

## PROCLAMATION CALLING A SPECIAL MEETING OF THE BERKELEY CITY COUNCIL

In accordance with the authority in me vested, I do hereby call the Berkeley City Council in special session as follows:

**Tuesday, October 11, 2022  
4:00 PM**

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – LORI DROSTE

### **PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

*Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be available.*

*Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at [http://berkeley.granicus.com/MediaPlayer.php?publish\\_id=1244](http://berkeley.granicus.com/MediaPlayer.php?publish_id=1244).*

*To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/88115464108>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.*

*To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter Meeting ID: **881 1546 4108**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

*Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.*

*To submit a written communication for the City Council's consideration and inclusion in the public record, email [council@cityofberkeley.info](mailto:council@cityofberkeley.info).*

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.*

## Preliminary Matters

### Roll Call:

## Consent Calendar

*The Council will first determine whether to move items on the agenda for “Action” or “Information” to the “Consent Calendar”, or move “Consent Calendar” items to “Action.” Three members of the City Council must agree to pull an item from the Consent Calendar or Information Calendar for it to move to Action. Items that remain on the “Consent Calendar” are voted on in one motion as a group. “Information” items are not discussed or acted upon at the Council meeting unless they are moved to “Action” or “Consent”.*

*No additional items can be moved onto the Consent Calendar once public comment has commenced. At any time during, or immediately after, public comment on Information and Consent items, any Councilmember may move any Information or Consent item to “Action.” Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.*

*For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.*

**Public Comment on Consent Calendar and Information Items Only:** *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Speakers will be entitled to two minutes each to speak in opposition to or support of Consent Calendar and Information Items. A speaker may only speak once during the period for public comment on Consent Calendar and Information items.*

*Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.*

## Consent Calendar

- 1. Appointment of Director of Police Accountability**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution confirming the appointment of Hansel Aguilar to be the Director of Police Accountability and approving an employment contract to be effective October 24, 2022 at an annual salary of \$200,000.  
**Financial Implications:** See report  
Contact: Dee Williams-Ridley, City Manager, (510) 981-7000
- 2. Appointment of Director of Human Resources**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution confirming the appointment of Aram Kouyoumdjian as the Director of Human Resources to be effective November 7, 2022 at an annual salary of \$231,000.  
**Financial Implications:** See report  
Contact: Dee Williams-Ridley, City Manager, (510) 981-7000

## Consent Calendar

3. **Purchase Order – Golden State Fire Apparatus Inc., for a Kenworth 3,000 Gallon Tender for Emergency Water Supply**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to issue purchase orders with Golden State Fire Apparatus Inc., piggybacking on Houston-Galveston Area Council (HCAG) contract No. FS12-19 for an amount not to exceed \$448,274 through December 31, 2022.  
**Financial Implications:** Measure Q Fund - \$448,274  
Contact: David Sprague, Fire, (510) 981-3473

## Action Calendar

*The public may comment on each item listed on the agenda for action as the item is taken up. For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.*

*The Presiding Officer will request that persons wishing to speak use the "raise hand" function to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.*

*Action items may be reordered at the discretion of the Chair with the consent of Council.*

## Action Calendar

4. **Guidelines for Public Process, Expenditure and Oversight of \$650 Million Affordable Housing and Infrastructure Bond**  
**From: Mayor Arreguin (Author)**  
**Recommendation:** Adopt a Resolution establishing guidelines for the allocation of the proposed \$650 Million Affordable Housing and Infrastructure Bond, if adopted by the voters, including:
1. Commitment to the expenditure of bond funds for affordable housing projects and specific infrastructure categories;
  2. The proposed public process to be implemented, including plans and policies to guide the development of project plans, public meetings and the role of advisory Commissions and staff level prioritization of initial project recommendations;
  3. Specific direction regarding required annual reporting, the role of the Bond Oversight Committee; and requirements for audits of bond expenditures.
  4. Recommended direction regarding independent construction management and oversight of bond-funded City capital projects.
- Financial Implications:** See report  
Contact: Jesse Arreguin, Mayor, (510) 981-7100

## Action Calendar

### 5. Measure O Bond Impacts on Affordable Housing Development in Berkeley From: City Manager

**Recommendation:** Review and discuss the presentation on Measure O Bond impacts on affordable housing development in Berkeley.

**Financial Implications:** See report

Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

## Adjournment

I hereby request that the City Clerk of the City of Berkeley cause personal notice to be given to each member of the Berkeley City Council on the time and place of said meeting, forthwith.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the City of Berkeley to be affixed on this 7<sup>th</sup> day of October, 2022.



Jesse Arreguin, Mayor

Public Notice – this Proclamation serves as the official agenda for this meeting.

ATTEST:



Date: October 7, 2022

Mark Numainville, City Clerk

**NOTICE CONCERNING YOUR LEGAL RIGHTS:** *If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

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<https://berkeleyca.gov/your-government/city-council/city-council-agendas>.

Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Communications to the City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service to the City Clerk Department at 2180 Milvia Street. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk Department for further information.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street as well as posted on the City's website at <https://berkeleyca.gov/>.

Agendas and agenda reports may be accessed via the Internet at:  
<https://berkeleyca.gov/your-government/city-council/city-council-agendas>  
and may be read at reference desks at the following locations:

City Clerk Department - 2180 Milvia Street, First Floor  
Tel: 510-981-6900, TDD: 510-981-6903, Fax: 510-981-6901  
Email: [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info)

Libraries: Main – 2090 Kittredge Street,  
Claremont Branch – 2940 Benvenue, West Branch – 1125 University,  
North Branch – 1170 The Alameda, South Branch – 1901 Russell

**COMMUNICATION ACCESS INFORMATION:**

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date.



Captioning services are provided at the meeting, on B-TV, and on the Internet.





Office of the City Manager

01

Special Meeting Item

CONSENT CALENDAR  
October 11, 2022

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: LaTanya Bellow, Deputy City Manager  
 Subject: Appointment of Director of Police Accountability

RECOMMENDATION

Adopt a Resolution confirming the appointment of Hansel Aguilar to be the Director of Police Accountability and approving an employment contract to be effective October 24, 2022 at an annual salary of \$200,000.

FISCAL IMPACTS OF RECOMMENDATION

The salary and benefits for the Director of Police Accountability are included in the FY 2023 and FY 2024 Adopted Budget for the Office of the Director of Police Accountability. The annual salary for Hansel Aguilar is \$200,000, which is within the salary range for the position that was approved by City Council on May 25, 2021.

CURRENT SITUATION AND ITS EFFECTS

Pursuant to Resolution 69,531-N.S. that was adopted by the City Council on July 28, 2020, City staff has taken the following action so that the Police Accountability Board can commence its work on July 1, 2021:

- Issued an application to solicit community interest in the Police Accountability Board ("Board") and on June 1, 2021, the Mayor and City Council adopted Resolution 69,916-N.S. consisting of appointments of the nine (9) members to the Board.
- On May 25, 2021, the City Council adopted Resolution amending Resolution 69,538- N.S. to establish the unrepresented classification of Director of Police Accountability with a monthly salary range of \$11,862.93 - \$17,794.40, effective May 25, 2021.

The Human Resources Department hired a consultant agency Bret Byers Group to conduct a nationwide search for the Director of Police Accountability. As a result, Hansel Aguilar was selected. The search for the Director of Police Accountability for the City of Berkeley, began in earnest in the spring of 2022 following an extensive community engagement process. The position profile was developed with input from a wide range of key stakeholders was published April of 2022. The search was national in scope and resulted in receiving 17 applications which were reviewed initially by the

executive search firm. The initial screening review resulted in 11 competitive candidates which were presented to the City Manager and Deputy City Manager. The City Manager and Deputy City Manager review process resulted in the pool of potential candidates being narrowed to 6 semi-finalists who were then interviewed by two different panels: a community panel and a panel of technical experts. The results of those interviews were a recommendation to the City Manager and City Attorney to interview ultimately 5 semi-finalists. The City Manager recommended a total of five candidates to be interviewed by the City Council. Those interviews occurred in July of 2022 and September of 2022. The result was a finalist who is being announced October 11, 2022. His bio follows.

Mr. Aguilar is well qualified to serve as the City's Director of Police Accountability. Hansel Aguilar has considerable civilian oversight and criminal justice experience including serving as a law enforcement officer in Northern Virginia, as an in-house misconduct investigator for a youth development non-profit in Northern Virginia, a misconduct investigator at the D.C. Office of Police Complaints (OPC), an inaugural member of the Fairfax County Police Civilian Review Panel (PCR), a member of the George Mason University Police Advisory Board Implementation Committee and serving as the first Executive Director of the City of Charlottesville Police Civilian Oversight Board (PCOB), formerly known as the Police Civilian Review Board. His career in public service also includes experience in the non-profit sector and governmental arena. Specifically, he has served as an intake paralegal for various legal aid agencies, as an AmeriCorps Volunteer, a volunteer manager for a Virginia area non-profit, site manager for a non-profit, day-labor center, and as a Partnership Specialist with the U.S. Census Bureau.

As a practitioner of civilian oversight, Mr. Aguilar has been an active participant and contributor to the National Association of Civilian Oversight of Law Enforcement (NACOLE). He has collaborated in the NACOLE Review, as a moderator and presenter at various annual conferences and a subcommittee member supporting various NACOLE initiatives. Mr. Aguilar holds a B.A. in Criminal Justice and Sociology from Rutgers University and a Master of Arts degree in Sociology from George Mason University where he is currently a PhD candidate disserting. His research interests lie primarily in the intersection of transnationalism, crime and human rights.

## BACKGROUND

In 1973, a ballot measure was adopted to establish a Police Review Commission for the community to participate in setting Police Department policies, practices, and procedures and to provide a means for investigation of complaints against sworn employees of the Police Department. The existing Police Review Commission consists of nine (9) commissioners that are appointed by the Mayor and City Council, and is supported by three (3) full-time equivalent employees.

On November 3, 2020, Berkeley voters adopted Measure II, a Charter Amendment that established the Office of the Director of Police Accountability that consists of a new



position, Director of Police Accountability, and the Police Accountability Board. The Police Accountability Board replaces the existing Police Review Commission. Pursuant to Measure II, the purpose of the Police Accountability Board is to promote public trust through independent, objective, civilian oversight of the Berkeley Police Department, provide community participation in setting and reviewing Police Department policies, practices, and procedures, and to provide a means for prompt, impartial and fair investigation of complaints brought by members of the public against sworn employees of the Berkeley Police Department. The Director of Police Accountability, a position to be filled by the City Council at a noticed public meeting, is responsible for investigating complaints filed against sworn employees of the Berkeley Police Department, carrying out the work of the Police Accountability Board, and overseeing the day-to-day operations of the Office of the Director of Police Accountability, amongst other responsibilities as outlined in Measure II. Both the Police Accountability Board and Director of Police Accountability are independent of the City Manager, except for administrative purposes, and report to the Mayor and City Council.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

#### RATIONALE FOR RECOMMENDATION

Mr. Aguilar has an extensive background in civilian police oversight and public administration and as a long-standing employee with the City of Charlottesville. As a practitioner of civilian oversight, Mr. Aguilar has been an active participant and contributor to the National Association of Civilian Oversight of Law Enforcement (NACOLE). He has collaborated in the NACOLE Review, as a moderator and presenter at various annual conferences and a subcommittee member supporting various NACOLE initiatives. He was a candidate for the at-large Board member position in the 2022 NACOLE election, but did not receive the votes to secure the position.

