



Department of the City Manager

ACTION CALENDAR

April 27, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance

Subject: Refinancing of 2010 Certificates of Participation Originally Issued to Finance Animal Shelter Project

RECOMMENDATION

Adopt a Resolution ratifying Resolution No. 69,309-N.S., approving a preliminary official statement, approving the method of sale and approving documents and official actions related to the refinancing of outstanding 2010 certificates of participation.

FISCAL IMPACTS OF RECOMMENDATION

The refinancing of the City's 2010 certificates of participation ("2010 COPs") is anticipated to save approximately \$1,600,000 in interest savings over the next 19 years for the General Fund. The net present value of the cash flow savings is \$1,400,000.

CURRENT SITUATION AND ITS EFFECTS

The 2010 COPs have an average interest rate of 5.75% and a final maturity of August 1, 2040. Annual payments are approximately \$405,000 (paid from the General Fund). A refinancing of the 2010 COPs can generate an all-in cost of funds around 2.75%. The interest savings is anticipated to be captured over the next 7 fiscal years and be deposited into the City's Section 115 Pension Trust Fund as was done in the past.

BACKGROUND

The City caused execution and delivery of the 2010 COPs to partially fund the Animal Shelter project. This project was originally supported by the \$7,200,000 Measure I (2002) but required additional funds at the time of construction due to relocation and changes to the facility. The 2010 COPs represented a 30-year financing.

Pursuant to Resolution No. 69,309-N.S., adopted by the City Council on February 25, 2020 ("2020 Resolution"), the City Council approved the refinancing of the 2010 COPs, the issuance by the Berkeley Joint Powers Financing Authority of refunding bonds ("Refunding Bonds"), and related documents and actions.

The Refunding Bonds were not sold in 2020, and staff recommends that the City Council ratify the 2020 Resolution, approve an Official Statement for the Refunding

Bonds, direct the method of sale of the Refunding Bonds, and approve other related documents and actions.

RATIONALE FOR RECOMMENDATION

The City can take advantage of lower interest rates in order to generate significant savings to the general fund by lowering the annual debt service on its outstanding obligations.

PRELIMINARY OFFICIAL STATEMENT

The attached Preliminary Official Statement has been reviewed and approved for transmittal to the City Council by the City's financing team. The distribution of the Preliminary Official Statement by the City is subject to federal securities laws, including the Securities Act of 1933 and the Securities Exchange Act of 1934. These laws require the Preliminary Official Statement to include all facts that would be material to an investor in the proposed Refunding Bonds. Material information is information that there is a substantial likelihood would have actual significance in the deliberations of the reasonable investor when deciding whether to buy or sell the Refunding Bonds. If the City Council concludes that the Preliminary Official Statement includes all facts that would be material to an investor in the Refunding Bonds, it must adopt a resolution that authorizes staff to execute a certificate to the effect that the Preliminary Official Statement has been "deemed final."

The Securities and Exchange Commission (the "SEC"), the agency with regulatory authority over the City's compliance with the federal securities laws, has issued guidance as to the duties of the City Council with respect to its approval of the Preliminary Official Statement. In its "Report of Investigation in the Matter of County of Orange, California as it Relates to the Conduct of the Members of the Board of Supervisors" (Release No. 36761 / January 24, 1996) (the "Release"), the SEC indicated that, if a member of the City Council has knowledge of any facts or circumstances that an investor would want to know about prior to investing in the Refunding Bonds, whether relating to their repayment, tax-exempt status, undisclosed conflicts of interest with interested parties, or otherwise, he or she should endeavor to discover whether such facts are adequately disclosed in the Preliminary Official Statement. In the Release, the SEC indicated that the steps that a member of the City Council could take include becoming familiar with the Preliminary Official Statement and questioning staff and consultants about the disclosure of such facts.

The proposed Refunding Bonds are payable from lease payments made by the City from any available funds, primarily the City's general fund. "SECURITY FOR THE BONDS." The City has included financial information and operating data related to the City's ability to pay the lease payments in Appendix A to the Preliminary Official Statement: "FINANCIAL, ECONOMIC AND DEMOGRAPHIC INFORMATION FOR THE CITY OF BERKELEY AND ALAMEDA COUNTY." The City's Comprehensive Annual Financial Report for fiscal year 2019-20 is included in Appendix B to the Preliminary Official Statement.

In addition, the City includes information about material risks to purchasers of the Refunding Bonds in “BOND OWNERS’ RISKS,” and information about relevant constitutional and statutory limitations on the City’s ability to collect revenues and pay the lease payments in the section of the Preliminary Official Statement captioned “CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS.”

