

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION ON THE CITY COUNCIL'S OWN MOTION SUBMITTING TO THE VOTERS AT THE NOVEMBER 8, 2022, GENERAL MUNICIPAL ELECTION, A PROPOSED ORDINANCE TO AUTHORIZE ISSUANCE OF \$850 MILLION IN GENERAL OBLIGATION BONDS TO FUND AFFORDABLE HOUSING AND HOUSING PRESERVATION PROJECTS, TRANSPORTATION PROJECTS, AND VARIOUS CITY INFRASTRUCTURE; AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION, AND TAKE ANY AND ALL ACTIONS NECESSARY UNDER LAW TO SUBMIT THIS MEASURE TO THE VOTERS AT THE NOVEMBER 8, 2022 GENERAL MUNICIPAL ELECTION

WHEREAS, the City of Oakland (the "City") has identified critically needed investment in anti-displacement, interim, temporary, and affordable housing, streets and roads, public facilities, parks and open spaces, and technological infrastructure as integral to protecting the quality of life for all Oaklanders and the City's long-term economic vitality; and

WHEREAS, the Oakland City Council (the "City Council") recognizes that investment in the City's infrastructure, including recreation and senior centers, libraries, park and outdoor spaces, head start facilities, public safety, and other City building is necessary to preserve and enhance the quality of life for all Oaklanders; and

WHEREAS, the City Council recognizes the need to continue the efforts of the 2016 Infrastructure Bond ("Measure KK") and continue the housing anti-displacement efforts, the repair and enhancement of streets, and repairing community facilities such as recreation centers and libraries and providing modern public safety facilities which serve all communities; and

WHEREAS, on September 15, 2020, the City Council adopted a resolution declaring a local emergency on homelessness and renewed such declaration on May 17, 2022; and

WHEREAS, in the 2022 Oakland Point-In-Time Count, 5,055 individuals were counted in the City as experiencing homelessness accounting for more than 50% of the homeless population in Alameda County, and of the 5,055 individuals, 3,337 were unsheltered with the remaining 1,718 individuals identified as living in a tent, car, RV, on the street, or in an abandoned building; and

WHEREAS, Oakland is the one of the most expensive housing markets in the country, just behind San Francisco, New York and Boston, and with rising rents outpacing the increase in incomes faster than any other place in the country, protecting Oakland residents from displacement and providing affordable housing opportunities is necessary to preserve the quality of life for all City residents, to protect the City's low income families, seniors and persons with disabilities, and to ensure the City's long term economic vitality; and,

WHEREAS, pursuant to Article 34 of the California Constitution, voter approval is necessary in some cases to authorize the City to develop, construct and/or acquire "low rent housing", including housing that will be funded by a City general obligation bond; and

WHEREAS, the Housing & Community Development Department (the "HCDD") has developed a Strategic Action Plan using the framework of preservation, protection, and production to focus on the highest priorities of addressing homelessness, housing for extremely low income ("ELI") households, deep racial inequities, displacement, and impacts from the COVID-19 pandemic; and

WHEREAS, the HCDD 2020-2021 Acquisition and Conversion to Affordable Housing Notice of Funding Availability ("NOFA") received over \$9.1 million in funding requests but only had \$8.7 million available to allocate, and the HCDD 2021-2022 New Construction NOFA received over \$93 million in funding requests but only \$30.6 million to allocate, with significant pipeline remaining unfunded; and

WHEREAS, on December 21, 2021, City Council adopted the Five Year Pavement Prioritization Plan (2022-2027) (the "FYPP") for the rehabilitation of the City of Oakland's street infrastructure and prioritizes paving investments based on equity and traffic safety factors as well as street condition; and

WHEREAS, the FYPP adopts the use of equity metrics to prioritize 76% of the local street program for rehabilitation based on equal weighting of the citywide share of underserved populations by planning area and the citywide share of worst local streets by planning area; and

WHEREAS, the implementation of the FYPP beyond Fiscal Year 2023-2024 is contingent upon the adoption and voter approval of an infrastructure bond measure to continue the paving progress that has steadily advanced due to the primary funding from Measure KK; and

WHEREAS, City Council recognizes the need to enhance the City's streets, and related transit infrastructure in order to create a system that is more safe, reliable, and efficient, and meets future demands; and

WHEREAS, many of the City's facilities are in need of structural improvements in order to provide the safe access to our recreation and senior centers, libraries, park and outdoor spaces, head start facilities, public safety facilities, and other City buildings; and

WHEREAS, on October 16, 2018, City Council approved the Capital Improvement Prioritization Process, a system which has since been utilized by the City to evaluate projects under nine factors including equity, weighted by the input of City residents, and that has provided design funding for projects that currently have no construction funding identified; and