Mr. Aguilar holds a B.A. in Criminal Justice and Sociology from Rutgers University and a Master of Arts degree in Sociology from George Mason University where he is currently a PhD candidate disserting. His research interests lie primarily in the intersection of transnationalism , crime and human rights. He is well qualified to assume the responsibilities of the Director of Police Accountability.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CONTACT PERSON

LaTanya Bellow, Deputy City Manager, City Manager's Office (510) 981-7012

Attachment:

1: Resolution

Exhibit A: Employment Contract

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

APPOINTMENT OF HANSEL AGUILAR AS DIRECTOR OF POLICE  
ACCOUNTABILITY

WHEREAS, Section 125 of the City Charter provides that the Director of Police Accountability shall be appointed by the City Council to implement Measure II adopted on November 3, 2020, oversee the operations of Office of the Director of Police Accountability and carryout the work of the Police Accountability Board; and

WHEREAS, Hansel Aguilar has an extensive background in civilian police oversight and public administration and has been an active participant and contributor to the National Association of Civilian Oversight of Law Enforcement; and

WHEREAS, Mr. Aguilar received a B.A. in Criminal Justice and Sociology from Rutgers University and a Master of Arts degree in Sociology from George Mason University where he is currently a PhD candidate disserting.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council hereby confirms the City Manager's recommendation of Hansel Aguilar as the Director of Police Accountability, with an annual salary of \$200,000 on the same terms and conditions as other, regular at will employees to be effective October 24, 2022.

## AGREEMENT

This Agreement is made and entered into on \_\_\_\_, 2022, between the City of Berkeley, a Charter City, organized and existing under the laws of the State of California (“City”), and Hansel Aguilar (“Mr. Aguilar”). The City and Mr. Aguilar are referred to herein collectively as the “Parties.”

This Agreement is made with reference to the following facts and objectives:

- A. The Office of the Director of Police Accountability is established by the Charter of the City of Berkeley (“City Charter”), Article XVIII, Section 125, Subsection (1).
- B. The City invests the City Council with the sole authority to appoint the Director of Police Accountability; and the City Council desires to employ the professional services of Mr. Aguilar as the Director of Police Accountability for the City of Berkeley.
- C. Mr. Aguilar agrees to serve as the Director of Police Accountability of the City of Berkeley in accordance with the Berkeley City Charter.
- D. Both the City and Mr. Aguilar wish to set forth in writing the terms and conditions of Mr. Aguilar’s employment as the Director of Police Accountability for the City of Berkeley.

Therefore, in consideration of the mutual promises and covenants set forth herein, the Parties agree as follows:

### 1. COMMENCEMENT AND TERMINATION

The City Council hereby employs Mr. Aguilar as the Director of Police Accountability, and Mr. Aguilar hereby accepts said employment commencing remotely on October 24, 2022 and in-person on November 28, 2022. Pursuant to Charter Section 125, Subsection (14)(e), Mr. Aguilar is an at-will employee of the City. He shall serve at the pleasure of the City Council, which may remove Mr. Aguilar from office with or without cause. In the event of a no-cause removal from office, Mr. Aguilar shall be eligible to receive severance payment in accordance with the provisions of Sections 3.e through 3.g of this Agreement. In the event that Mr. Aguilar voluntarily resigns his employment, he shall make best efforts to give notice as provided in Section 3.g of the Agreement.

### 2. DUTIES

Mr. Aguilar shall perform the duties of Director of Police Accountability as set forth in Charter Section 125, including but not limited to those duties set forth in Subsections (12), (14), (16), and (18), as well as any other duties determined by the City Council.

### 3. COMPENSATION AND EVALUATION

- a. The City shall pay Mr. Aguilar for services rendered by him pursuant to this Agreement an annual base salary of two hundred thousand dollars (\$200,000). Said salary shall be paid on the dates and in the manner consistent with the payroll

procedures in use for City of Berkeley career employees. In addition, Mr. Aguilar shall receive such employee benefits as are provided to the City's regular-at-will employees under the City's Unrepresented Employee Manual, and any cost of living increases Council approves for regular-at-will employees covered by the City's Unrepresented Employee Manual.

The City, in its sole and absolute discretion, may adjust the annual base salary of Mr. Aguilar at such times and to such extent as the City may determine. In exercising its discretionary authority, the City shall act fairly and in good faith with Mr. Aguilar. In no case shall Mr. Aguilar's annual base salary be decreased unless such decrease is a percentage consistent with a decrease applicable to all employees of the City generally.

Within three months of appointment, the City Council shall jointly establish objective, verifiable measures of Mr. Aguilar's performance, to be completed during the first year of Mr. Aguilar's employment. The City Council shall provide Mr. Aguilar with a performance evaluation at the end of the first year or soon thereafter. During the initial performance evaluation, Mr. Aguilar shall present to the City Council his goals and priorities for the Office of the Director of Police Accountability. An assessment of salary increase shall be part of the evaluation process. For each subsequent year during the term of this Agreement, the Parties shall endeavor to establish prospective objective, verifiable measures of performance for the ensuing year. As part of each annual performance evaluation, Mr. Aguilar shall present on goals and priorities for the Office of the Director of Police Accountability and key accomplishments over the past year.

- b. The City shall pay relocation assistance to move Mr. Aguilar's household goods & belongings - three bids will be provided by Mr. Aguilar for the City to select and pay directly.
- c. The City shall also pay a temporary housing allowance of \$4000/month for 6 months. The total payments for this temporary housing allowance shall not exceed \$24,000.
- d. The City makes no representation about the tax consequences of the relocation assistance or temporary housing allowance payments discussed in Section 3(b) and (c) above. Mr. Aguilar is solely responsible for determining the tax consequences of such payments and paying such taxes.
- e. In the event that Mr. Aguilar is removed from office by the City Council without cause and during such time as Mr. Aguilar is able and willing to perform his duties under this Agreement, the City shall (1) provide Mr. Aguilar with notice at least one (1) month in advance of the final date of employment; and (2) pay Mr. Aguilar as severance pay (i) a lump- sum cash payment in an amount equal to two (2) months of salary, for every month of service as the DPA after the date of this Agreement, but under no circumstances shall said payments exceed twelve (12) months of salary; and (ii) any vacation leave accrued as of the date of termination. As a condition precedent to receiving the severance payment discussed in this subsection, Mr. Aguilar must sign a comprehensive release and waiver of all claims against the City

covering all claims surrounding his employment and termination of employment with the City.

- f. Notwithstanding the provisions of Section 3.e, in the event the City Council terminates Mr. Aguilar for cause, the City shall have no obligation to provide any severance pay. As used in this section, "cause" shall mean conviction of, or no contest plea, to a felony or any crime involving moral turpitude or personal gain. In the event the City terminates Mr. Aguilar for cause, Mr. Aguilar shall be entitled only to such salary accrued to the date of termination, and such other termination benefits and payments as are required by law.
- g. In the event that Mr. Aguilar voluntarily and without the official request of the City resigns as Director of Police Accountability, Mr. Aguilar shall make best efforts to provide written notice to the City at least thirty (30) days in advance of the final date of employment, unless the parties agree otherwise. Such resignation shall not be deemed to be a "removal" or "termination" within the meaning and context of the above severance pay provisions

#### 4. VACATION AND SICK LEAVE

- a. Mr. Aguilar shall receive four weeks (160 hours) of vacation leave annually. Annual vacation leave shall be administered in the same manner as vacation is administered for department head employees of the City with regard to timing of credits and buyback policy. Maximum vacation accrual is 320 hours. Mr. Aguilar shall accrue fifteen (15) days of sick leave annually with unlimited accumulation. Sick leave may be used in accordance with policies applicable to department head employees of the City.
- b. The City shall pay for professional dues and subscriptions of Mr. Aguilar necessary for his performance as DPA, subject to any budgetary limitations set by City Council.
- c. The City shall pay travel and meal expenses of Mr. Aguilar for professional and office travel, meetings, and occasions adequate to continue Mr. Aguilar's professional development and to allow him to adequately pursue necessary official functions for the City, subject to budget limitations. The City also shall pay tuition, travel, and meal expenses of Mr. Aguilar for short courses, institutes, and seminars that are necessary for his professional development and for the good of the City, subject to budget limitations. All reimbursements for travel and meal expenses shall be processed pursuant to applicable City regulations which apply to all City employees. Mr. Aguilar may request, and the City in its sole discretion may approve for funding, graduate level education programs, which may include reimbursement for tuition, books and travel.

#### 5. AMENDMENT

The City and Mr. Aguilar may at any time mutually agree to amend or terminate this Agreement. Any such agreement must be in writing and signed by the Parties to this Agreement. If the City Charter is amended to conflict with any clause in this Agreement,

the amended City Charter shall control and inconsistent provisions of the contract shall be void and unenforceable.

6. ENTIRE AGREEMENT

This Agreement supersedes any other agreements, written or oral, expressed or implied, between the City and Mr. Aguilar.

7. INDEMNIFICATION

The City shall defend, hold harmless, and indemnify Mr. Aguilar against any claims, demands, or legal actions, whether specious, frivolous, or otherwise, arising out of an alleged act or omission, direct or indirect, occurring within the scope and during the course of Mr. Aguilar’s employment with the City. Mr. Aguilar will cooperate in good faith with the City with respect to defense of such claims, demands, or legal actions. This provision shall not apply where a claim, demand, or legal action is premised on any action or omission by Mr. Aguilar that is felonious or involves moral turpitude.

8. SEVERABILITY

In the event that any term of this Agreement is finally held or determined to be illegal or void by a court having jurisdiction over the City and Mr. Aguilar, the remainder of this Agreement shall remain in full force and effect unless the term or terms held to be illegal or void are wholly inseparable from the remaining provisions of the Agreement. If any part of this Agreement is determined to be illegal or void by a court of competent jurisdiction, the parties shall meet and confer to re-negotiate such illegal or void term(s).

9. GOVERNING LAW

This Agreement shall be governed by the laws of the State of California.

IN WITNESS WHEREOF, the Parties have executed this Agreement which shall be effective upon approval by the City Council.

CITY OF BERKELEY

HANSEL AGUILAR

By \_\_\_\_\_

By \_\_\_\_\_

Jesse Arreguin, Mayor

Approved as to Form

By \_\_\_\_\_

Farimah Faiz Brown, City Attorney



Office of the City Manager

02

Special Meeting Item

CONSENT CALENDAR

October 11, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: LaTanya Bellow, Deputy City Manager

Subject: Appointment of Director of Human Resources

RECOMMENDATION

Adopt a Resolution confirming the appointment of Aram Kouyoumdjian as the Director of Human Resources to be effective November 7, 2022 at an annual salary of \$231,000.

FISCAL IMPACTS OF RECOMMENDATION

The salary and benefits for the Director of Human Resources are included in the Fiscal Years 2023-2024 Department budget. The position is paid 90% from the General Fund (Budget Code: 011-34-341-000-0000-000-412-511110) and 10% from the Employee Training Fund (Budget Code: 146-34-341-000-0000-000-412-511110).

CURRENT SITUATION AND ITS EFFECTS

Aram Kouyoumdjian has worked at the City of Los Angeles since April 2016 as the Assistant General Manager of the Personnel Department. He has a lengthy employment history in Human Resources. He has worked for the Los Angeles Unified School District as Associate General Counsel for Human Resources matters and for a private litigation firm handling employment matters.

In accordance with the City Charter, Section 28(b) of Article VII, I am submitting my selection for the Director of Human Resources to the City Council for confirmation. I have selected Aram Kouyoumdjian for appointment to the Director of Human Resources position, to be appointed with an annual salary of \$231,000. I am requesting confirmation of this appointment so that I may formally offer this regular at will benefited department head position to Aram Kouyoumdjian to be effective November 7, 2022.