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Henry Oyekanmi, Director, Finance Department, 510-981-7326

Attachments:

- 1: Resolution – Resolution of the City Council of the City of Berkeley Ratifying City Council Resolution No. 69,309-N.S., Approving a Preliminary Official Statement, Approving the Method of Sale of Refunding Bonds and Approving Documents and Official Actions Relating to the Refinancing of the 2010 Certificates of Participation
- 2: Draft Preliminary Official Statement

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BERKELEY RATIFYING CITY COUNCIL RESOLUTION NO. 69,309-N.S., APPROVING A PRELIMINARY OFFICIAL STATEMENT, APPROVING THE METHOD OF SALE OF REFUNDING BONDS AND APPROVING DOCUMENTS AND OFFICIAL ACTIONS RELATING TO THE REFINANCING OF 2010 CERTIFICATES OF PARTICIPATION

WHEREAS, the City of Berkeley (the "City") previously entered into a Trust Agreement dated as of June 1, 2010, with the Berkeley Joint Powers Financing Authority (the "Authority") and The Bank of New York Mellon Trust Company, N.A., as trustee, under \$5,750,000 aggregate principal amount of 2010 Certificates of Participation (Animal Shelter Financing) (the "2010 Certificates") were executed and delivered for the purpose of financing the acquisition and construction of an animal shelter; and

WHEREAS, the 2010 Certificates are subject to prepayment on any date at a prepayment price equal to the principal amount to be prepaid, plus accrued interest to the prepayment date, without premium; and

WHEREAS, pursuant to Resolution No. 69,309-N.S., adopted by the City Council on February 25, 2020 (the "2020 Resolution"), the City Council approved the refinancing of the 2010 Certificates, the issuance by the Authority of refunding bonds (the "Refunding Bonds"), and related documents and actions; and

WHEREAS, the City Council wishes to ratify the 2020 Resolution, approve an Official Statement for the Refunding Bonds, direct the method of sale of the Refunding Bonds, and approve other related documents and actions; and

WHEREAS, as required by Government Code Section 5852.1 enacted January 1, 2018 by Senate Bill 450, attached hereto as Appendix A is the information relating to the Refunding Bonds that has been obtained by the City Council and is hereby disclosed and made public.

NOW THEREFORE, BE IT RESOLVED by the Council as follows:

SECTION 1. Recitals. The City Council hereby finds that the recitals are true and correct.

SECTION 2. Ratification of the 2020 Resolution. The City Council hereby ratifies the 2020 Resolution, and the 2020 Resolution shall remain in full force and effect except as set forth herein.

SECTION 3. Method of Sale of Refunding Bonds. In the 2020 Resolution, the City Council approved a competitive sale of the Refunding Bonds.

In order to provide greater flexibility for the sale of the Refunding Bonds if staff determines that it is not in the best interests of the City for the Refunding Bonds to be sold in a

competitive sale, the City Council further hereby authorizes the Mayor, the City Manager, the Assistant City Manager, or the Finance Director (each, an "Authorized Officer") to direct the City's municipal advisor, NHA Advisors, LLC, to contact a limited number of underwriters and negotiate the sale of the Refunding Bonds. An Authorized Officer is hereby authorized to cause Jones Hall, A Professional Law Corporation, as bond counsel to the City, to prepare and to execute and deliver a Bond Purchase Agreement in connection with a negotiated sale of the Refunding Bonds in such form (including designation of the underwriter) as an Authorized Officer shall approve, such approval to be conclusively evidenced by his or her execution and delivery thereof.

As directed by the City Council in the 2020 Resolution, the Refunding Bonds shall be sold at such price and shall bear interest at such rates as shall produce a minimum net present value savings to the City of at least 3% of the principal amount of the outstanding 2010 Certificates, as such savings shall be verified and conclusively determined by the City's municipal advisor (the "Minimum Savings Requirement").

SECTION 4. Official Statement. The City Council hereby approves the preliminary Official Statement describing the Refunding Bonds in substantially the form on file with the City Clerk. An Authorized Officer is hereby authorized and directed to approve any changes in or additions to the preliminary Official Statement and to execute an appropriate certificate stating the Authorized Officer's determination that the preliminary Official Statement (together with any changes therein or additions thereto) has been deemed nearly final within the meaning of Rule 15c2-12 of the Securities Exchange Act of 1934. Distribution of the preliminary Official Statement by the Underwriter is hereby approved. An Authorized Officer is hereby authorized and directed to approve any changes in or additions to a final form of said Official Statement, and the execution thereof by the Authorized Officer shall be conclusive evidence of approval of any such changes and additions. The City Council hereby authorizes the distribution of the final Official Statement by the Underwriter. The final Official Statement shall be executed on behalf of the City by an Authorized Officer.

SECTION 5. Official Actions. The Mayor, the City Manager, the Assistant City Manager, the Finance Director, the City Attorney, the City Clerk and all other officers of the City are each authorized and directed on behalf of the City to make any and all leases, assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance or termination, warrants and other documents, which they or any of them deem necessary or appropriate in order to consummate any of the transactions contemplated by the agreements and documents approved under the 2020 Resolution and this Resolution, including any agreements required to purchase a debt service reserve fund insurance policy or a municipal bond insurance policy, and any amendments of the documents related to the 2010 Certificates that are necessary to accomplish the proposed refinancing. Whenever in this Resolution any officer of the City is authorized to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer is absent or unavailable.