WHEREAS, the City has an unfunded capital need of approximately \$5.6 billion; and

WHEREAS, on July 28, 2020, the City Council adopted resolution number 88267 C.M.S adopting the 2030 Equitable Climate Action Plan (ECAP) for mitigating and adapting to the climate crisis through actions rooted in equity, along with a bond 2030 Greenhouse Gas emission reduction target and a 2045 carbon neutrality goal; and

WHEREAS, the City Council proposes to issue general obligation bonds in one or more series in the aggregate principal amount not to exceed \$850 million to invest in vital infrastructure projects to improve public safety, protect and provide affordable housing, and preserve the quality of life in all neighborhoods throughout Oakland; and

WHEREAS, the Ordinance (as hereinafter defined) provides enhanced capital funding for the City's Housing & Community Development, Public Works and, Transportation Departments, thereby creating the opportunity to expand the ability of City staff to implement various types of capital improvement work (the "Projects"); and

WHEREAS, section 902(e) of the Charter of the City provides that contracts for service shall not result in the loss of employment or salary by any person having permanent status in the City's competitive service and such Charter provisions remain applicable to projects funded by the Ordinance; and

WHEREAS, the City Council finds and determines that completion of the Projects is in the public interest and the cost of the Projects will require expenditures of at least \$850 million; and

WHEREAS, the City Council finds and determines it is in the best interests of the City to submit to the voters a proposed ordinance (the "Ordinance") to incur bonded indebtedness not to exceed \$850 million for the purpose of financing the Projects; and

WHEREAS, the City Administration's current goal is to keep the ad valorem property tax rate levied by the City during each year bonds authorized by this Ordinance are outstanding at or below 0.22%, the fiscal year 2022-2023 tax rate, as projected by the City as of the date such series of bonds is issued, by issuing new bonds under this Ordinance as older bonds are retired and/or as the tax base grows, though the property tax rate may vary based on other factors; and

WHEREAS, in accordance with the City's goal, the City Administrator has scheduled for City Council consideration at the July 5, 2022, Special City Council meeting, a proposed General Obligation Bond Policy to manage tax rates for future City general obligation bond issuances; now, therefore be it

RESOLVED: That the Oakland City Council finds and determines the forgoing recitals are true and correct and hereby adopts and incorporates them into this Resolution; and be it

FURTHER RESOLVED: That this action is not a project under the California Environmental Quality Act ("CEQA") because efforts to establish government financing mechanism that do not involve any commitment to specific projects to be constructed with bond funds does not meet the definition of a project under CEQA and the CEQA Guidelines. The use of bond proceeds to finance any specific project or portion of any specific 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. Even if this action was to be deemed a project, it would be exempt from CEQA, in accordance with CEQA Guidelines Section 15061, subd. (b)(3), because it can be seen with certainty that there is no possibility that the action authorized herein may have a significant effect on the environment; and be it

FURTHER RESOLVED: That the Oakland City Council does hereby submit to the voters, at the November 8, 2022, General Municipal Election, the Ordinance, which shall read as follows:

The people of the City of Oakland do ordain as follows:

SECTION 1. TITLE AND PURPOSE.

- A. TITLE. This Ordinance may be cited as the "2022 Affordable Housing and Infrastructure Bond".
- B. PURPOSE. The object and purpose of the authorized indebtedness will be to acquire and make improvements to real property including, but not limited to, the acquisition, improvement, rehabilitation, preservation, construction, and repair of affordable housing; the improvement and rehabilitation of streets, sidewalks, and related transit infrastructure; the renovation and rehabilitation of City facilities including libraries, public safety facilities, recreation and senior centers, cultural and civic facilities, and other city

administrative buildings; the development of technological infrastructure; and the preservation and enhancement of parks and open spaces.

SECTION 2. California Environmental Quality Act (“CEQA”) Findings.

This action is not a project under the California Environmental Quality Act (“CEQA”) because the establishment of a government financing mechanism that does not involve any commitment to specific projects to be constructed with bond funds does not meet the definition of a project under CEQA and the CEQA Guidelines. The use of bond proceeds to finance any specific project or portion of any specific 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. Even if this action was to be deemed a project, it would be exempt from CEQA in accordance with CEQA Guidelines Section 15061, subd. (b)(3), because it can be seen with certainty that there is no possibility that the action authorized herein may have a significant effect on the environment.

SECTION 3. Improvement Project Plan.