The City retained Wendi Brown HR Consulting, an executive search firm, to conduct an extensive, nationwide search for a new Director. The City conducted a competitive interview process consisting of two interview panels including, technical experts and city department directors. Top candidates were recommended for final interviews conducted by the City Manager, City Attorney and Deputy City Manager.

## BACKGROUND

The Human Resources team serves the Berkeley community's need for a well-qualified high performing workforce by attracting and retaining a talented and diverse City government workforce. The role of the Human Resources Department is to serve as a strategic business partner to its internal and external customers and provide leadership, expertise, support and guidance to other City Departments in the areas of recruitment and selection for employment, occupational health and safety, employee benefits, workers' compensation, employee development and training, employee relations and equal employment opportunity programs and Classification and Compensation. The Human Resources Department has 22 staff and is organized into five divisions consisting of:

### **Office of the Director**

The Office of the Director provides overall leadership and administrative direction for all Human Resources Department activities. The Director of Human Resources acts as the City Manager's representative for all disciplinary and grievance appeals, and serves as Secretary and provides staff support to the Personnel Board as established by Section 119 of the City Charter. In addition to serving as Lead Strategist/Chief Negotiator with all employee groups.

### **Personnel and Administrative Services**

The Personnel and Administrative Services Division conducts all merit-based recruitment and examination activities in accordance with the City's Personnel Rules and Regulations, Federal and State laws, and other Ordinances and Resolutions adopted by City Council. Recruitment and examination activities include: developing examination plans, creating job announcements, conducting advertisement campaigns, reviewing applications, coordinating rater panels, administering exams, conducting statistical analyses of tests, and conducting new hire orientations and processing related paperwork

### **Employee and Labor Relations**

The Employee Relations Division conducts all labor relations activities with the City's seven labor organizations and represents the City Manager on employee relations matters; advises department staff on labor contract interpretations, Federal and State employment laws, and human resources policies and procedures; and manages and reviews grievances and disciplinary issues. The division also administers and assists departments with the City's benefits, Workers' Compensation, and Occupational Health and Safety programs.

### **Training and Organizational Development**

The Training and Organizational Development Division administers and oversees the Citywide Training Program, which is designed to provide ongoing training and development to employees in skills that are fundamental to successfully achieving the City's mission. The Citywide Training Program builds employee capacity in the "Three C's" – Customer Service, One City Team, and Continuous Learning



**Equal Employment Opportunity and Diversity**

The Equal Employment Opportunity (EEO) and Diversity Division administers, implements, and coordinates the City's EEO matters; ensures compliance with EEO provisions; enforces diversity efforts pertaining to recruitment and retention; administers the City's Harassment Prevention Policy and discrimination complaint process; conducts internal investigations of complaints filed, and assesses reasonable accommodation requests in compliance with the provisions of the Americans with Disabilities Act (ADA) and the CA Fair Employment and Housing Act (FEHA)

**ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS**

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

**RATIONALE FOR RECOMMENDATION**

Aram Kouyoumdjian has over twenty years of experience having started his career as a Litigation Attorney. He transitioned to Associate General Counsel for Los Angeles Unified School District handling Human Resources related matters. He has spent the last six years as the Assistant General Manager for the City of Los Angeles Personnel Department and has led the Public Safety Recruitment and Selection, Background Investigations, Medical Services, and the Office of Workplace Equity. He holds a Juris Doctor with distinction from University of Pacific, and a Masters of Arts in English. He also has a number of Executive Leadership certificates from Wharton School of Business and Harvard University Extension programs.

**ALTERNATIVE ACTIONS CONSIDERED**

None.

**CONTACT PERSON**

Dee Williams-Ridley, City Manager, City Manager's Office (510) 981-7000

Attachments:

1: Resolution

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

CONFIRMING THE APPOINTMENT OF ARAM KOUYOUMDJIAN AS DIRECTOR OF  
HUMAN RESOURCES

WHEREAS, Aram Kouyoumdjian is currently working as the Assistant General Manager of the Personnel Department with the City of Los Angeles and has over twenty years of experience working in Human Resources overseeing four operational divisions Recruitment and Selection, Office of Workplace Equity, Background Investigations and Medical Services with a combined staff exceeding 200 employees. He has significant experience working in the public sector in the Human Resources field; and

WHEREAS, Mr. Kouyoumdjian was the Associate General Counsel for the Los Angeles Unified School District; and was responsible for representing the nation's second largest school district in labor and employment law matters, litigation in federal and state courts, writ proceedings, grievance arbitrations, and administrative hearings. He provided legal advice to the Human Resources Division, the Personnel Commission, and the Office of Labor Relations,

WHEREAS, Mr. Kouyoumdjian Expanded Office of Workplace Equity and hired first-ever Chief Diversity, Equity & Inclusion Officer; developed and launched new Citywide equity policies and procedures, a cultural assessment initiative, and a multi-year inclusion plan; enhanced electronic reporting system (MyVoiceLA) for complaints of equal employment opportunity violations; and implemented implicit bias training for entire City workforce.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby confirms the City Manager's appointment of Aram Kouyoumdjian as the Director of Human Resources with an annual salary of \$231,000 on the same terms and conditions as other regular at will employees effective November 7, 2022.



Office of the City Manager

CONSENT CALENDAR  
October 11, 2022

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: David Sprague, Interim Fire Chief  
 Subject: Purchase Order – Golden State Fire Apparatus Inc., for a Kenworth 3,000  
 Gallon Tender for Emergency Water Supply

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to issue purchase orders with Golden State Fire Apparatus Inc., piggybacking on Houston-Galveston Area Council (HCAG) contract No. FS12-19 for an amount not to exceed \$448,273.90 through December 31, 2022.

FISCAL IMPACTS OF RECOMMENDATION

One-time funding for this project is available in the FY23 Fire Department in Budget Code: 778-72-742-835-0000-000-422-664120 (Measure Q).

CURRENT SITUATION AND ITS EFFECTS

On October 4, 2022 the Department was contacted by Golden State with the opportunity to purchase a Stock/Demo unit for a Pierce Manufacturing, Inc. STOCK Kenworth 3,000 Gallon Tender, this is a piggyback purchase per HGACBuy Contract No. FS12-19, Product Code FS19VE09.

For three years the Department has been trying to acquire a vehicle that is capable of storing 3,000 gallons of water that can be deployed immediately to any location within or adjacent to the City to make a quick attack on fires. In a post-earthquake scenario, the East Bay Mud (EBMUD) water delivery infrastructure may be compromised. This apparatus would also provide a large volume of water that could be deployed to the park lands adjacent to the City where there is limited to no water delivery infrastructure to help suppress a wildfire threatening the community.

BACKGROUND

The Fire Department (Department) has identified water supply, or lack thereof, as a critical issue for any post-earthquake fire suppression activity and/or any fire suppression that needs to occur in the City's Wildland Urban Interface (WUI) or in Tilden Park. While Tilden Park is not within the City's jurisdiction, our firefighters will be

some of the first on scene and a fire that starts in Tilden driven by aligned weather, would move quickly in to the City proper.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

This piece of apparatus will help the Department confront the impacts of climate change that are increasing the probability of wildfires that will start in or adjacent to the community.

RATIONALE FOR RECOMMENDATION

As part of its long-term planning to confront a post disaster scenario where lack of water will be a critical factor that hampers mitigation, the Department has been trying to acquire a water tender for over three years through the normal (pre-pandemic) design and acquisition process. Due to Pandemic related supply chain shortages, the chassis this type of vehicle is built upon has not been available.

ALTERNATIVE ACTIONS CONSIDERED

Wait for the normal purchasing process to recover and place an order then, which it likely to delay delivery for 2-5 years.

CONTACT PERSON

David Sprague, Interim Fire Chief, Fire Department, (510) 981-3473

Attachments:

1: Resolution

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

PURCHASE ORDER: GOLDEN STATE FIRE APPARATUS INC., FOR A KENWORTH  
3,000 GALLON TENDER FOR EMERGENCY WATER SUPPLY

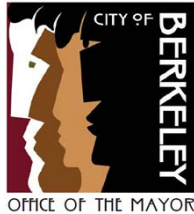
WHEREAS, the Fire Department (Department) has identified water supply, or lack thereof, as a critical issue for any post-earthquake fire suppression activity and/or any fire suppression that needs to occur in the City's Wildland Urban Interface (WUI) or in Tilden Park. While Tilden Park is not within the City's jurisdiction, our firefighters will be some of the first on scene and a fire that starts in Tilden driven by aligned weather, would move quickly in to the City proper, and

WHEREAS, for three years the Department has been trying to acquire a vehicle that is capable of storing 3,000 gallons of water that can be deployed immediately to any location within or adjacent to the City to make a quick attack on fires, and

WHEREAS, on October 4, 2022 the Department was contacted by Golden State with the opportunity to purchase a Stock/Demo unit for a Pierce Manufacturing, Inc. STOCK Kenworth 3,000 Gallon Tender, this is a piggyback purchase per HGACBuy Contract No. FS12-19, Product Code FS19VE09.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to issue a purchase order with Golden State Fire Apparatus Inc., piggybacking on Houston-Galveston Area Council (HCAG) contract No. FS12-19 for an amount not to exceed \$448,273.90 through December 31, 2022. The funds will come from Budget Code: 778-72-742-835-0000-000-422-664120 (Measure Q).





ACTION CALENDAR  
October 11, 2022

To: Members of the City Council

From: Mayor Jesse Arreguín

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

RECOMMENDATION

Adopt a Resolution establishing guidelines for the allocation of the proposed \$650 Million Affordable Housing and Infrastructure Bond, if adopted by the voters, including:

- 1) Commitment to the expenditure of bond funds for affordable housing projects and specific infrastructure categories;
- 2) The proposed public process to be implemented, including plans and policies to guide the development of project plans, public meetings and the role of advisory Commissions and staff level prioritization of initial project recommendations;
- 3) Specific direction regarding required annual reporting, the role of the Bond Oversight Committee; and requirements for audits of bond expenditures.
- 4) Recommended direction regarding independent construction management and oversight of bond-funded City capital projects.

BACKGROUND

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 these priorities.

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.

To address the need for affordable housing and improved infrastructure, on August 3, 2022, the Berkeley City Council voted unanimously to submit 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 housing, street rehabilitation, traffic safety improvements, undergrounding of utilities on evacuation routes and other infrastructure projects. 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.

If the measure passes, the attached Resolution is designed to provide supplemental guidelines on spending priorities, public participation in determining the expenditure of bond revenues, and specific oversight and accountability requirements.

State of California law authorizes the City to issue general obligation bonds for municipal improvements pursuant to certain provisions of the California Government Code including Article 1, commencing with Section 43600, of Chapter 4 of Division 4 of Title 4 or Article 4.5, commencing with Section 53506, of Chapter 3 of Part 1 of Division 2 of Title 5. State law further prohibits the use of general obligation bond revenues for maintenance of capital assets. In addition, Section 7.64 of the Berkeley Municipal Code authorizes the City to issue general obligation bonds for the acquisition, construction or completion of municipal improvements related to affordable housing. Bond revenues may only be used for new capital expenditures for specified "Improvements".

### **"Improvements" Defined**

Resolution No. 70,492-N.S. ("Bond Resolution") which placed the bond measure on the November 2022 ballot and Exhibit A, the text of the measure, specifically defined the "Improvements" to be financed to include:

- **Financing the acquisition or improvement of real property for affordable housing and social housing; and**
- **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.**

Given the legal restrictions on the use of bond funds for maintenance, the City allocate funding from its General Fund for ongoing maintenance. To that end, 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, to be adjusted annually for inflation. The allocation is intended to augment the existing street paving budget of \$7.3 Million for a total commitment of \$15.3 Million annually. This will help prevent further deterioration of street pavement conditions.