SECTION 6. Effective Date. This Resolution shall take effect immediately upon its passage and adoption.

APPENDIX A

REQUIRED DISCLOSURES PURSUANT TO
GOVERNMENT CODE SECTION 5852.1

1. Estimated True Interest Cost of the Refunding Bonds: 2.40%
2. Estimated finance charge of the Refunding Bonds, being the sum of all fees and charges paid to third parties, in the amount of approximately \$215,000. Such amount consists of costs of issuing the Refunding Bonds in the amount of approximately \$175,000 together with estimated underwriter's compensation in the amount of \$40,000.
3. Estimated proceeds of the Refunding Bonds expected to be received by or on behalf of the City for deposit to the Refunding Fund, net of proceeds for Costs of Issuance in (2) above to paid, capitalized interest and reserves (if any) from the principal amount of the Refunding Bonds: \$4,900,000.
4. Estimated Total Payment Amount for the Refunding Bonds, being the sum of all debt service to be paid on the Bonds to final maturity: \$6,000,000.

**All amounts and percentages are estimates, and are made in good faith by the City based on information available as of the date of adoption of this Resolution. Estimates include certain assumptions regarding tax-exempt interest rates available in the bond market at the time of pricing the Bonds.*

PRELIMINARY OFFICIAL STATEMENT DATED _____, 2021

NEW ISSUE - FULL BOOK-ENTRY

RATING: S&P: "____"
See "RATING."

In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, subject, however to certain qualifications described herein, under existing law, the interest on the Bonds is excluded from gross income for federal income tax purposes and such interest is not an item of tax preference for purposes of the federal alternative minimum tax. In the further opinion of Bond Counsel, such interest is exempt from California personal income taxes. See "TAX MATTERS."



\$ _____ *
**BERKELEY JOINT POWERS FINANCING AUTHORITY
LEASE REVENUE BONDS, SERIES 2021
(2010 Animal Shelter Financing)**

Dated: Date of Delivery

Due: October 1, as shown on inside cover

Authority for Issuance. The bonds captioned above (the "Bonds") are being issued by the Berkeley Joint Powers Financing Authority (the "Authority") under a resolution adopted by the Board of Directors of the Authority on February 25, 2020, and an Indenture of Trust dated as of _____ 1, 2021 (the "Indenture"), by and between the Authority and The Bank of New York Mellon Trust Company, N.A. as trustee (the "Trustee"). See "THE BONDS – Authority for Issuance."

Purpose. The Bonds are being issued primarily to refinance on a current basis the outstanding certificates of participation of the City of Berkeley (the "City") captioned "\$5,750,000 City of Berkeley 2010 Certificates of Participation (Animal Shelter Financing)" and the City's related lease payment obligation. In addition, the proceeds of the Bonds will be used to pay the costs of issuing the Bonds. See "FINANCING PLAN."

Security. Under the Indenture, the Bonds are payable from and secured by a first pledge of and lien on "Revenues" (as defined in this Official Statement) received by the Authority under the Lease Agreement, dated as of _____ 1, 2021, by and between the Authority, as lessor, and the City, as lessee (the "Lease"), consisting primarily of lease payments (the "Lease Payments") made by the City under the Lease with respect to the lease of certain real property, as further described in this Official Statement. The Bonds are also secured by certain funds on deposit under the Indenture. Neither the Authority nor the City is establishing a reserve fund for the Bonds. See "SECURITY FOR THE BONDS."

Book-Entry Only. The Bonds will be issued in book-entry form only, and will be initially issued and registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York ("DTC"). The Bonds are issuable as fully registered securities in denominations of \$5,000 or any integral multiple of \$5,000. Purchasers of the Bonds (the "Beneficial Owners") will not receive physical certificates representing their interest in the Bonds. See "THE BONDS" and "APPENDIX F – DTC AND THE BOOK-ENTRY ONLY SYSTEM."

Payments. Interest on the Bonds accrues from the date of delivery and is payable semiannually on April 1 and October 1 of each year, commencing October 1, 2021. Payments of principal and interest on the Bonds will be paid by the Trustee to DTC for subsequent disbursement to DTC Participants, which will remit such payments to the Beneficial Owners of the Bonds. See "THE BONDS – General Provisions."

Redemption. The Bonds are subject to optional redemption, mandatory sinking fund payment redemption and special mandatory redemption from insurance or condemnation proceeds prior to maturity. See "THE BONDS – Redemption."

NONE OF THE BONDS, THE OBLIGATION OF THE AUTHORITY TO PAY PRINCIPAL OF OR INTEREST THEREON, OR THE OBLIGATION OF THE CITY TO MAKE THE LEASE PAYMENTS CONSTITUTE A DEBT OR A LIABILITY OF THE AUTHORITY, THE CITY, THE STATE OF CALIFORNIA OR ANY OF ITS POLITICAL SUBDIVISIONS WITHIN THE MEANING OF ANY CONSTITUTIONAL LIMITATION ON INDEBTEDNESS, OR A PLEDGE OF THE FULL FAITH AND CREDIT OF THE CITY. THE BONDS ARE SECURED SOLELY BY THE PLEDGE OF REVENUES AND CERTAIN FUNDS HELD UNDER THE INDENTURE. THE BONDS ARE NOT SECURED BY A PLEDGE OF THE TAXING POWER OF THE CITY.

