



Office of the City Manager

ACTION CALENDAR  
July 10, 2018

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Farimah Brown, City Attorney

Subject: Placing a General Obligation Bond Measure for Affordable Housing on the November 6, 2018 Ballot

RECOMMENDATION

1) Adopt a Resolution determining public interest and necessity for issuing a general obligation bond in the amount of \$135 million to acquire, rehabilitate, preserve or construct affordable housing and submitting to the Berkeley electorate on the November 6, 2018 ballot a measure to authorize a general obligation bond in that amount.

2) Determine whether to designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282(b).

FISCAL IMPACTS OF RECOMMENDATION

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

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

CURRENT SITUATION AND ITS EFFECTS

If this bond measure were placed on the ballot and approved by two-thirds of the voters, additional funds would be generated that would be used to fund affordable housing. The

average annual amount collected over the 36-year period the bonds are outstanding would be approximately \$97 for a home with the City's mean assessed valuation of \$425,000.

This measure authorizes the issuance of general obligation bonds to finance, by the City of Berkeley or a third party, the acquisition or improvement of real property in order to finance affordable housing for extremely low-, very low-, low-, median-, and middle-income, workforce individuals and families, including vulnerable populations such as veterans, seniors, local artists, the disabled, current or former foster youth, victims of abuse, people experiencing homelessness, and individuals suffering from mental health or substance abuse illnesses. The bond will provide for a diverse array of the types of affordable housing that can be built in order to serve the diversity of those most in need of affordable housing in Berkeley.

Bond proceeds will be used to finance the acquisition and improvement of real property for affordable local housing, including the application of bond proceeds directly to acquire, rehabilitate, preserve or construct affordable housing and/or indirectly as loans, grants, or other disbursements to qualified individuals, business entities, corporations, partnerships, associations and government agencies for the acquisition, rehabilitation, preservation or construction of such affordable housing projects. Bond funds can be leveraged with other sources to increase the amount of affordable housing that can be built.

On June 26, 2018 the City Council adopted an urgency ordinance to amend Chapter 7.64 of the Municipal Code to allow bond proceeds to be used for the acquisition, rehabilitation, preservation, or construction of affordable housing.

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

### BACKGROUND

At the meeting of June 12, 2018, the City Council directed the City Manager to return to Council with the appropriate resolutions and actions to place a bond measure on the November 6, 2018 ballot.

### ENVIRONMENTAL SUSTAINABILITY

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

### RATIONALE FOR RECOMMENDATION

The City Attorney is presenting this action in accordance with the direction of the Council.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Farimah Brown, City Attorney, 981-6950

Attachments:

- 1: Resolution Placing the Measure on the Ballot
  - Exhibit A: Resolution Authorizing the City to Incur Bonded Indebtedness
  - Exhibit B: Tax Rate Statement

RESOLUTION NO. –N.S.

DETERMINING THAT PUBLIC INTEREST AND NECESSITY DEMAND THE ISSUANCE OF GENERAL OBLIGATION BONDS FOR THE ACQUISITION AND IMPROVEMENT OF AFFORDABLE HOUSING AND SUBMITTING TO THE BERKELEY ELECTORATE A MEASURE TO AUTHORIZE GENERAL OBLIGATION BONDS FOR AFFORDABLE HOUSING PROJECTS

WHEREAS, the City Council of the City of Berkeley (the “City”) recognizes the existence of a housing crisis in the City that has caused housing to become increasingly scarce and expensive, to the point that home ownership and the cost of rental units are out of reach for many extremely low-, very low-, low-, median-, and middle-income and workforce residents, including, but not limited to, veterans, seniors, local artists, the disabled, current or former foster youth, victims of abuse, people experiencing homelessness, and individuals suffering from mental health or substance abuse illnesses, and other vulnerable populations; and

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

WHEREAS, the number of homeless people in the City has been increasing, and recent estimates project that there are more than 1,000 homeless people in the City, approximately 1% of the City’s population; and

WHEREAS, shelter beds and transitional housing options are insufficient to serve the City’s needs, causing people to occupy and sleep on public sidewalks and in public spaces, as well as encampments throughout the City, threatening the public health, peace, and safety; and

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

WHEREAS, the estimated amounts needed to acquire and construct adequate affordable housing in Berkeley substantially exceeds \$135 million; and

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

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

WHEREAS, applicable law provides the City certain powers and responsibilities with respect to the regulation and provision of affordable housing for residents of the City; and

WHEREAS, the City is authorized to issue general obligation bonds to finance 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 and Article 4.5, commencing with Section 53506, of Chapter 3 of Part 1 of Division 2 of Title 5 (collectively, the “Bond Law”); and

WHEREAS, the City is authorized to issue general obligation bonds for the acquisition and improvement of affordable housing projects, pursuant to the provisions of Section 7.64 of the Berkeley Municipal Code; and