### **Spending Priorities**

The Bond Resolution specified the Improvements to be financed by the bonds and recommendations on spending priorities. Spending recommendations are detailed on page 6 of the Resolution and specify that "Projects to be funded by \$650 million in bonds include but are not limited to:

- Estimated cost of the Affordable Housing Improvements to be funded by the bonds is \$200 Million.
- Estimated cost for the Infrastructure Improvements related to streets, sidewalks and traffic safety to be funded by the bonds is \$300 million of which \$231 million is for street paving and reconstruction and integrated traffic safety improvements if feasible, with the



remainder (\$69 million) for sidewalks, paths, traffic safety improvements including bike and pedestrian facilities and streetscape improvements.

- An estimated \$50 Million for undergrounding utilities on evacuation routes.
- The remaining \$100 million is 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.

Further the Bond Resolution states that the proceeds of the sale of the bonds will be used to finance the acquisition and construction of real property for the “Improvements” as defined in the Resolution along with any fees and costs associated with the issuance of the bonds.

The improvements will be funded and completed as needed and each project is assumed to include its share of costs including planning, program management and construction. The final cost of each Improvement/project will be determined as plans are finalized, construction bids are awarded, or projects completed. In addition, funding is expected from sources other than bonds and will be used to supplement the cost of the Improvements to ensure project delivery and maximize the number of projects funded.

While the measure does define the “Improvements” in some detail which can be funded through the issuance of bonds, it also includes language to ensure flexibility and adaptive planning as the bonds are issued and projects identified through the work of staff, advisory commissions and the public. Key to the development of project funding recommendations is the use of adopted plans and policies including 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. Nevertheless, there is a need to provide greater clarity about the commitments the city is making towards funding categories of projects if the bond measure passes. Therefore, the attached resolution specifies that “The City Council hereby commits that if the measure passes, it shall allocate bond revenues towards 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 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. 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, open space, and facilities.

## **Public Participation**

Key to the development of plans for bond expenditures is public participation and the input of City Boards and Commissions. Measure T1, the 2016 Infrastructure Bond, used an extensive public process involving commissions, staff, and public meetings and surveys to get input on project priorities. This resolution commits to using a similar process for the allocation of bond funds for Infrastructure Improvements. Affordable Housing Improvements 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. This was the process used for the allocation of Measure O bond funds which enabled the city to finance over 800 permanently affordable units.

## **Bond Oversight**

Independent citizen oversight is critical to ensuring that bond funds are spent for the purposes called for in the ballot measure. While prior measures delegated oversight to existing Boards and Commissions, given the amount of funding proposed and breadth of the bond measure, the City Council required that a separate "Affordable Housing and Infrastructure Bond Oversight Committee" be established to provide oversight of projects funded by bonds and the expenditure of proceeds of the bonds, and whether they are spent consistent with the purposes as set forth in the measure. By decoupling the role of citizen oversight from funding recommendations, the proposed measure will increase citizen participation and provide a targeted focus to review bond expenditures to ensure consistency with legal process. This is similar to the process employed by the Berkeley Unified School District and other public agencies.

The resolution outlines the requirements for eligibility to serve on the new Bond Oversight Committee and provides more specificity on their responsibilities.

## **Accountability and Transparency**

The text of the measure also outlines other accountability measures including the process for approving bond expenditures, reporting requirements, and required annual independent audits. This proposed resolution provides more detail on these areas with input provided by City staff.

## **Independent Construction Project Management**

Some school districts and public agencies require that an independent Construction Project Manager oversee the bidding and construction process to ensure that projects stay within the amount budgeted, are delivered on time and meet legal requirements and workplace standards. Berkeley has not instituted independent construction project management in the past, but rather relies on City staff to oversee project delivery. 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.

## **FINANCIAL IMPLICIATIONS**

Adoption of the Resolution will not impact the amount of revenue to be generated from the issuance of bonds, but rather provide guidance to staff on the implementation of the

measure, and may lead to cost savings depending on how they are applied.

#### ENVIRONMENTAL SUSTAINABILITY

Implementing Vision 2050 would result in more resilient public infrastructure that creates fewer greenhouse gases and reduces conflict between our built and natural environment. More affordable housing in Berkeley would reduce greenhouse gas emissions caused by employees finding lower cost housing farther away from employment centers and requiring longer commutes.

#### CONTACT PERSON

Jesse Arreguín, Mayor, (510) 981-7100

Attachments:

1. Proposed Resolution
2. Bond Measure Resolution No. 70,492-N.S.

Links to relevant documents related to previous oversight of City and regional tax measures:

- [Resolution 69-575 \(Measure FF\) \(9/22/2020\)](#)
- [Designating the Disaster and Fire Safety Commission as the Citizens' Oversight Committee for Expenditure of the Proceeds of Fire, Emergency Services and Wildfire Prevention Tax \(Measure FF\) \(9/22/2020\)](#)
- [Public Process for Implementation of Measure T1 \(1/31/2017\)](#)
- [Process Guidelines for Prioritizing \\$100 Million Infrastructure and Facilities Bond Spending \(9/13/2016\)](#)
- [Resolution 67-522 \(Measure T1\) \(5/31/2016\)](#)
- <https://www.sfbayrestore.org/independent-citizens-oversight-committee>
- [https://www.sfbayrestore.org/sites/default/files/2022-06/Annual\\_OC\\_Letter\\_Final\\_2021\\_Signed.pdf](https://www.sfbayrestore.org/sites/default/files/2022-06/Annual_OC_Letter_Final_2021_Signed.pdf)
- [https://www.sfbayrestore.org/sites/default/files/2021-12/Oversight%20Committee%20Procedural%20Document\\_Rev12-10-21.pdf](https://www.sfbayrestore.org/sites/default/files/2021-12/Oversight%20Committee%20Procedural%20Document_Rev12-10-21.pdf)

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 housing, street rehabilitation, traffic safety improvements, undergrounding of utilities on evacuation routes and other infrastructure projects; 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 Exhibit A, the text of the bond measure, 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, 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, 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, the City Council recognizes the importance of ensuring adequate maintenance funding from existing sources for Infrastructure Improvements financed by the Bonds and not supplanting existing City infrastructure funding with proceeds of the Bonds; and

WHEREAS, 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 (the “Street Maintenance Funding Policy”), to be adjusted annually for inflation. The allocation is intended 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; and

WHEREAS, while the measure defines the “Improvements” 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, in the event the measure passes, this Resolution is designed to provide supplemental guidelines 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 the City Council hereby commits that, if the measure passes:

- A. 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 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. 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, open space, and facilities.
- B. Public Participation for Infrastructure Improvements will include an extensive public process, similar to what was established for the implementation of Measure T1 the 2016 Infrastructure Bond, involving input from boards and commissions, staff, public meetings

and surveys to get input on project priorities. Affordable Housing Improvements will use the process outlined in the Housing Trust Fund Guidelines 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.

- C. 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”), that will be appointed by each member 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
- D. Accountability and Transparency. Annual reports will be provided to City Council regarding the amount of bond funds collected and expended, the amount of leveraged funding applied to projects and the status of the Improvements and impact on infrastructure need in each category. An annual independent financial audit of the receipts and expenditures of bond funds will be provided to City Council. 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.
- E. Independent Construction Project Management. The City Manager shall employ an independent construction project manager to provide oversight over the bidding and construction process for Infrastructure Improvements. The City Manager will 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.

RESOLUTION NO. 70,492-N.S.

DETERMINING THAT PUBLIC INTEREST AND NECESSITY DEMAND THE ISSUANCE OF GENERAL OBLIGATION BONDS TO FINANCE THE ACQUISITION OR IMPROVEMENT OF REAL PROPERTY FOR AFFORDABLE HOUSING, STREET AND SIDEWALK REPAIR, TRAFFIC SAFETY, UNDERGROUNDING OF UTILITIES, CLIMATE CHANGE RESILIENCE, AND OTHER PUBLIC INFRASTRUCTURE AND FACILITIES, AND SUBMITTING TO THE BERKELEY ELECTORATE ON THE NOVEMBER 8, 2022 BALLOT A MEASURE TO AUTHORIZE GENERAL OBLIGATION BONDS FOR SUCH PROJECTS

WHEREAS, the City of Berkeley (the "City") is committed to creating and maintaining an equitable, affordable, and resilient City with housing opportunities for all, safe and well-maintained infrastructure, and a public commons that welcomes and supports people of all ages, abilities, and backgrounds; and

WHEREAS, the urgent need for affordable housing and preventing homelessness, the accelerating impacts of climate change, and aging public buildings and infrastructure create challenges for safety, equity, sustainability, and resilience; and

WHEREAS, the Berkeley City Council (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 as integral to protecting the quality of life of all Berkeleyans and to the City's long-term vitality; and

WHEREAS, the City Council recognizes the existence of an acute housing crisis that has caused housing to become increasingly scarce, expensive, and out of reach for teachers, seniors, people with disabilities, students, veterans, the homeless, and for families and individuals with incomes at extremely low-, very low-, low-, and middle-income levels; and

WHEREAS, successful programs initiated in recent years have decreased overall homelessness in Berkeley, but estimates project there are still roughly 1,000 homeless people in the City on any given night; and

WHEREAS, providing affordable housing for low-income and unhoused persons is important to alleviate the housing crisis and reduce the impacts of unsheltered homelessness on our streets, parks, and other public spaces; and

WHEREAS, in November 2018, Berkeley voters overwhelmingly approved Measure O, authorizing the City to issue \$135 million dollars in general obligation bonds for the purpose of building and preserving affordable housing; and

WHEREAS, leveraging Measure O funds with County, State, and Federal dollars, the City has provided 20 affordable housing projects with pre-development or development funding, supporting the construction and rehabilitation of approximately 800 affordable housing units citywide; and

WHEREAS, in 2022 Berkeley's first Measure O-funded affordable housing projects opened their doors at 1601 Oxford Street in North Berkeley and 2012 Berkeley Way in the Downtown, welcoming seniors, working families, veterans, and formerly homeless individuals into new homes with on-site supportive services; and

WHEREAS, the pace of affordable housing production has exceeded expectations and all Measure O funds have been allocated through commitments to existing and pending affordable housing projects; and

WHEREAS, the Regional Housing Needs Allocation for the San Francisco Bay Area requires that Berkeley plan for and incentivize the production of over 3,800 affordable housing units over the next eight years, and current funding is insufficient to finance this volume of affordable homes; and

WHEREAS, funds available through this bond measure can support production of over 1,000 additional affordable housing units citywide, providing urgently needed housing for extremely low-, very low-, low-, and middle-income families and individuals, and helping the City achieve its goal of at least 10% reserved affordable housing citywide by 2030; 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, much of Berkeley's public infrastructure was built over 75 years ago and is in need of refurbishment, modernization, and repair; and

WHEREAS, over \$1 billion dollars in infrastructure needs have been identified citywide, including improvements needed for street pavement, sidewalks, paths, and bikeways; bike, pedestrian and other traffic safety projects; undergrounding of utilities on evacuation routes; measures to reduce the risk and impacts of climate change, including flooding through stormwater and sea level rise; improvements to City parks, camps and pools, including a proposed pool at San Pablo Park; revitalization of Berkeley's historic Civic Center as a cultural and civic hub for the community; improvements to the Berkeley waterfront and pier; improvements to public buildings; measures to make the City's streetscapes and other public spaces more attractive, vibrant, and green; and other improvements to the City's infrastructure to make it more sustainable, enjoyable, and resilient; and