The following firm, serving as municipal advisor to the Authority and City, has structured this issue.



**MATURITY SCHEDULE
(see inside cover)**

Cover Page. This cover page contains certain information for general reference only. It is not a summary of all the provisions of the Bonds. Prospective investors must read the entire Official Statement to obtain information essential to making an informed investment decision.

The Bonds will be sold and awarded pursuant to a competitive bidding process to be held on May 18, 2021, as set forth in the Official Notice of Sale. The Bonds are offered when, as and if issued and received by the Purchaser, and subject to the approval as to their legality by Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel. Certain legal matters will also be passed upon for the Authority and the City by Jones Hall, A Professional Law Corporation, as Disclosure Counsel. Certain legal matters will be passed upon for the City by the City Attorney. It is anticipated that the Bonds will be delivered in book-entry form through the facilities of DTC on or about June 2, 2021.

The date of this Official Statement is: _____, 2021

* Preliminary; subject to change.

This Preliminary Official Statement and the information contained herein are subject to completion or amendment. These securities may not be sold nor may offers to buy be accepted prior to the time the Official Statement is delivered in final form. Under no circumstances will this Preliminary Official Statement constitute an offer to sell or a solicitation of an offer to buy nor will there be any sale of these securities in any jurisdiction in which such offer solicitation or sale would be unlawful.

BERKELEY JOINT PUBLIC FINANCING AUTHORITY
Lease Revenue Bonds, Series 2021
(2010 Animal Shelter Financing)

MATURITY SCHEDULE*
(Base CUSIP:† 084145)

\$_____ Serial Bonds

<u>Maturity Date</u> <u>(October 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Yield</u>	<u>Price</u>	<u>CUSIP†</u>
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\$_____ % Term Bond Due October 1, 20__, Yield __%, Price: ____, CUSIP: _____

* Preliminary; subject to change.

† CUSIP Copyright 2021, CUSIP Global Services, and a registered trademark of American Bankers Association. CUSIP data herein is provided by CUSIP Global Services, which is managed on behalf of American Bankers Association by S&P Capital IQ. Neither the City nor the Purchaser takes any responsibility for the accuracy of the CUSIP data.

**BERKELEY JOINT PUBLIC FINANCING AUTHORITY
CITY OF BERKELEY
(ALAMEDA COUNTY, CALIFORNIA)**

**BOARD OF DIRECTORS OF THE AUTHORITY
AND MEMBERS OF THE CITY COUNCIL**

Jesse Arreguín, Mayor
Rashi Kesarwani, Councilmember District 1
Terry Taplin, Councilmember District 2
Ben Bartlett, Councilmember District 3
Kate Harrison, Councilmember District 4
Sophie Hahn, Councilmember District 5
Susan Wengraf, Councilmember District 6
Rigel Robinson, Councilmember District 7
Lori Droste, Councilmember District 8

CITY OFFICIALS AND STAFF

Dee Williams-Ridley
City Manager

Henry Oyekanmi
Director of Finance

Farimah Brown
City Attorney

David White
Deputy City Manager

Paul Buddenhagen
Deputy City Manager

Jenny Wong
City Auditor

PROFESSIONAL SERVICES

BOND AND DISCLOSURE COUNSEL

Jones Hall, A Professional Law Corporation
San Francisco, California

MUNICIPAL ADVISOR

NHA Advisors, LLC
San Rafael, California

Verification Agent

Robert Thomas CPA, LLC
Minneapolis, Minnesota

Trustee

The Bank of New York Mellon Trust Company, N.A.
San Francisco, California

GENERAL INFORMATION ABOUT THIS OFFICIAL STATEMENT

Use of Official Statement. This Official Statement is submitted in connection with the sale of the Bonds referred to herein and may not be reproduced or used, in whole or in part, for any other purpose. This Official Statement is not a contract between any bond owner and the Authority or the Purchaser.

No Offering Except by This Official Statement. No dealer, broker, salesperson or other person has been authorized by the Authority or the Purchaser to give any information or to make any representations other than those contained in this Official Statement and, if given or made, such other information or representation must not be relied upon as having been authorized by the Authority or the Purchaser.

No Unlawful Offers or Solicitations. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy nor may there be any sale of the Bonds by a person in any jurisdiction in which it is unlawful for such person to make such an offer, solicitation or sale.

Information in Official Statement. The information set forth in this Official Statement has been furnished by the Authority and other sources which are believed to be reliable, but it is not guaranteed as to accuracy or completeness.