- A. Projects to be funded by \$850 million in bonds include but are not limited to the following. All dollar amounts included are estimates at the time of adoption of this Ordinance, and are not a commitment or guarantee that any specific amounts will be spent on particular projects.
 - 1. Affordable Housing Preservation Projects, in the amount of \$350 million, including projects consistent with:
 - (a) The acquisition, rehabilitation, or new construction of interim and permanent affordable and social housing
 - 2. Transportation Projects, in the amount of \$290 million, including projects consistent with:
 - (a) Street paving and reconstruction
 - (b) Curb ramps and sidewalks
 - (c) Complete streets capital improvements including, but not limited to pedestrian paths/stairs; bikeways, publicly owned sidewalks, streetscaping, accessible pedestrian signals, accessible on-street parking and loading zones, pedestrian-scale lighting, slowing down traffic and improving access to transit infrastructure.
 - 3. Citywide Facility Preservation and Improvement Projects, in the amount of \$210 million, including projects consistent with:

(a) Acquisition, construction, improvement, or rehabilitation of City facilities including, but not limited to, housing facilities, libraries, head start, recreation and senior centers, public safety facilities, and City facilities in the following subcategories and amounts, with the highest priority given to aging facilities:

- Parks and Open Spaces (in the amount of \$45 million)
- Fire Facilities (in the amount of \$30 million)
- Police Facilities (in the amount of \$30 million)
- Library Facilities (in the amount of \$15 million)
- Other City Facilities (in the amount of \$90 million)

(b) Water, energy, environmental, and seismic improvements to City facilities and systems consistent with the City's Energy and Climate Action Plan.

(c) Acquisition, construction, improvement, or rehabilitation of City-owned telecommunications infrastructure.

(d) Acquisition of land for the specific purpose of preserving open spaces for public use to ensure compliance with Open Space, Conservation and Recreation element (OSCAR).

(e) Conservation, rehabilitation, improvement, and/or enhancement of facility outdoor spaces including but not limited to mini parks, tot lots, play structures, ball parks and fields, ball courts, and swimming pools and its supplemental structures, such as shower/restrooms, field storage house, and concession stands that support outdoor uses.

(f) Acquisition, construction, improvement, rehabilitation or restoration of City waterways, creeks, storm drains and structures, and other drainage appurtenances.

(g) Creek restoration projects, environmental stormwater system infrastructure and green gardens.

B. Proceeds of the bonds may be used to pay or reimburse the City for the costs of City staff when they are performing work on or necessary and incidental to such projects. In addition, the City may apply 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, non-profit business entities, corporations, partnerships, associations, and government agencies for such affordable housing projects.

- C. The order in which the projects appear in Section 3.A above is not an indication of priority for funding or completion or a guarantee that any such projects will be completed. Projects will be completed as needed according to City Council established priorities, including those set forth within the City's Capital Improvement Plan which incorporates the Capital Improvement Plan Prioritization Process. Prior to each issuance of bonds, the City Council shall identify the specific projects to be funded in such issuance and disclose, to the extent applicable:
1. How the projects address improvements to the City's existing core capital assets;
 2. How the projects maintain or decrease the City's existing operations and maintenance costs;
 3. How the projects address social and geographic equity and provide greater benefit to under-served populations and geographic areas of greatest need.

The final cost of each project will be determined as plans are finalized, construction bids are awarded, and projects are completed. Certain construction funds expected from non-bond sources, including state or other grants for eligible projects, have not been secured. Until sources of funding and the costs of all projects are known, the City Council cannot determine the amount of bond proceeds that will be available to spend on each project, nor guarantee that the bonds will provide sufficient funds to allow completion of all described projects. Completion of some projects may be subject to additional environmental or other government approvals by state or local officials.

- D. Contractors and City departments shall comply with all applicable City laws when awarding contracts or performing work funded with the proceeds of Bonds authorized by this measure.
- E. After five (5) years from enactment of this measure, if the remaining funds designated in any of the categories set forth in Section 2(A) above have not been obligated or expended, a maximum of 10% of funds within each category can be transferred to any other categories included in this measure through a City Council Resolution.

SECTION 4. Tax and Indebtedness.

To provide financing for the purposes and projects identified in Section 1 of this Ordinance, the City shall be authorized to issue and sell bonds in one or more series in an amount up to Eight Hundred Fifty Million Dollars (\$850,000,000) in aggregate principal amount subject to the accountability safeguards specified in Section 5, 6, and 7 of this Ordinance. The City's current goal is to keep the ad valorem property tax rate levied by the City to service its voter-approved indebtedness during each year bonds authorized by this Ordinance are outstanding at or below 0.22%, as projected by the City as of the date each series of bonds are issued under this Ordinance, by issuing new bonds under this Ordinance as older indebtedness are retired and/or as the tax base grows, though the actual property tax rate levied in each fiscal year may vary based on other factors. The City's current goal shall not be construed as impairing or limiting the obligation of the City to levy taxes as necessary to pay principal and interest on the bonds authorized and issued under this Ordinance and applicable law. The City Council will consider adopting a General Obligation Bond policy to formalize the tax limits at the July 5, 2022, Special City Council meeting.