WHEREAS, in addition to hundreds of millions in infrastructure needs, the City has identified approximately \$248 million in necessary street repairs, Berkeley's pavement condition is currently classified as "at risk" by the Metropolitan Transportation Commission; and failure to make urgently needed street repairs in a timely manner will result in the need for more costly repairs in the future; and

WHEREAS, building climate-resilient infrastructure, including undergrounding of utilities on evacuation routes and managing stormwater runoff and sea level rise, will reduce the risks from flooding, earthquakes and wildfires and make Berkeley a safer and more sustainable place to live; and

WHEREAS, in 2016 Berkeley voters overwhelmingly approved Measure T1, a \$100 million general obligation bond whose proceeds are being used to rehabilitate parks, infrastructure, and facilities citywide, including at the Frances Albrier Community Center, Live Oak Community Center, Strawberry Creek Park, Tom Bates Regional Sports Complex, Willard Park, George Florence Park, North Berkeley Senior Center, the Rose Garden, San Pablo Park, Harrison Park, the Marina, Aquatic Park, John Hinkel Park, King Pool, Grove Park, Civic Center Park, Ohlone Park, and Cazadero Camp; and streets, sidewalks, storm drains, and other infrastructure; and

WHEREAS, the full \$100 million of Measure T1 bond monies has already been allocated or committed to identified projects and the City has successfully leveraged regional, County, State, and Federal funds for these improvements, representing a significant gain for Berkeley; and

WHEREAS, to build on the success of projects funded through Measures O and T1 and to continue financing affordable housing and necessary improvements to facilities and infrastructure citywide, the City requires additional funds, which may be leveraged with regional, County, State, and Federal funds; and

WHEREAS, Section 7.64 of the Berkeley Municipal Code authorizes the City to issue general obligation bonds to finance the acquisition, construction, or completion of any municipal improvements and the acquisition, rehabilitation, preservation or construction of affordable housing; and

WHEREAS, the City is authorized to issue general obligation bonds pursuant to certain provisions of the California Government Code, including Article 1, commencing with Section 43600, of Chapter 4 of Division 4 of Title 4 or Article 4.5, commencing with Section 53506, of Chapter 3 of Part 1 of Division 2 of Title 5 (each, the "Bond Law"); and

WHEREAS, under the Bond Law and Chapter 7.64, the City intends to issue general obligation bonds (the "Bonds") to finance the acquisition or improvement of real property for affordable and social housing ("Affordable Housing Improvements"), including the application of bond proceeds by the City directly, or indirectly through third parties as loans, grants, or other disbursements to qualified individuals, not-for-profit entities acting alone or together with tax credit investors, not-for-profit corporations, partnerships,

associations, and government agencies, to acquire real property for the purpose of constructing, rehabilitating or preserving affordable 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, under the Bond Law and Chapter 7.64, the City further intends to issue the Bonds to finance the acquisition or improvement of real property for public infrastructure and facilities (“Infrastructure Improvements”; together with Affordable Housing Improvements, “Improvements”), including 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, fiscal accountability protections including public disclosure of all spending and annual independent audits and oversight will help ensure funds are spent as promised; and

WHEREAS, funding from the Bonds should be guided by the City Council’s plans and policies, as may be amended from time to time, including the *Vision 2050 Framework* and *Program Plan* whose vision for a renewed City includes safe and enjoyable community facilities; safe, sustainable streets; resilient and climate-friendly infrastructure; and open space, parks, and recreation facilities that improve Berkeley’s quality of life; and

WHEREAS, funding from the Bonds should be applied to create attractive, green streetscapes that invite walking and biking and support the vitality of local businesses and commercial districts; spaces for community gathering and enjoyment; and native, drought-resistant, and habitat-restoring landscaping with trees for cooling, improved air quality, and shade; and

WHEREAS, by law, all funds must remain under local control in the City and cannot be taken away by the State or the County or used for other purposes; and

WHEREAS, the City Council recognizes the importance of ensuring adequate maintenance funding from existing sources for Infrastructure Improvements financed by the Bonds and not supplanting existing City infrastructure funding with proceeds of the Bonds; and

WHEREAS, 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 (the "Street Maintenance Funding Policy"), to be adjusted annually for inflation. The allocation is intended 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; and

WHEREAS, the Street Maintenance Funding Policy will help ensure that street maintenance is supported by adequate ongoing General Fund contributions as one-time infusions of paving resources provide only temporary improvement to pavement conditions, which deteriorate again without appropriate funding for maintenance; 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, United States Income Tax Regulations section 1.150-2 provides generally that proceeds of tax-exempt debt are not deemed to be expended when such proceeds are used for reimbursement of expenditures made prior to the date of issuance of such debt unless certain procedures are followed, one of which is a requirement that prior to the payment of any such expenditure, the issuer declares an intention to reimburse such expenditure; and

WHEREAS, it is in the public interest and for the public benefit that the City declares its official intent to reimburse certain of the proposed expenditures referenced herein; and

WHEREAS, proceeds from the sale of the Bonds will be used to finance the Improvements, and all expenditures will be subject to annual independent financial audits and oversight by a Bond Oversight Committee; and

WHEREAS, the Council desires to submit the measure described herein to be placed upon the ballot at the November 8, 2022 Statewide General Election, consistent with the Council's Resolution No. 70,336-N.S., adopted on May 10, 2022, calling for a General Municipal Election to be consolidated with said statewide election; and

WHEREAS, the Council's Resolution No. 70,336-N.S., adopted on May 10, 2022, adopted the provisions of Elections Code Section 9285(a) providing for the filing of rebuttal arguments for city ballot measures, pursuant to Elections Code Section 9285(b).

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Berkeley that the public interest and necessity require the issuance of one or more series of general obligation bonds in the amount of \$650 million to fund the Improvements, subject to completion of the proceedings required by the Bond Law.

**BE IT FURTHER RESOLVED** that this resolution is adopted pursuant to and in conformance with Chapter 7.64 of the Berkeley Municipal Code.

BE IT FURTHER RESOLVED that:

- A. A ballot measure authorizing the City to issue general obligation bonds to finance the acquisition and improvement of real property for the Improvements (the "Measure"), a copy of which is attached hereto as Exhibit A, shall be placed before the voters at the election on November 8, 2022.
- B. Projects to be funded by \$650 million in Bonds include but are not limited to the following. All dollar amounts included are estimates at the time of adoption of this Resolution and are not a commitment or guarantee that any specific amounts will be spent on particular projects or categories of projects.
1. The estimated cost of the Affordable Housing Improvements to be funded by the Bonds is \$200 million.
  2. The estimated cost for the Infrastructure Improvements related to streets, sidewalks and traffic safety to be funded by the Bonds is \$300 million of which approximately \$231 million is for street paving and reconstruction, and integrate traffic safety improvements if feasible, to reach a good pavement condition with the balance for sidewalks and paths, traffic safety improvements including bike and pedestrian facilities and streetscape improvements.
  3. The estimated cost of other Infrastructure Improvements funded by the Bonds, including those related to public safety and climate resiliency, is \$150 million, of which:
    - an estimated \$50 million is for undergrounding utilities on evacuation routes; and
    - the remaining approximately \$100 million is 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.
- C. The maximum rate of interest on the Bonds shall not exceed the maximum interest rate permitted by law, in accordance with Government Code Section 53531.

- D. The estimated cost of the Improvements may include legal and other fees, and the cost of printing the Bonds, and other costs and expenses incidental to or connected with the issuance and sale of the Bonds.
- E. Proceeds of the Bonds shall be used to finance the acquisition and construction of real property for the Improvements, and to pay any fees and costs in connection with issuance of the Bonds, including but not limited to, legal fees and bond printing costs.
- F. The Improvements will be completed as needed, and each is assumed to include its share of costs, including planning, program management and construction costs. The final cost of each Improvement will be determined as real property is purchased, plans are finalized, construction bids are awarded, or projects are completed. In addition, certain acquisition or improvement funds are expected from sources other than the Bonds, including funds which have not yet been secured. Therefore, the City Council cannot guarantee that the Bonds will provide sufficient funds to allow completion of all needed Improvements.
- G. For the Affordable Housing Improvements, proceeds of the Bonds shall be used to finance the acquisition or improvement of real property for affordable or social housing, including the application of bond proceeds for the City directly, or indirectly through third parties as loans, grants, or other disbursements to qualified individuals, not-for-profit entities acting alone or together with tax credit investors, not-for-profit corporations, partnerships, associations and government agencies, to acquire real property for the purpose of constructing, rehabilitating or preserving affordable 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.
- H. All funds received from any Bonds authorized by this Measure are subject to review, allocation, and approval by the City Council. 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.
- I. The City Council shall appoint an Affordable Housing and Infrastructure Bond Oversight Committee which will provide oversight by reporting to the City Council on an annual basis regarding projects funded by the Bonds and the expenditure of

proceeds of the Bonds (as determined by the City Council) and whether those expenditures are consistent with the purposes of the Bonds set forth in this Resolution.

J. The following commissions or their successors shall make recommendations 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 make recommendations on projects and expenditures for the Infrastructure Improvements related to transportation, traffic safety and other public infrastructure.

K. All expenditures will be subject to an annual independent financial audit to confirm that expenditures of proceeds of the Bonds are consistent with the intent of this Resolution.

BE IT FURTHER RESOLVED that the City hereby declares that it reasonably expects (i) to pay certain costs of the acquisition and improvement of real property for the Improvements prior to the date of execution, delivery or issuance of the Bonds, and (ii) to use a portion of the proceeds of the Bonds for reimbursement of such expenditures that are paid before the date of execution, delivery or issuance of the Bonds.

BE IT FURTHER RESOLVED that, pursuant to California Elections Code sections 10002 and 10403, this City Council does hereby call an election on Tuesday, November 8, 2022, and requests that the Alameda County Board of Supervisors consolidate said election with the Statewide General Election on that same date and conduct the election in the manner prescribed in Elections Code Section 10418 and in the manner and schedule established by Resolution No. 70,336-N.S., adopted on May 10, 2022, and submit to the qualified voters of the City, at said consolidated election, the Measure, such approval to constitute the authorization to issue the Bonds.

BE IT FURTHER RESOLVED that the City of Berkeley hereby requests that the Alameda County Board of Supervisors permit the Registrar of Voters of Alameda County to perform services in connection with said election at the request of the City Clerk. These services

to include all necessary services related to official ballot creation, sample ballot and voter information pamphlet preparation, vote-by-mail, polling places, poll workers, voter registration, voting machines, canvass operations, and any and all other services necessary for the conduct of the consolidated election.

BE IT FURTHER RESOLVED that the City proposes to issue and sell general obligation bonds of the City, in one or more series, in the maximum amount and for the objects and purposes set forth above, payable from and secured by ad valorem taxes levied and collected in the manner prescribed by laws of the State of California, all equally and ratably secured, without priority, by the taxing power of the City, if two-thirds of all qualified voters voting on the Measure vote in favor thereof.

BE IT FURTHER RESOLVED that said proposed Measure shall be placed on the ballot for the November 8, 2022 election with the statement of the Measure to be printed in the ballot in the following form:

<b>CITY OF BERKELEY GENERAL OBLIGATION BOND MEASURE</b>	
Shall the measure to create affordable housing; repair streets and sidewalks; underground utilities; and enhance buildings, infrastructure, and safety, authorizing the issuance of \$650 million in general obligation bonds, subject to independent oversight and audits, be adopted?	<b>BONDS YES</b>
<u>Financial Implications</u> Median annual cost over the projected 48-year period bonds are outstanding is approximately \$40.91 for every \$100,000 or \$265 for the average assessed home value of \$647,000; raising approximately \$25,000,000/year.	<b>BONDS NO</b>

BE IT FURTHER RESOLVED that at this time, the best estimate of the average and highest tax rates expected to be levied for debt service on the Bonds is set forth in the Tax Rate Statement attached hereto as Exhibit B.