Estimates and Forecasts. When used in this Official Statement and in any continuing disclosure by the Authority in any press release and in any oral statement made with the approval of an authorized officer of the City or the Authority or any other entity described or referenced herein, the words or phrases "will likely result," "are expected to", "will continue", "is anticipated", "estimate", "project", "forecast", "expect", "intend" and similar expressions identify "forward looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Such statements are subject to risks and uncertainties that could cause actual results to differ materially from those contemplated in such forward-looking statements. Any forecast is subject to such uncertainties. Inevitably, some assumptions used to develop the forecasts will not be realized and unanticipated events and circumstances may occur. Therefore, there are likely to be differences between forecasts and actual results, and those differences may be material. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, give rise to any implication that there has been no change in the affairs of the City, Authority or any other entity described or referenced herein since the date hereof.

Involvement of Purchaser. The following statement has been included in this Official Statement on behalf of the Purchaser of the Bonds: The Purchaser has reviewed the information in this Official Statement in accordance with, and as a part of, its responsibilities to investors under the Federal Securities Laws as applied to the facts and circumstances of this transaction, but the Purchaser does not guarantee the accuracy or completeness of such information.

Stabilization of and Changes to Offering Prices. The Purchaser may overallocate or take other steps that stabilize or maintain the market prices of the Bonds at levels above that which might otherwise prevail in the open market. If commenced, the Purchaser may discontinue such market stabilization at any time. The Purchaser may offer and sell the Bonds to certain securities dealers, dealer banks and banks acting as agent at prices lower than the public offering prices stated on the inside cover page of this Official Statement, and those public offering prices may be changed from time to time by the Purchaser.

Document Summaries. All summaries of the Indenture or other documents referred to in this Official Statement are made subject to the provisions of such documents and qualified in their entirety to reference to such documents, and do not purport to be complete statements of any or all of such provisions.

No Securities Laws Registration. The Bonds have not been registered under the Securities Act of 1933, as amended, in reliance upon exceptions therein for the issuance and sale of municipal securities. The Bonds have not been registered or qualified under the securities laws of any state.

Effective Date. This Official Statement speaks only as of its date, and the information and expressions of opinion contained in this Official Statement are subject to change without notice. Neither the delivery of this Official Statement nor any sale of the Bonds will, under any circumstances, give rise to any implication that there has been no change in the affairs of the City, the Authority, the other parties described in this Official Statement, or the condition of the property within the City since the date of this Official Statement.

Website. The City maintains a website. However, the information presented on the website is not a part of this Official Statement and should not be relied upon in making an investment decision with respect to the Bonds.

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OFFICIAL STATEMENT

\$ _____ *

BERKELEY JOINT PUBLIC FINANCING AUTHORITY
Lease Revenue Bonds, Series 2021
(2010 Animal Shelter Financing)

The purpose of this Official Statement, which includes the cover page, inside cover page and attached appendices, is to set forth certain information concerning the sale and delivery of the bonds captioned above (the “**Bonds**”) by the Berkeley Joint Powers Financing Authority (the “**Authority**”). All capitalized terms used in this Official Statement, unless noted otherwise, have the meanings set forth in the Indenture (as defined below).

INTRODUCTION

This introduction is not a summary of this Official Statement. It is only a brief description of and guide to, and is qualified by, more complete and detailed information contained in the entire Official Statement and the documents summarized or described herein. A full review should be made of the entire Official Statement. The offering of the Bonds to potential investors is made only by means of the entire Official Statement.

Authority for Issuance. The Authority is issuing the Bonds under the following:

- (a) Article 4 of Chapter 5, Division 7, Title 1 of the California Government Code, as amended, commencing with Section 6584 (the “**Law**”);
- (b) resolutions adopted by the Board of Directors (the “**Board**”) of the Authority on February 25, 2020 (as ratified on April 27, 2021, the “**Authority Resolution**”), and by the City Council (the “**City Council**”) of the City of Berkeley (the “**City**”) on February 25, 2020 (as ratified on April 27, 2021, the “**City Resolution**”); and
- (c) an Indenture of Trust (the “**Indenture**”) dated as of _____ 1, 2021, by and between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee (the “**Trustee**”).

The City. The City is located in Alameda County (the “**County**”) on the east side of the San Francisco Bay, approximately 10 miles northeast of San Francisco. The City encompasses a total area of approximately 19 square miles and had a population of 123,328 as of January 1, 2019, giving it the highest population density of any city in the East Bay. The City is defined to a large degree, both culturally and economically, by the presence of the University of California campus located on the eastern side of the City. The University of California is a major component of the City's economy, employing more than 235,000 full and part-time workers.

* Preliminary; subject to change.

The City is among the oldest in California. The City was founded in 1864, incorporated as a town in 1878, and incorporated as a city in 1909. The City's charter was adopted in 1895. For more information regarding the City and its finances, see APPENDIX A and APPENDIX B. For additional general, financial and demographic information regarding the City, see "APPENDIX A – FINANCIAL, ECONOMIC AND DEMOGRAPHIC INFORMATION FOR THE CITY OF BERKELEY AND ALAMEDA COUNTY." See also "THE CITY."

The Authority. The Authority was established on January 11, 1994, to provide for the financing of public capital improvements to public entities, including the City. See "THE AUTHORITY."