WHEREAS, under the Bond Law and Section 7.64 of the Berkeley Municipal Code, the City intends to issue general obligation bonds (the “Bonds”) to finance the acquisition and improvement of real property for affordable local housing (the “Improvements”), including the application of bond proceeds directly to acquire, rehabilitate, preserve or construct affordable housing, including but not limited to supportive housing, nonprofit rental housing, and limited-equity housing cooperatives affiliated with community land trusts, and/or indirectly as loans, grants, or other disbursements to qualified individuals, business entities, corporations, partnerships, associations, and government agencies for the acquisition, rehabilitation, preservation or construction of such affordable housing projects; and

WHEREAS, net proceeds from the sale of the Bonds will be used to finance the Improvements in the City and will not be taken by the State of California, and all expenditures will be subject to annual independent financial audits; and

WHEREAS, in order to initiate proceedings to provide for the financing of the Improvements through the issuance of general obligation bonds approved by the voters, the City Council must make certain findings and determinations under the Bond Law,

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the public interest and necessity demand the acquisition, construction, and completion of the Improvements and the City Council has decided to issue the Bonds to finance the cost thereof, subject to completion of the proceedings required by the Bond Law.

BE IT FURTHER RESOLVED that the object and purpose of financing the Improvements is to provide for affordable housing projects to help extremely low-, very low-, low-, median-, and middle-income and workforce households purchase or rent homes and stay in the community, provide supportive housing for people experiencing homelessness, and provide more affordable housing in the City to allow people to live in a safe, decent, affordable home and still have enough money for groceries and other basic necessities.

BE IT FURTHER RESOLVED that:

- A. A ballot measure authorizing the City to issue general obligation bonds to finance the acquisition and construction of affordable housing projects (the "Measure"), a copy of which is attached hereto as Exhibit A, shall be placed before the voters at the election on November 6, 2018.
- B. The estimated cost of the Improvements to be funded by the Bonds is \$135 million.
- C. The principal amount of the Bonds shall be an amount not to exceed \$135 million.
- D. The maximum rate of interest on the indebtedness shall not exceed 12%.
- E. 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.
- F. Proceeds of the Bonds shall be used to finance 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.

BE IT FURTHER RESOLVED the expenditure of Bond proceeds to finance the Improvements may include the application of Bond proceeds designated for affordable housing projects directly to acquire, rehabilitate, preserve, or construct affordable housing, and/or indirectly as loans, grants, or other disbursements to qualified individuals, business entities, corporations, partnerships, associations, and government agencies for the acquisition, rehabilitation, preservation or construction of such affordable housing projects.

BE IT FURTHER RESOLVED that the expenditure of Bond proceeds for the financing of the Improvements shall be subject to strict financial accountability requirements, including an annual independent financial audit to ensure that Bond proceeds are expended to finance affordable housing projects as authorized by the voters.

BE IT FURTHER RESOLVED that this City Council does hereby call an election on Tuesday, November 6, 2018, pursuant to California Elections Code section 10403, that election having already been consolidated with the Statewide General Election on that same date by Resolution No.68,407-N.S., adopted on May 1, 2018, 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 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 the City Council, pursuant to California Elections Code sections 13247 and 10403, hereby orders that the abbreviated form of the Measure as it shall appear on the ballot is as follows:

<b>CITY OF BERKELEY GENERAL OBLIGATION BOND MEASURE</b>	
<p>Shall the City of Berkeley’s measure to finance affordable housing and create housing options for extremely low-, very low-, low-, median-, and middle-income and workforce households, including the homeless, and prevent displacement of vulnerable populations, authorizing \$135,000,000 in general obligation bonds with an estimated average levy of \$0.23 per \$100 (\$23.27 per \$100,000) of assessed value while bonds are outstanding, generating approximately \$7,500,000/year to repay bonds through final maturity, and requiring annual independent audits, be adopted?</p>	BONDS YES
	BONDS NO

BE IT FURTHER RESOLVED that, pursuant to the California Elections Code sections 1405, 9222, and 12001, the City Council hereby calls an election to be consolidated with the City municipal election and Statewide general election to be held on November 6, 2018, for the purpose of submitting the Measure to a vote of the qualified voters of the City, and hereby requests the Board of Supervisors of the County of Alameda (the “County”) to consolidate this election with the November 6, 2018, Statewide general election to be held on that date, in the manner and schedule established by Resolution No. 68,407-N.S., adopted on May 1, 2018.

BE IT FURTHER RESOLVED 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 City Clerk is hereby directed to cause the posting, publication, and printing of notices, pursuant to the requirements of the Charter of the City, and the Government Code and Elections Code of the State of California, and to file a certified copy of this Resolution, including all appendices, no later than the close of business on August 10, 2018, with the County Registrar of Voters and the Clerk of the County Board of Supervisors.

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 filing of ballot arguments shall conform to the manner and schedule established by Resolution No. 68,408-N.S., adopted on May 1, 2018.

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 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.



