specific Improvement to be constructed has undergone the required environmental review.

C. The Improvements shall be constructed in a manner that promotes safe streets and considers the needs of all modes and all users and conforms to "Complete Streets" requirements to ensure that projects are designed and constructed to benefit all modes of travel by improving safety, accessibility, and convenience for all users of the entire width of the street right-of-way. For purposes of this measure, a "complete street" is one that accommodates all travelers, particularly public transit users, bicyclists, pedestrians (including individuals of all ages and individuals with mobility, sensory, neurological, or hidden disabilities), and motorists, to enable all travelers to use the roadway safely and efficiently.

D. Each year as part of the budget process: (1) the City Manager shall provide to the Public Works Commission a comprehensive report of expenditures of bond proceeds, listing all specific projects on which they have been expended; and (2) the Public Works Commission shall review the information provided by the City Manager and report to the City Council its findings and recommendations if any.

BE IT FURTHER AND FINALLY RESOLVED by the People of the City of Berkeley that:

A. The estimated cost of the Improvements to be funded by any bonds issued pursuant to this measure is \$30 million, although the total cost of all Improvements identified in the Watershed Management Plan is in excess of \$100 million.

B. The amount of the principal of the general obligation indebtedness (the "Bonds") to be incurred shall not exceed \$30 million.

C. The estimated cost may include legal and other fees and the cost of printing the Bonds and other costs and expenses incidental to or connected with the issuance and sale

of the Bonds.

D. The proceeds of the Bonds authorized to be issued by this resolution shall be used to finance construction of the Improvements and to pay any fees and costs in connection with the issuance of the Bonds, including but not limited to, legal fees and bond printing costs.

E. The maximum rate of interest to be paid on the Bonds shall not exceed eight percent (8%).

City Attorney's Impartial Analysis

This bond measure would authorize the issuance of \$30 million of general obligation bonds. Bond proceeds would be used to construct various water quality and flood mitigation improvements described in the City's Watershed Management Plan, as well as related street improvements.

The types of improvements that would be constructed would include:

1. Green Infrastructure (GI) improvements, including but not limited to: (a) surface level bio-retention measures (rain gardens, swales, bio-retention cells, permeable paving, etc.) within the parking strip, planter area of sidewalks, red zone curb-extensions, and in street medians as feasible; and (b) large underground storage pipes, which would fill during storm events and then discharge metered flows into the existing storm drain pipelines.
2. Inline storage pipes under streets and other public property.
3. New storm drain pipelines

None of these improvements could be constructed, until it has undergone the required environmental review.

Bond proceeds would also be used to pay for street work related to the improvements. The improvements would be coordinated to the extent feasible with work under the 5-year street repaving plan, and would be constructed in a manner that promotes safe streets and considers the needs of all modes and all users and conform to "Complete Streets" requirements to ensure that projects are designed and constructed to benefit all modes of travel by improving safety, accessibility, and convenience for all users of the entire width of the street right-of-way.

Because the street repaving plan is updated annually, and the Watershed Management Plan is expected to be updated periodically, the measure would allow bond funds to be spent to implement the plans as they are updated from time to time.

Finally, the measure would require the City Manager, as a part of the annual budget process, to provide a comprehensive report as to how bond proceeds have been spent, listing all specific projects, to the Public Works Commission, which would then review that report and provide any findings and recommendations to the City Council.

Financial Implications

The year after the first bonds are issued, the tax rate required to meet the estimated debt service would be 1.58¢ per \$100 of assessed valuation. This rate is expected to decrease each year (assuming one bond series) with the average 1.165¢ per \$100 of assessed valuation during the 30-year issue.

The estimated annual tax for a home with an assessed valuation of \$330,500 would be \$52 the first year after bonds are issued and average \$37.80 over the 30-year life of the bonds.

s/ZACH COWAN
Berkeley City Attorney