COVID-19 Statement. The COVID-19 pandemic has resulted in a public health crisis that is fluid and unpredictable with financial and economic impacts that cannot be predicted. As such, investors are cautioned that the City cannot at this time predict the impacts that the COVID-19 pandemic might have on its operations and finances, property values in the City, and economic activity in the City, the State of California (the "**State**") and the nation, among other things. For more disclosure regarding the COVID-19 emergency, see "COVID-19 GLOBAL PANDEMIC." See also references to COVID-19 in APPENDIX A under the heading "CITY FINANCIAL INFORMATION – State Budget and its Impact on the City."

Purpose of the Bonds. The Bonds are being issued to:

- Refinance on a current basis outstanding certificates of participation of the City captioned "\$5,750,000 City of Berkeley 2010 Certificates of Participation (Animal Shelter Financing)" (the "**2010 Certificates**") and the City's related lease payment obligation; and
- Pay the costs of issuing the Bonds.

See "FINANCING PLAN."

Security for the Bonds and Pledge of Revenues. Under the Indenture, the Bonds are payable from and secured by a first pledge of and lien on "**Revenues**" (as defined in this Official Statement) received by the Authority under the Lease Agreement dated as of _____ 1, 2021, between the Authority, as lessor, and the City, as lessee (the "**Lease**"), consisting primarily of lease payments (the "**Lease Payments**") made by the City under the Lease. The Bonds are also secured by certain funds on deposit under the Indenture. See "SECURITY FOR THE BONDS."

The City and the Authority will enter into a Site Lease dated as of _____ 1, 2021 (the "**Site Lease**"). Under the Site Lease, the City will lease certain real property to the Authority, consisting of an animal shelter (as described herein, the "**Leased Property**"). Concurrently, the City and the Authority will enter into the Lease, under which the Authority will lease the Leased Property back to the City for the purpose of refinancing 2010 Certificates. See "THE LEASED PROPERTY."

Form of Bonds; Book-Entry Only. The Bonds will be issued in fully registered form, registered in the name of The Depository Trust Company, New York, New York ("**DTC**"), or its nominee, which will act as securities depository for the Bonds. Purchasers of the Bonds will not receive certificates representing the Bonds that are purchased. See "THE BONDS – Book-Entry Only System" and "APPENDIX F – DTC AND THE BOOK-ENTRY ONLY SYSTEM."

Redemption. The Bonds are subject to optional redemption, mandatory redemption from sinking fund payments, and special mandatory redemption from the proceeds of insurance or condemnation proceeds prior to their stated maturity dates. See “THE BONDS – Redemption.”

Abatement. The Lease Payments are subject to complete or partial abatement in the event and to the extent that there is substantial interference with the City’s use and possession of the Leased Property or any portion thereof. If the Lease Payments are abated under the Lease, the Bond Owners would receive less than the full amount of principal of and interest on the Bonds. To the extent proceeds of rental interruption insurance are available (as described below), Lease Payments (or a portion thereof) may be made from those proceeds during periods of abatement. See “SECURITY FOR THE BONDS – Abatement” and “BOND OWNERS’ RISKS.”

Legal Opinion. Upon delivery of the Bonds, Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel (“**Bond Counsel**”), will release its final approving legal opinion with respect to the Bonds, regarding the validity and tax-exempt status of the Bonds, in the form attached hereto as APPENDIX D.

Risks of Investment. Debt service on the Bonds is payable only from Lease Payments and other amounts payable by the City to the Authority under the Lease. For a discussion of some of the risks associated with the purchase of the Bonds, see “BOND OWNERS’ RISKS.”

NONE OF THE BONDS, THE OBLIGATION OF THE AUTHORITY TO PAY PRINCIPAL OF OR INTEREST THEREON, OR THE OBLIGATION OF THE CITY TO MAKE THE LEASE PAYMENTS CONSTITUTE A DEBT OR A LIABILITY OF THE AUTHORITY, THE CITY, THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS WITHIN THE MEANING OF ANY CONSTITUTIONAL LIMITATION ON INDEBTEDNESS, OR A PLEDGE OF THE FULL FAITH AND CREDIT OF THE CITY. THE BONDS ARE SECURED SOLELY BY THE PLEDGE OF REVENUES AND CERTAIN FUNDS HELD UNDER THE INDENTURE. THE BONDS ARE NOT SECURED BY A PLEDGE OF THE TAXING POWER OF THE CITY.

COVID-19 GLOBAL PANDEMIC

The outbreak of COVID-19, a respiratory disease caused by a new strain of coronavirus (“**COVID-19**”), which was first detected in China and has spread to other countries, including the United States, was declared a pandemic by the World Health Organization, a national emergency by the President of the United States (the “**President**”) and a state of emergency by the Governor of the State (the “**Governor**”). There has been tremendous volatility in the financial markets in the United States and globally, resulting in the onset of a national and global recession.