**MEASURE TO BE SUBMITTED TO THE VOTERS AUTHORIZING THE CITY OF  
BERKELEY TO ISSUE GENERAL OBLIGATION BONDS TO FINANCE  
AFFORDABLE HOUSING PROJECTS**

**SECTION 1. Findings.**

**WHEREAS**, the City Council of the City of Berkeley recognizes the existence of a housing crisis in the City that has caused housing to become increasingly scarce and expensive, to the point that home ownership and the cost of rental units are out of reach for many extremely low-, very low-, low-, median-, and middle-income and workforce residents, including, but not limited to, veterans, seniors, local artists, the disabled, current or former foster youth, victims of abuse, people experiencing homelessness, and individuals suffering from mental health or substance abuse illnesses, and other vulnerable populations; and

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

**WHEREAS**, the number of homeless people in the City has been increasing, and recent estimates project that there are more than 1,000 homeless people in the City, approximately 1% of the City's population; and

**WHEREAS**, shelter beds and transitional housing options are insufficient to serve the City's needs, causing people to occupy and sleep on public sidewalks and in public spaces, as well as encampments throughout the City, threatening the public health, peace, and safety; and

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

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

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

**WHEREAS**, the City intends to issue general obligation bonds to finance the acquisition and improvement of real property for affordable local housing, including the application of bond proceeds directly to acquire, rehabilitate, preserve or construct affordable housing, including but not limited to supportive housing, nonprofit rental housing, and limited-equity housing cooperatives affiliated with community land trusts, and/or indirectly as loans, grants, or other disbursements to qualified individuals, business

entities, corporations, partnerships, associations, and government agencies for the acquisition, rehabilitation, preservation or construction of such affordable housing projects.

**SECTION 2. Object and Purpose of Bonds.** This measure (the “Measure”) authorizes the issuance of general obligation bonds (the “Bonds”), the object and purpose of which is to finance, by the City of Berkeley or a third party, the acquisition or improvement of real property in order to finance affordable housing for extremely low-, very low-, low-, median- and middle-income and workforce individuals and families, including vulnerable populations such as veterans, seniors, local artists, the disabled, current or former foster youth, victims of abuse, people experiencing homelessness, and individuals suffering from mental health or substance abuse illnesses.

The Improvements (as defined in Section 2) 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 plans are finalized, construction bids are awarded, and projects are completed. In addition, certain construction funds are expected from non-bond sources, including funds which have not yet been secured. Therefore, the City Council cannot guarantee that the Bonds will provide sufficient funds to allow completion of all needed Improvements.

**SECTION 3. Use of Revenue.** The revenue generated from the ad valorem tax identified in Section 8 shall be used for the payment of debt service on the Bonds. Proceeds of the Bonds shall be used to finance the acquisition and improvement of real property for affordable local housing (the “Improvements”), including the application of bond proceeds directly to acquire, rehabilitate, preserve or construct affordable housing, and/or indirectly as loans, grants, or other disbursements to qualified individuals, business entities, corporations, partnerships, associations and government agencies for the acquisition, rehabilitation, preservation or construction of such affordable housing projects.

**SECTION 4. Estimated Cost of Improvements.** The estimated cost of the portion of the costs of the Improvements to be paid for from the Bonds is \$135 million. The estimated cost includes legal and other fees and the cost of printing the Bonds and other costs and expenses incidental to or connected with the authorization, issuance and sale of the Bonds.

**SECTION 5. Principal Amount of Bonds.** The aggregate principal amount of Bonds to be issued is not to exceed \$135 million.

**SECTION 6. Maximum Interest Rate.** The maximum rate of interest to be paid on the Bonds shall be 12% per annum.

**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 Improvements; and
- (b) The proceeds from the sale of the City's bonds will be used only for the purposes specified in this Measure, and not for any other purpose; and
- (c) The proceeds of the Bonds will be deposited into an account to be created and held by the City; and
- (d) The City Manager of the City shall file an annual report with the City Council of the City which report shall contain pertinent information regarding the amount of funds collected and expended, as well as the status of the Improvements; and
- (e) All funds will be legally required to be spent in the City; by law no funds can be taken by the State; and
- (f) An annual independent financial audit to confirm that Bond expenditures are consistent with the intent of this Measure.

**SECTION 8. Identification of Tax.** The tax imposed by this measure is an ad valorem tax levied upon taxable real property in the City. The tax will be used to pay the principal and interest on the Bonds.

**EXHIBIT B**

**TAX RATE STATEMENT**

An election will be held in the City of Berkeley (the "City") on November 6, 2018, to authorize the sale of up to \$135 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 2.33 cents per \$100 (or \$23.27 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 2054/2055.

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 3.28 cents per \$100 (or \$32.81 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 2025/2026.

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 \$270,000,000.

Voters should note that such estimated tax rates are specific to the repayment of bonds issued under this authorization and are 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 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 construction 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.

Dee Williams-Ridley  
City Manager  
City of Berkeley

Dated: July 31, 2018