BE IT FURTHER RESOLVED that the Board of Supervisors of Alameda County is hereby requested to include on the ballots and sample ballots the Measure enumerated above to be voted on by the voters of the qualified electors of the City of Berkeley, and that ballots for the election shall be provided in the form and in the number provided by law. Voters shall be provided an opportunity to vote for or against the Measure on the ballot, in accordance with procedures to be adopted by the authorized officers of the County.

BE IT FURTHER RESOLVED that the full text of the Measure shall be printed in the Voter Information Pamphlet mailed to all voters in the City of Berkeley.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to cause the posting, publication and printing of notices, pursuant to the requirements of the Charter of the City of Berkeley, the Government Code and the Elections Code of the State of California, and

to file a certified copy of this Resolution, including all exhibits, no later than the close of business on August 12, 2022, with the County Registrar of Voters and the Clerk of the County Board of Supervisors.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to obtain printing, supplies and services as required.

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized to enter into any contracts necessary for election consulting services, temporary employment services, printing services, and any such other supplies and services as may be required by the statutes of the State of California and the Charter of the City of Berkeley for the conduct of the November General Municipal Election.

BE IT FURTHER RESOLVED that the City will reimburse the Registrar of Voters for the costs associated with placing the Measure on the ballot.

BE IT FURTHER RESOLVED that the Mayor, the City Manager, the Finance Director, the City Attorney and the City Clerk, and any of their designees, are hereby authorized to execute any documents and to perform all acts necessary to place the Measure on the ballot, and to make any changes to the text of the Measure, the statement of the measure or the Tax Rate Statement to conform to any legal requirements of the County Registrar, in order to cause the election to be held and conducted in the City.

BE IT FURTHER RESOLVED that the City Council directs the City Clerk to transmit a copy of the Measure to the City Attorney, who shall prepare an impartial analysis of the Measure showing the effect of the Measure on the existing law and the operation of the Measure. The impartial analysis shall be filed by the date set by the City Clerk for the filing of primary arguments.

BE IT FURTHER RESOLVED that the filing of ballot arguments shall conform to the manner and schedule established by Resolution No. 70,336-N.S., adopted on May 10, 2022.

BE IT FURTHER RESOLVED that the City Council, having reviewed the Measure, hereby finds that this action is not subject to the California Environmental Quality Act ("CEQA") because it involves the establishment of a government financing mechanism that does not involve any commitment to specific projects to be constructed with proceeds of the Bonds. The use of the proceeds of the Bonds to finance any project or portion of any project will be subject to approval of the applicable decision-making body at that time, upon completion of planning and any further required environmental review under CEQA.

BE IT FURTHER RESOLVED that this Resolution shall take effect from and after the date of its passage and adoption.

BE IT FURTHER RESOLVED that the City Clerk shall certify to the passage and adoption thereof.



The foregoing Resolution was adopted by the Berkeley City Council on August 3, 2022 by the following vote:

Ayes: Bartlett, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: Droste.

  
\_\_\_\_\_  
Jesse Arreguin, Mayor

Attest:   
\_\_\_\_\_  
Mark Numainville, City Clerk

**EXHIBIT A**

**MEASURE TO BE SUBMITTED TO THE VOTERS AUTHORIZING THE CITY OF BERKELEY TO ISSUE GENERAL OBLIGATION BONDS TO FINANCE THE ACQUISITION OR IMPROVEMENT OF REAL PROPERTY FOR AFFORDABLE HOUSING, STREET AND SIDEWALK REPAIR, TRAFFIC SAFETY, UNDERGROUNDING OF UTILITIES, CLIMATE CHANGE RESILIENCE, AND OTHER PUBLIC INFRASTRUCTURE AND FACILITIES**

**Section 1. Title**

This measure shall be known as the Affordable, Safe and Sustainable Berkeley Bond Act.

**Section 2. Findings.**

WHEREAS, the City of Berkeley (the “City”) is committed to creating and maintaining an equitable, affordable, and resilient City with housing opportunities for all, safe and well-maintained infrastructure, and a public commons that welcomes and supports people of all ages, abilities, and backgrounds; and

WHEREAS, the urgent need for affordable housing and preventing homelessness, the accelerating impacts of climate change, and aging public buildings and infrastructure create challenges for safety, equity, sustainability, and resilience; and

WHEREAS, the Berkeley City Council (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 as integral to protecting the quality of life for all Berkeleyans and to the City’s long-term vitality; and

WHEREAS, the City Council recognizes the existence of an acute housing crisis that has caused housing to become increasingly scarce, expensive, and out of reach for teachers, seniors, people with disabilities, students, veterans, the homeless, and for families and individuals with incomes at extremely low-, very low-, low-, and middle-income levels; and

WHEREAS, successful programs initiated in recent years have decreased overall homelessness in Berkeley, but estimates project there are still roughly 1,000 homeless people in the City on any given night; and

WHEREAS, providing affordable housing for low-income and unhoused persons is important to alleviate the housing crisis and reduce the impacts of unsheltered homelessness on our streets, parks, and other public spaces; and

WHEREAS, in November 2018, Berkeley voters overwhelmingly approved Measure O,

authorizing the City to issue \$135 million dollars in general obligation bonds for the purpose of building and preserving affordable housing; and

WHEREAS, leveraging Measure O funds with County, State, and Federal dollars, the City has provided 20 affordable housing projects with pre-development or development funding, supporting the construction and rehabilitation of approximately 800 affordable housing units citywide; and

WHEREAS, in 2022 Berkeley's first Measure O-funded affordable housing projects opened their doors at 1601 Oxford Street in North Berkeley and 2012 Berkeley Way in the Downtown, welcoming seniors, working families, veterans, and formerly homeless individuals into new homes with on-site supportive services; and

WHEREAS, the pace of affordable housing production has exceeded expectations and all Measure O funds have been allocated through commitments to existing and pending affordable housing projects; and

WHEREAS, the Regional Housing Needs Allocation for the San Francisco Bay Area requires that Berkeley plan for and incentivize the production of over 3,800 affordable housing units over the next eight years, and current funding is insufficient to finance this volume of affordable homes; and

WHEREAS, funds available through this bond measure can support production of over 1,000 additional affordable housing units citywide, providing urgently needed housing for extremely low-, very low-, low-, and middle-income families and individuals, and helping the City achieve its goal of at least 10% reserved affordable housing citywide by 2030; 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, much of Berkeley's public infrastructure was built over 75 years ago and is in need of refurbishment, modernization, and repair; and

WHEREAS, over \$1 billion dollars in infrastructure needs have been identified citywide, including improvements needed for street pavement, sidewalks, paths, and bikeways; bike, pedestrian and other traffic safety projects; undergrounding of utilities on evacuation routes; measures to reduce the risk and impacts of climate change, including flooding through stormwater and sea level rise; improvements to City parks, camps and pools, including a proposed pool at San Pablo Park; revitalization of Berkeley's historic Civic Center as a cultural and civic hub for the community; improvements to the Berkeley waterfront and pier; improvements to public buildings; measures to make the City's streetscapes and other public spaces more attractive, vibrant, and green; and other improvements to the City's infrastructure to make it more sustainable, enjoyable, and resilient; and

WHEREAS, in addition to hundreds of millions in infrastructure needs, the City has identified approximately \$248 million in necessary street repairs; and Berkeley's pavement condition is currently classified as "at risk" condition by the Metropolitan Transportation Commission; and failure to make urgently needed street repairs in a timely manner will result in the need for more costly repairs in the future; and

WHEREAS, building climate-resilient infrastructure, including undergrounding of utilities on evacuation routes and managing stormwater runoff and sea level rise, will reduce the risk of flooding, earthquakes and wildfires and make Berkeley a safer and more sustainable place to live; and

WHEREAS, in 2016 Berkeley voters overwhelmingly approved Measure T1, a \$100 million general obligation bond whose proceeds are being used to rehabilitate parks, infrastructure, and facilities citywide, including at the Frances Albrier Community Center, Live Oak Community Center, Strawberry Creek Park, Tom Bates Regional Sports Complex, Willard Park, George Florence Park, North Berkeley Senior Center, tThe Rose Garden, San Pablo Park, Harrison Park, the Marina, Aquatic Park, John Hinkel Park, King Pool, Grove Park, Civic Center Park, Ohlone Park, and Cazadero Camp; and at streets, sidewalks, storm drains, and other infrastructure; and

WHEREAS, the full \$100 million of Measure T1 bond monies has already been allocated or committed to identified projects and the City has successfully leveraged regional, County, State, and Federal funds for these improvements, representing a significant gain for Berkeley; and

WHEREAS, to build on the success of projects funded through Measures O and T1 and to continue financing affordable housing and necessary improvements to facilities and infrastructure citywide, the City requires additional funds, which may be leveraged with regional, County, State, and Federal funds; and

WHEREAS, Section 7.64 of the Berkeley Municipal Code authorizes the City to issue general obligation bonds to finance the acquisition, construction, or completion of any municipal improvements and the acquisition, rehabilitation, preservation or construction of affordable housing; and

WHEREAS, the City is authorized to issue general obligation bonds pursuant to certain provisions of the California Government Code, including Article 1, commencing with Section 43600, of Chapter 4 of Division 4 of Title 4 or Article 4.5, commencing with Section 53506, of Chapter 3 of Part 1 of Division 2 of Title 5 (each, the "Bond Law"); and

WHEREAS, under the Bond Law and Chapter 7.64, the City intends to issue general obligation bonds (the "Bonds") to finance the acquisition or improvement of real property for affordable and social housing ("Affordable Housing Improvements"), including the application of bond proceeds by the City directly, or indirectly through third parties as loans, grants, or other disbursements to qualified individuals, not-for-profit entities acting

alone or together with tax credit investors, not-for-profit corporations, partnerships, associations, and government agencies, to acquire real property for the purpose of constructing, rehabilitating or preserving affordable 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, under the Bond Law and Chapter 7.64, the City further intends to issue the Bonds to finance the acquisition or improvement of real property for public infrastructure and facilities (“Infrastructure Improvements”; together with Affordable Housing Improvements, “Improvements”), including 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, streetscapes, 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, funding from the Bonds should be guided by the City Council’s plans and policies, as may be amended from time to time, including the *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

WHEREAS, the City Council recognizes the importance of ensuring adequate maintenance funding from existing sources for Infrastructure Improvements financed by the Bonds and not supplanting existing City infrastructure funding with proceeds of the Bonds; and

WHEREAS, 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 (the “Street Maintenance Funding Policy”), to be adjusted annually for inflation. The allocation is intended 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; and

WHEREAS, the Street Maintenance Funding Policy will help ensure that street maintenance is supported by adequate ongoing General Fund contributions as one-time infusions of paving resources provide only temporary improvement to pavement conditions, which deteriorate again without appropriate funding for maintenance; 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 proceeds of the Bonds are spent; and

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

WHEREAS, by law, all funds must remain under local control in the City and cannot be taken away by the State, County, or Federal governments or used for other purposes; and

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

WHEREAS, the City Council has therefore determined that the public interest requires additional funding for the Improvements; and

WHEREAS, the People of the City of Berkeley find that the public interest requires the issuance of the Bonds in the amount of \$650,000,000 to fund the Improvements.

### **Section 3. Object and Purpose of Bonds.**

This measure (the “Measure”) authorizes the issuance of general obligation bonds (the “Bonds”), the object and purpose of which is to finance, by the City of Berkeley or a third party, as applicable, the acquisition or improvement of real property for the Improvements.