Federal Response. The President’s declaration of a national emergency on March 13, 2020, made available more than \$50 billion in federal resources to combat the spread of the virus. A multi-billion-dollar relief package was signed into law by the President on March 18, 2020, providing for Medicaid expansion, unemployment benefits and paid emergency leave during the crisis. In addition, the Federal Reserve lowered its benchmark interest rate to nearly zero, introduced a large bond-buying program and established emergency lending programs to banks and money market mutual funds.

On March 27, 2020, the United States Congress passed a \$2 trillion relief package, referred to as the Coronavirus Aid, Relief, and Economic Security Act (the “**CARES Act**”). The package includes direct payments to taxpayers, jobless benefits, assistance to hospitals and healthcare systems, \$367 billion for loans to small businesses, a \$500 billion fund to assist distressed large businesses, including approximately \$30 billion to provide emergency grants to educational institutions and local educational agencies. Under the CARES Act, the City received \$14,398,739 from the federal and state governments to address the spread of COVID-19 and its economic impacts.

On April 9, 2020, the Federal Reserve took additional actions to provide up to \$2.3 trillion in loans to support the economy, including supplying liquidity to participating financial institutions in the Small Business Administration’s Paycheck Protection Program, purchasing up to \$600 billion in loans through the Main Street Lending Program and offering up to \$500 billion in lending to states and municipalities.

On April 24, 2020, an additional \$484 billion federal aid package was signed into law to provide additional funding for distressed small businesses and to provide funds for hospitals and COVID-19 testing. The legislation adds \$310 billion to the Paycheck Protection Program, increases the small business emergency grant and loan program by \$60 billion, and directs \$75 billion to hospitals and \$25 billion to a new COVID-19 testing program.

On March 11, 2021, the President signed a \$1.9 trillion stimulus package (the “**American Rescue Package**”) into law, authorizing a third round of one-time stimulus payments for qualifying Americans, extending additional unemployment benefits, and providing aid to cities and states facing budget shortfalls. The City has been allocated \$68,258,828 in American Rescue Package funds to respond to the COVID-19 emergency and address its economic effects including assistance to small businesses, households, non-profits and hard-hit industries, offset the loss of revenue for the provision of government services, provide for premium pay for essential workers, and invest in water, sewer, and broadband infrastructure. These funds will be received 60 days after the effective date of the American Rescue Package and will be received in two payments separated by 12 months. All funds received by the City must be spent by December 31, 2024. In addition, the City will receive \$2,777,361 to develop affordable rental housing or to help acquire non-congregate shelter to be converted into permanent affordable housing or used as emergency

shelter. Other resources that the City may qualify for are unknown at this time.

State Response. At the State level, on March 15, 2020, the Governor ordered the closing of California bars and nightclubs, the cancellation of gatherings of more than 250 and confirmed continued funding for school districts that close under certain conditions. On March 16, 2020, the State legislature passed \$1.1 billion in general purpose spending authority for emergency funds to respond to the Coronavirus crisis. On March 19, 2020, Governor Newsom issued Executive Order N-33-20, a blanket shelter-in-place order, ordering all California residents to stay home except for certain necessities and other essential purposes. On August 28, 2020, the Governor released a new system called “Blueprint for a Safer California,” which places the State’s 58 counties into four color-coded tiers – purple, red, orange, and yellow, in descending order of severity – based on the number of new daily cases of COVID-19 and the percentage of positive tests.

Under the State’s “Blueprint for a Safer California,” counties must spend at least three weeks in each tier before advancing to the next one. [The County is currently assigned to the orange tier, which is the second least restrictive tier.]

The COVID-19 outbreak is ongoing, and the ultimate geographic spread of the virus, the duration and severity of the outbreak, the economic impacts and actions that may be taken by governmental authorities to contain the outbreak or to treat its impacts are uncertain and cannot be predicted. Additional information with respect to events surrounding the outbreak of COVID-19 and responses thereto can be found on State and local government websites, including but not limited to the Governor’s office (<http://www.gov.ca.gov>) and the California Department of Public Health (<https://covid19.ca.gov/>). *The City has not incorporated by reference the information on such websites, and the City does not assume any responsibility for the accuracy of the information on such websites.*

Impacts of COVID-19 Pandemic on Global and Local Economies Cannot Be Predicted; Potential Declines in State and Local Revenues. The COVID-19 public health emergency will have negative impacts on global and local economies, including the economy of the State and in the region of the City. The extent and duration of the COVID-19 emergency is currently unknown, and the reach of its impacts uncertain.

The State’s revenue sources are anticipated to be materially impacted by the COVID-19 pandemic, including with respect to reductions in personal income tax receipts and capital gains tax receipts. Economic uncertainty caused by the outbreak will significantly affect California’s near-term fiscal outlook, with a likely recession due to pullback in activity across wide swaths of the economy. For more detail regarding the State’s current budget, and related reports and outlooks, see Appendix A under the heading “CITY FINANCIAL INFORMATION – State Budget and its Impact on the City.”