The City's best estimate of the ad valorem tax rate required to be levied on all taxable property in the City to pay debt service on the total amount of the proposed bonds (\$850 million) is projected to average \$71 per year per \$100,000 of assessed property valuation while bonds are outstanding. Such estimation shall not be construed to limit the power and duty of the City Council to cause to be levied and collected a tax sufficient to pay debt service on the bonds in any fiscal year, which are secured by an unlimited ad valorem tax on all eligible property in the City.

SECTION 5. Deposit of Bond Proceeds

The net proceeds of the bonds shall be deposited into a special trust account with or established by the Treasury of the City of Oakland and shall be allocated and expended at the direction of the City Council for purposes set forth in Section 1 of this Ordinance.

SECTION 6. Financial Audits and Citizen Oversight

As long as any authorized bond proceeds have not been spent, an annual independent audit shall be performed by an external entity to ensure accountability and proper disbursement of the bond proceeds in accordance with the objectives stated herein.

The City Council shall assign to the Affordable Housing & Infrastructure Bonds Public Oversight Committee the responsibility for citizen oversight of this measure. This Board or Commission shall review relevant financial and operational reports related to the expenditure of bond proceeds and provide reports to the City Council when necessary. In addition, the Board or Commission should evaluate the impacts and outcomes of bond expenditures on the bond measure's stated goals, including

social equity, anti-displacement, and affordable housing.

SECTION 7. Debt Service Fund

For the purpose of paying the principal and interest on the bonds, the City shall, annually levy and collect a tax sufficient to pay the annual interest on such bonds as it becomes due and such part of the principal that will become due before the proceeds of the next general tax levy is available for the payment of such principal. The City shall establish and separately maintain such collected tax revenues in a debt service fund until the bonds and the interest thereon are fully paid, or until a sum is set apart to pay all amounts that will be due to cover the principal and interest on the bonds in the Treasury of the City of Oakland or held on behalf of the City.

SECTION 8. Savings Clause.

If any provision, sentence, clause, section or part of this Ordinance is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared that the Council would have adopted this Ordinance if such unconstitutional, illegal or invalid provision, sentence, clause section or part thereof not been included herein.

SECTION 9. Article 34 Authorization.

Pursuant to Article 34 of the California Constitution, the City is authorized to develop, construct and/or acquire up to 5,000 rental housing units for low-income households throughout the City if the City is assisting the development, construction and/or acquisition of such units in whole or in part using proceeds from the bonds authorized by this Ordinance.

SECTION 10. City Public Art Law.

Capital projects funded by the bonds issued by the City pursuant to this Ordinance shall be subject to the City's Public Art policy.

SECTION 11. Effective Date.

This Ordinance shall be effective only if it is approved by two-thirds of the voters voting thereon and shall go into effect ten (10) days after the vote is declared by the City Council.

SECTION 12. Duties of the Director of Finance.

It shall be the duty of the Director of the Finance to collect and receive all taxes imposed by this Ordinance. The Director of Finance is charged with the enforcement of this Ordinance and may adopt rules and regulations relating to such enforcement.

SECTION 13. Term of Tax Imposition.

The ad valorem taxes enacted by this Ordinance shall be imposed and levied until the authorized indebtedness is fully paid. The City shall place delinquencies on subsequent tax bills.

SECTION 14. Compliance.

Under Section 53410 of the California Government Code, the bonds shall be for the specific purposes authorized in this Ordinance and the proceeds of such bonds will be applied only for such specific purposes. The City will comply with the requirements of Sections 53410(c) and 53410(d) of the California Government Code.

SECTION 15. Reimbursements.

The City shall be reimbursed for expenditures the City incurred or expected to incur prior to the issuance and sale of any series of the Bonds in connection with the projects authorized to be financed with proceeds thereof pursuant to Sections 1 and 3 of this Ordinance (for purposes of this Section 15 such projects are referred to as "Projects"). The City Council hereby declares the City's intent to reimburse the City with the proceeds of the Bonds for expenditures with respect to the Projects (the "Expenditures" or "Expenditure") that are made on and after the date that is no more than 60 days prior to the passage of the Ordinance. The City reasonably expects on the date hereof that it will reimburse the eligible Expenditures with the proceeds of the Bonds.