The Improvements will be completed as needed, and each is assumed to include its share of costs, including planning, program management and construction costs. The final cost of each Improvement will be determined as real property is purchased, plans are finalized, construction bids are awarded, or projects are completed. In addition, certain acquisition or improvement funds are expected from sources other than proceeds of the Bonds, including funds which have not yet been secured. Therefore, the City Council cannot guarantee that the Bonds will provide sufficient funds to allow completion of all needed Improvements.

For the Affordable Housing Improvements, proceeds of the Bonds shall be used to finance the acquisition or improvement of real property for affordable 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 housing, or to construct, rehabilitate or preserve affordable 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.

Proceeds of the Bonds may be used to reimburse the City for expenditures on the Improvements that are paid before the date of execution, delivery or issuance of the Bonds.

**Section 4. Estimated Cost of Improvements.**

The estimated cost of the Affordable Housing Improvements to be funded by the Bonds is \$200 million. The estimated cost for the Infrastructure Improvements is \$450 million, of which \$300 million may be allocated to Infrastructure Improvements related to street, sidewalk and traffic safety and \$150 million may be allocated to other Infrastructure Improvements, including those related to public safety and climate resiliency. These dollar amounts are estimates and are not a commitment or guarantee that any specific amounts will be spent on particular projects or categories of projects.

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 includes planning, programs management and construction costs.

**Section 5. Principal Amount of Bonds.**

The aggregate principal amount of Bonds to be issued shall not exceed \$650 million.

**Section 6. Maximum Interest Rate.**

The maximum rate of interest to be paid on the Bonds shall not exceed the maximum interest rate permitted by law, in accordance with Government Code Section 53531.

**Section 7. Accountability Requirements.**

The following accountability measures apply to the issuance of Bonds pursuant to this Measure:

- A. The specific purpose of the Bonds is to finance the acquisition or improvement of real property for the Improvements; and
- B. The proceeds from the sale of the Bonds will be used only for the purposes specified in this Measure, and not for any other purpose; and
- C. The proceeds of the Bonds will be deposited into an account to be created and held by the City; and
- D. The proceeds from the sale of the Bonds may be used to reimburse the City for amounts advanced from the general fund or other funds or accounts to acquire real property for Improvements, when such purchases are made prior to the availability of Bond proceeds; and

- E. All funds received from any Bonds authorized by this Measure are subject to review, allocation, and approval by the City Council. 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.
- F. The City Council shall appoint an Affordable Housing and Infrastructure Bond Oversight Committee which will provide oversight by reporting to the City Council on an annual basis regarding projects funded by the Bonds (as determined by the City Council) and whether those bond expenditures are consistent with the purposes of the Bonds set forth in this Measure.
- G. 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.
- H. All expenditures will be subject to an annual independent financial audit to confirm that Bond expenditures are consistent with the intent of this Measure.



## EXHIBIT B

### TAX RATE STATEMENT

An election will be held in the City of Berkeley (the "City") on November 8, 2022, to authorize the sale of up to \$650 million in bonds of the City to finance the specific projects listed in the measure. If such bonds are authorized, the City expects to sell the bonds in one or more series. Principal and interest on the bonds will be payable solely from the proceeds of ad valorem tax levies made upon the taxable property in the City. The following information is provided in compliance with Sections 9400-9404 of the California Elections Code. Such information is based upon the best estimates and projections presently available from official sources, upon experience within the City, and other demonstrable factors.

Based upon the foregoing and projections of the City's assessed valuation:

1. The best estimate of the average annual tax rate that would be required to be levied to fund the bond issue over the entire duration of the bond debt service, based on a projection of assessed valuations available at the time of filing of this statement is 39 cents per \$100 (or \$39.00 per \$100,000) of assessed valuation of all property to be taxed. The best estimate of the final fiscal year in which the tax is anticipated to be collected is 2070/71. For purposes of this paragraph, the term "average annual tax rate" refers to the mean annual tax rate.
2. The best estimate of the highest tax rate that would be required to be levied to fund the bond issue, based on a projection of assessed valuations available at the time of filing this statement is 71 cents per \$100 (or \$71.00 per \$100,000) of assessed valuation of all property to be taxed. The best estimate of the first year in which the highest tax rate will apply is 2041/42.
3. The best estimate of the total debt service, including the principal and interest, that would be required to be repaid if all the bonds are issued and sold is \$1,125,000,000.

Voters should note that such estimated tax rates are specific to the repayment of bonds issued under this authorization and will be in addition to tax rates levied in connection with other bond authorizations approved or to be approved by the City or any other overlapping public agency.

Voters should note that the estimated tax rate is based on the ASSESSED VALUE of taxable property on Alameda County's official tax rolls, not on the property's market value. In addition, taxpayers eligible for a property tax exemption, such as the homeowner's exemption, will be taxed at a lower effective tax rate than described above. Property owners should consult their own property tax bills to determine their property's assessed value and any applicable tax exemptions.

Attention of all voters is directed to the fact that the foregoing information is based upon projections and estimates only, which amounts are not maximum amounts or durations and are not binding upon the City. The actual debt service amounts, tax rates and the years in which they will apply may vary from those presently estimated, due to variations from these estimates in the timing of bond sales, the amount of bonds sold and market interest rates at the time of each sale, and actual assessed valuations over the term of repayment of the bonds. The dates of sale and the amount of bonds sold at any given time will be determined by the City based on need for funds and other factors. The actual interest rates at which the bonds will be sold will depend on the bond market at the time of each sale. Actual future assessed valuation will depend upon the amount and value of taxable property within the City as determined by the Alameda County assessor in the annual assessment and the equalization process.

Dated: August 4, 2022

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



Office of the City Manager

**ACTION CALENDAR**  
October 11, 2022

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Lisa Warhuus, Director, Health, Housing and Community Services  
 Subject: Measure O Bond Impacts on Affordable Housing Development in Berkeley

**RECOMMENDATION**

Review and discuss the presentation on Measure O Bond impacts on affordable housing development in Berkeley.

**SUMMARY**

In 2018 Berkeley voters approved Measure O, a general obligation bond that will generate up to \$135 million for affordable housing developments. As this report demonstrates, the funds have had a significant impact on the production of new affordable housing units; expanding the City's Housing Trust Fund portfolio and creating a robust pipeline of new housing developments.

**CURRENT SITUATION AND ITS EFFECTS**

As of September 30, 2022, \$111,379,307 in Measure O funds have either been committed (via an executed loan agreement) or awarded (by Council action) for specific affordable housing development projects. The projects with either committed or awarded Measure O funds are listed below:

<b>Project Name</b>	<b>Address</b>	<b>Units</b>	<b>Measure O</b>	<b>Status</b>
Jordan Court	1601 Oxford	35	\$3,501,884	Occupied
Berkeley Way – BRIDGE Affordable	2020 Berkeley Way	89	\$179,494	Lease-up
Berkeley Way Hope Center - PSH	2012 Berkeley Way	53	\$6,731,092	Lease-up
Berkeley Way Hope Center Shelter		44*	\$6,909,837	Lease-up
Maudelle Miller Shirek Community	2001 Ashby	87	\$12,932,000	Under construction
Blake Apartments	2527 San Pablo	63	\$9,125,000	Under construction
1740 San Pablo	1740 San Pablo	54	\$7,500,000	Predevelopment

BUSD Workforce Housing	1701 San Pablo	110	\$24,500,000	Predevelopment
BART sites	North Berkeley & Ashby BART	TBD	\$40,000,000	Planning
<b>Measure O impact:</b>		<b>&gt;535 units</b>	<b>\$111,379,307</b>	

\* Shelter beds

Council also reserved \$17 million from the third issuance of Measure O (anticipated in 2025) to support the following pipeline projects:

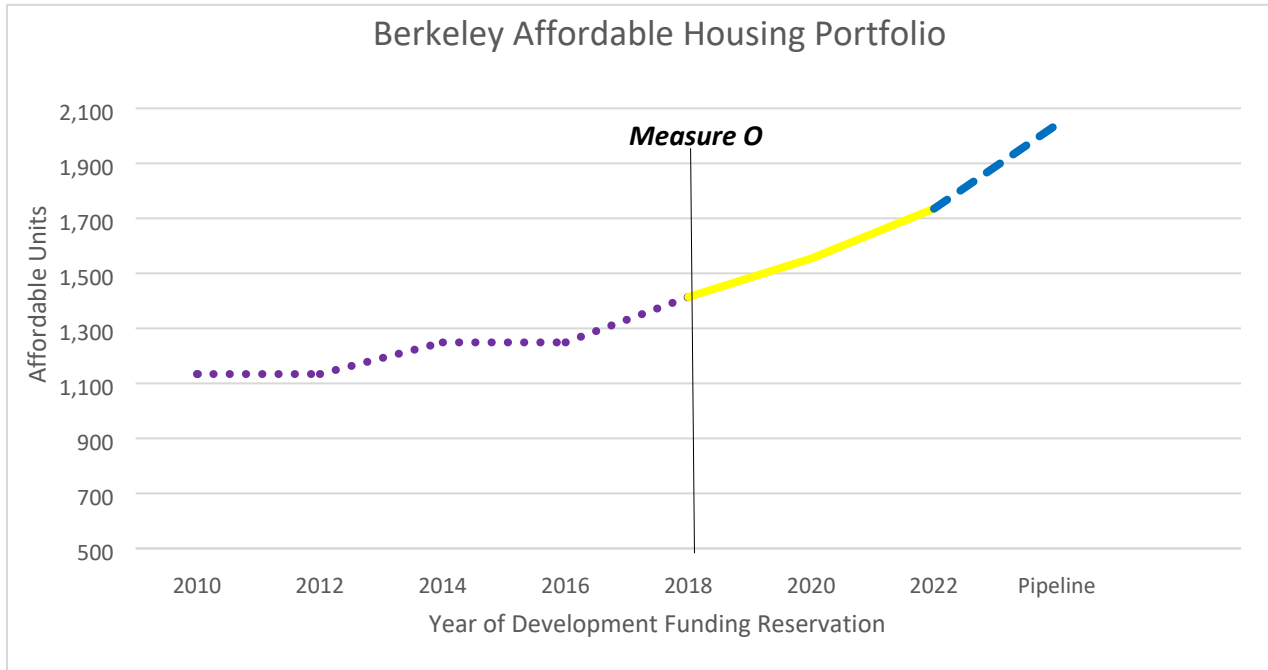
Project Name	Address	Units	City Funding	Status
Supportive Housing in People's Park	2566 Haste	119	\$14,359,593	Predevelopment
St. Paul Terrace	2024 Ashby	50	\$12,250,000	Predevelopment

Together, the awarded, committed, and reserved funds account for \$128,379,307 in Measure O funds. More details about these projects can be found in the attached Measure O Projects spreadsheet.

#### *Measure O's Impact on the City's Affordable Housing Portfolio*

Measure O supplements the City's Housing Trust Fund, which pools Affordable Housing Mitigation Fees, Inclusionary Fees, Commercial Linkage Fees, Condo Conversion Fees, and entitlement funds from the federal HOME program. Prior to Measure O, the City was able to fund no more than one new construction project every few years. The 15-unit Harmon Gardens was completed in 2011, and the next affordable new construction project was the 42-unit Harper Crossing, which was completed in 2018. The City issued a Request for Proposals in 2019 through which Council approved funding reservations for five new construction projects, all supported with Measure O, including two that were completed earlier this year. In 2010, the City had approximately 1,134 apartments in its portfolio of restricted affordable housing units. With completed projects, active projects, and pipeline projects, the City is on track to nearly double its portfolio in the coming years to over 2,000 apartments.

The following table shows the growth in the City's affordable housing portfolio since 2010, and the impact Measure O has had on increasing the City's inventory of apartments affordable to extremely low-, very low-, and low-income households.



*Leveraging of City Funds*

The City’s affordable housing development funds are most often reserved early in the predevelopment process. This allows project sponsors to compete for state and federal funds. Typically, the City executes a loan agreement once all permits are ready to issue and full financing has been secured, a process which usually takes years. At times City funds are loaned at site acquisition. As a result, funds may be reserved or committed for years before they are expended.

Most affordable housing developments leverage the City’s investment with at least 5-7 other funding sources. Measure O-funded projects that are completed or under construction have secured an average of \$4.40 of other funding for every \$1.00 of City funds. Leveraging data for funded developments can be found in the attachment to this report.

*Measure O Disbursements*

Once Measure O funds are committed to a project, they are typically disbursed on a monthly (or less frequent) schedule when the project sponsor has incurred eligible project expenses as well as satisfied various conditions of the loan agreement. The project sponsor submits an invoice along with documentation of each expense, which is reviewed and approved by multiple City staff before funds are released.

As of 9/30/2022 the City had disbursed \$28,871,911 in Measure O funds through seven development loans. Four housing developments are complete or substantially complete

(Berkeley Hope Center, Berkeley Hope Center Permanent Supportive Housing, BRIDGE Berkeley Way, and Jordan Court), two are in construction (Maudelle Miller Shirek Community and Blake Apartments), and site acquisition has been completed for 1740 San Pablo Ave. These represent a total of 221 units (including 44 shelter beds) completed with Measure O support to date, and another 150 currently in construction.

Developing affordable housing with Measure O funds is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support service for our most vulnerable community members.

### BACKGROUND

In November 2018 Berkeley voters adopted Measure O which allowed the City to issue up to \$135 million in bonds to fund housing for "low-, very low-, low-, median-, and middle-income individuals and working families, including teachers, seniors, veterans, the homeless, students, people with disabilities, and other vulnerable populations."

As a bond measure dedicated to a specific purpose, Measure O required a two-thirds supermajority vote to pass. The measure passed with 77% of Berkeley voters voting in favor.

The City has issued Measure O bonds twice so far:

- In FY2020 the City issued \$38,000,000 in Measure O bonds. The cost of issuing these bonds, including bond counsel, was \$785,000. Net funds received were \$37,215,000.
- In May 2022 the City issued \$40,000,000 in Measure O bonds. The cost of issuing these bonds, including bond counsel, was \$432,800. Net funds received were \$39,567,200.

Measure O included provisions to establish an oversight committee as well as to conduct annual audits. The Measure O Bond Oversight Commission was first convened in April 2019. The Commission met seven times in 2019, one in 2020 prior to the pandemic, and again in February and March of 2021.

Subsequently, Council approved the assignment of Measure O oversight to the Housing Advisory Commission and dissolved the Measure O Bond Oversight Commission. The Commissions have reviewed requests for funding, made funding recommendations to Council and received information about the status of funding reservations and commitments. Neither commission produced its own report assessing the status of Measure O. Full commission packets are not available on the City's new website.

Staff are in the process of contracting with an outside auditor to audit Measure O expenditures as required by the ballot measure. The first fiscal year including Measure O expenditures ended on June 30, 2021 and will be the first year to be audited.

Members of the public who are interested in learning more about Measure O funds as they are allocated and expended can consult the Housing Advisory Commission meeting agendas and materials online, and/or attend the Commission meetings.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The City's Housing Trust Fund Guidelines identify sustainable development as a City priority, and encourage developers to incorporate as many green building strategies and materials as is feasible. New construction affordable housing developments are typically built to third-party, green building standards such as LEED or GreenPoint Rated.

#### POSSIBLE FUTURE ACTION

Council will review and take action on funding reservations related to the development of affordable housing at the BART sites, which will be partially funded with Measure O funds.

#### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Council's funding reservations for pipeline or new affordable housing developments would allocate the remaining Measure O funds, and other available Housing Trust Funds.

#### CONTACT PERSON

Jenny Wyant, Senior Community Development Project Coordinator, HHCS, 510-981-5228

Attachment:

1: Measure O-Funded Developments

City of Berkeley <b>Affordable Housing Projects Supported by Measure O</b> Total Authorized Bonds = \$135M										
Project Name	Project Address	Development Partner	Description	Units <sup>1</sup>	Affordability	Total Measure O Funds Committed or Reserved <sup>2</sup>	Measure O Disbursements Through September 2022	Total City Funds Reserved	Projected Sources of Funds <sup>3</sup>	Project Status
<b>Projects with Measure O Commitments and Reservations</b>										
<a href="#">BRIDGE Berkeley Way</a>	2012 Berkeley Way	BRIDGE Housing	89 affordable homes and services for low- and very low- income families.	89	50-60% AMI	\$179,494	\$161,544	\$2,774,925	Measure O, HTF	Under Construction
<a href="#">BFHP Hope Center</a>	2012 Berkeley Way	Berkeley Food & Housing Project (BFHP)/BRIDGE Housing	32-bed homeless shelter, 12 transitional beds for homeless veterans, a community kitchen and wrap-around services for mental health, substance abuse, job training and social activities.	44	0-30% AMI	\$6,909,837	\$5,354,255	\$16,964,507	Berkeley's Housing Trust Fund (HTF), Measure U1 <sup>4</sup> (U1), Measure O	Under Construction
<a href="#">BFHP Hope Center Permanent Supportive Housing</a>	2012 Berkeley Way	BFHP/ BRIDGE Housing	53 permanent supportive housing apartments.	53	0-30% AMI	\$6,731,092	\$6,250,345	\$7,727,630	Measure O, HTF	Under Construction
<a href="#">Jordan Court</a>	1601 Oxford Street	Satellite Affordable Housing Associates (SAHA)	34 affordable studio units for seniors. 12 units will also be set aside for formerly homeless households.	35	20-60% AMI	\$3,501,884	\$2,906,118	\$6,026,927	HTF, Measure O	Completed
<a href="#">Maudelle Miller Shirek Community</a>	2001 Ashby Avenue	Resources for Community Development (RCD)	86 apartments for families and individuals. 12 units will also be set aside for formerly homeless households.	87	20-80% AMI	\$12,932,000	\$2,336,537	\$17,000,000	Measure O, U1, LHFTF	Under Construction
<a href="#">Blake Apartments</a>	2527 San Pablo Avenue	SAHA	21 studio units, eight one-bedroom units, 33 two-bedroom units and one three-bedroom manager's unit. 12 units are prioritized for people with an intellectual or developmental disability.	63	30-60% AMI	\$9,125,000	\$6,992,872	\$12,000,000	Measure O, U1, State Local Housing Trust Fund (LHFTF)	Under Construction
<a href="#">1740 San Pablo Avenue</a>	1740 San Pablo Avenue	BRIDGE Housing	53 new affordable homes for families	54	30-60% AMI	\$7,500,000	\$4,870,239	\$7,500,000	Measure O	Acquisition / Predevelopment
<a href="#">Berkeley Unified School District (BUSD) Workforce Housing Development</a>	1701 San Pablo Avenue	BUSD/SAHA/Abode	Approximately 109 homes in a five to six story building. Employees of BUSD and their households will have a leasing preference.	110	30-120% AMI	\$24,500,000	-	\$24,500,000	Measure O	Acquisition / Predevelopment
<a href="#">BART Sites</a>	Ashby and North Berkeley	TBD	TBD	TBD	TBD	\$40,000,000	-	\$53,000,000	TBD	Planning
<b>Measure O Impact</b>				<b>&gt;535</b>	<b>New Units</b>	<b>\$111,379,307</b>	<b>\$28,871,911</b>	<b>\$147,493,989</b>		
<b>Projects with City Funding Reservations</b>										
<a href="#">Supportive Housing at People's Park</a>	2556 Haste Street	RCD	118 affordable units with 62 units set aside for formerly homeless households.	119	10-50% AMI	FR <sup>5</sup>	-	\$14,359,593	TBD	Acquisition / Predevelopment
<a href="#">St. Paul Terrace</a>	2024 Ashby Avenue	Community Housing Development Corporation (CHDC)	49 affordable units, including 11 studios, 6 one-bedrooms and 17 two-bedrooms, and 15 three-bedrooms.	50	30-60% AMI	FR	-	\$12,250,000	TBD	Predevelopment
<a href="#">Ephesians Legacy Court</a>	1708 Harmon Avenue	CHDC	79 one-bedroom units.	80	30-60% AMI	FP <sup>6</sup>	-	\$3,556,400	TBD	Predevelopment
				<b>249</b>				<b>\$30,165,993</b>		

<sup>1</sup> total units, including managers' units

<sup>2</sup> committed = in contract, and reserved = set aside for a particular project

<sup>3</sup> the final mix of funds is determined at loan closing

<sup>4</sup> General Funds generated pursuant to Measure U1

<sup>5</sup> Funding Reservation that the City Council has approved from currently available affordable housing funds and from forward reservations of up to \$17 million from the third issuance of Measure O bonds and \$2.5 million in FY2023 general funds generated pursuant to Measure U1

<sup>6</sup> Funding Prioritization by City Council prioritizing future housing funds (including but not limited to HTF and Measure O funds)



Leveraging of Measure O/City Subsidy						
Project Name	Project Budget	City Funds (including Measure O)	Non-City Funds	Leveraging Ratio	Non-City Sources	Notes
<a href="#">BRIDGE Berkeley Way</a>	\$ 62,563,741	\$ 2,774,925	\$ 59,788,816	22.5	A1, AHP, AHSC, Tax Credits, TE Bond	average leveraging ratio for Berkeley Way as a whole = 4.4  BRIDGE and BFHP spread the City subsidy amongst the three projects, but prioritized the shelter portion for City funding due to limited sources for that type of housing.
<a href="#">BFHP Hope Center</a>	\$ 19,917,041	\$ 16,964,507	\$ 2,952,534	1.2	A1, BFHP	
<a href="#">BFHP Hope Center Permanent Supportive Housing</a>	\$ 39,589,497	\$ 7,727,630	\$ 31,861,867	5.1	A1, Boomerang, AHSC, NPLH, SHMHP, Tax Credits, TE Bond	
<a href="#">Jordan Court</a>	\$ 24,961,105	\$ 6,026,927	\$ 18,934,178	4.1	A1, AHP, NPLH, Tax Credits, TE Bond	
<a href="#">Maudelle Miller Shirek Community</a>	\$ 86,930,256	\$ 17,000,000	\$ 69,930,256	5.1	AHSC, IIG, NPLH, Tax Credits, TE Bond	
<a href="#">Blake Apartments</a>	\$ 52,284,217	\$ 12,000,000	\$ 40,284,217	4.4	AHSC, DDS, HCD Accelerator, IIG	

**Non-City Funding Sources:**

A1	Alameda County A1 Bond funds
BFHP	Berkeley Food and Housing Project Capital Campaign
Boomerang	Alameda County funds
AHP	Federal Home Loan Bank - Affordable Housing Program
AHSC	CA HCD - Affordable Housing and Sustainable Communities Program
DDS	Department of Developmental Services
HCD Accelerator	CA HCD - Housing Accelerator Fund
IIG	CA HCD - Infill Infrastructure Grant Program
NPLH	CA HCD - No Place Like Home Program
SHMHP	CA HCD - Supportive Housing Multifamily Housing Program
Tax Credits	California Tax Credit Allocation Committee
TE Bonds	California Debt Limit Allocation Committee - Tax Exempt Bonds are paired with 4% tax credits