Each Expenditure was and will be either (a) of a type properly chargeable to a capital account under general federal income tax principles (determined in each case as of the date of the Expenditure), (b) a cost of issuance with respect to the bonds, (c) a nonrecurring item that is not customarily payable from current revenues, or (d) a grant to a party that is not related to or an agent of the City so long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the City. The maximum aggregate principal amount of the Bonds expected to be issued for the projects is \$850 million. The City shall make a reimbursement allocation, which is a written allocation by the City that evidences the City's use of proceeds of the applicable series of bonds to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the related portion of the Projects is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The City may make exceptions for certain "preliminary

expenditures," costs of issuance, certain de minimis amounts, expenditures by "small issuers" (based on the year of issuance and not the year of expenditure) and Expenditures for construction projects of at least 5 years to the extent permitted under the restriction on reimbursements under Section 1.150-2 of the Treasury Regulations.

SECTION 16. Changes in Law.

All provisions of this Ordinance and bond measure shall be subject to the applicable laws in effect as of the date of issuance of any bonds issued under the measure.

; and be it

FURTHER RESOLVED: That the City Council of the City of Oakland does hereby request that the Board of Supervisors of Alameda County order the consolidation of the City of Oakland Municipal Election with the state primary election of November 8, 2022, consistent with provisions of State Law; and be it,

FURTHER RESOLVED: That in accordance with applicable law, the City Clerk shall fix and determine a date for submission of arguments for or against said proposed Ordinance, and said date shall be posted in accordance with legal requirements; and be it,

FURTHER RESOLVED: That each ballot used at said election shall have printed therein, in addition to any other matter required by law, the following:

AN ORDINANCE AUTHORIZING THE ISSUANCE OF INFRASTRUCTURE BONDS IN AN AMOUNT NOT TO EXCEED \$850 MILLION TO REDUCE HOMELESSNESS AND INVEST IN NEIGHBORHOODS.

MEASURE __

Measure ____. <u>[FINAL BALLOT QUESTION DETERMINED BY THE CITY ATTORNEY]</u>	Yes	
	No	

; and be it

FURTHER RESOLVED: That the City proposes to rehabilitate, renovate, acquire, or construct the real property and real property improvements herein and to issue and sell general obligation bonds of the City of Oakland, in one or more series, in the

maximum amount and for the objects and purposes set forth herein if two-thirds of all qualified voters voting on the ballot measure vote in favor thereof; and be it

FURTHER RESOLVED: That the bonds are to be general obligations of the City of Oakland payable and secured by taxes levied and collected in the manner prescribed by the laws of the State of California; and that all said bonds are to be equally and ratably secured, without priority, by the taxing power of the City; and be it

FURTHER RESOLVED: That the City Council hereby authorizes and directs the City Clerk of the City of Oakland (the "City Clerk") at least 88 days prior to November 8, 2022, to file with the Alameda County Clerk certified copies of this resolution; and be it

FURTHER RESOLVED: That the City Council does hereby request that the Board of Supervisors of Alameda County include on the ballots and sample ballots recitals and measure language to be voted on by the voters of the qualified electors of the City of Oakland; and 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 Oakland, Chapter 3 of the Oakland Municipal Code, the Government Code and the Elections Code of the State of California; and be it

FURTHER RESOLVED: That the City Administrator, or any written designee of the City Administrator is hereby separately authorized and directed to execute and deliver to County officials any directions, requisitions, or other writings, and to make any changes to the tax rate statement, to conform to any legal requirements or requirements of the County Registrar, in order to cause the election to be held and conducted in the City; and be it

FURTHER RESOLVED: That the City Attorney, in accord with the City Attorney's powers and duties is hereby authorized to insert the final ballot question into this Resolution after adoption by the Council so that the ballot question constitutes a true and impartial synopsis of the final proposed measure; and to make any changes to the texts of the measure as described herein to conform to any legal requirements or requirements of the County Registrar; and be it

FURTHER RESOLVED: That the City Council does hereby request that the Registrar of Voters of the County of Alameda perform necessary services in connection with said election; and be it

FURTHER RESOLVED: That in accordance with applicable law, the City Clerk shall fix and determine a date for submission of arguments for or against said proposed Ordinance, and said date shall be posted in accordance with legal requirements; and be it

FURTHER RESOLVED: That the City Clerk and City Administrator are hereby authorized and directed to take any and all actions necessary under law to prepare for and conduct the 2022 general municipal election and appropriate all monies necessary for the City Administrator and City Clerk to prepare and conduct the November 8, 2022, general municipal election, consistent with law.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____

ASHA REED

City Clerk and Clerk of the Council of the City
of Oakland, California