In addition, in an attempt to mitigate the effects of the COVID-19 pandemic on State property taxpayers, on May 6, 2020, the Governor signed an executive order suspending penalties, costs or interest for the failure to pay secured or unsecured property taxes, or to pay a supplemental bill, before the date that such taxes become delinquent. See “PROPERTY TAXATION – Property Tax Collection Procedures – Waiver of State Laws Relating to Penalties for Non-Payment of Property Taxes.”

Impacts of COVID-19 Emergency Uncertain. The possible impacts that the COVID-19 emergency might have on the City’s finances, programs, credit ratings on its debt obligations,

local property values and the economy in general are uncertain at this time. In addition, there may be unknown consequences of the COVID-19 emergency, which the City is unable to predict.

REFINANCING PLAN

Refinancing of 2010 Certificates

Authority and Purpose of 2010 Certificates. The City executed and delivered the 2010 Certificates on June 2, 2010, in the original aggregate principal amount of \$5,750,000. The 2010 Certificates are currently outstanding in the aggregate principal amount of \$4,765,000. The 2010 Certificates were executed and delivered primarily for the purpose of providing funds to the City to finance a portion of the acquisition and construction of the Leased Property.

The refinancing plan calls for the outstanding 2010 Certificates maturing on and after August 1, 2022, to be prepaid in full on or around July 23, 2021 (the "**Prepayment Date**"), at a prepayment price equal to the principal amount thereof, together with interest coming due and payable on the Prepayment Date.

Irrevocable Escrow Fund Deposit. In order to accomplish the refinancing plan, a portion of the proceeds of the Bonds will be transferred to the Trustee for deposit into a refunding fund held by the Trustee under the Indenture. The Trustee will immediately disburse amounts in the refunding fund to The Bank of New York Mellon Trust Company, N.A., acting as the trustee for the 2010 Certificates (the "**2010 Trustee**"), for deposit into an escrow fund (the "**Escrow Fund**") to be established under an Escrow Deposit and Trust Agreement (the "**Escrow Agreement**") between the City and the 2010 Trustee. The 2010 Trustee will hold the amounts on deposit in the Escrow Fund as cash or invested by the Escrow Agent in U.S. Treasury securities. These funds will be sufficient to defease the outstanding 2010 Certificates as of the date of issuance of the Bonds and prepay the 2010 Certificates in full on the Prepayment Date.

Sufficiency of the deposit in the Escrow Fund to prepay the 2010 Certificates on the Redemption Date will be verified by Robert Thomas CPA, LLC, Minneapolis, Minnesota (the "**Verification Agent**"). See "VERIFICATION OF MATHEMATICAL ACCURACY" below. *The moneys held by the 2010 Trustee in the Escrow Fund are pledged to the payment and prepayment of the 2010 Certificates and will not be available for payment of the Bonds.*

Estimated Sources and Uses of Funds

The estimated sources and uses of funds relating to the Bonds are as follows:

Sources of Funds:

Principal Amount of Bonds	\$
<i>Plus:</i> Net Original Issue Premium	
<i>Plus:</i> Funds Available with Respect to 2010 Certificates	
TOTAL SOURCES	\$

Uses of Funds:

Deposit to Escrow Fund ⁽¹⁾	\$
Deposit to Costs of Issuance Fund ⁽²⁾	
Purchaser's Discount	
TOTAL USES	\$

(1) Represents funds to be used to defease and prepay the 2010 Certificates. See “– Refinancing of 2010 Certificates” above.

(2) Represents funds to be used to pay Costs of Issuance, which include legal fees, printing costs, rating agency fees and other costs of issuing the Bonds.

THE LEASED PROPERTY

Description and Location

Lease Payments will be made by the City under the Lease for the use and occupancy of the Leased Property, which consists of an animal shelter located at 1 Bolivar Drive in the City. The Leased Property consists of an approximately 11,700 square-foot, two-story facility sitting on an approximately 19,400 square-foot site. The facility contains dog kennels, get-acquainted rooms, cat rooms, an exotic animal room, kitchens for animal food preparation, a laundry, training facilities, outdoor exercise areas, a reception area, an animal control area, a volunteer room with kitchen and lockers, restrooms for staff and the public, a staff lounge with kitchen, locker rooms with showers, and private offices. The facility was designed to be ecologically sound and energy efficient and has LEED Silver certification.

Modification of Leased Property

Under the Lease, the City has the right, at its own expense, to make additions, modifications and improvements to the Leased Property or any portion thereof. All additions, modifications and improvements to the Leased Property will thereafter comprise part of the Leased Property and become subject to the provisions of the Lease.

Such additions, modifications and improvements may not in any way damage the Leased Property, or cause the Leased Property to be used for purposes other than those authorized under the provisions of state and federal law; and the Leased Property, upon completion of any additions, modifications and improvements made thereto under this provision of the Lease, must be of a value which is not substantially less than the value thereof immediately prior to the making of such additions, modifications and improvements.

The City will not permit any mechanic’s or other lien to be established or remain against the Leased Property for labor or materials furnished in connection with any remodeling, additions,

modifications, improvements, repairs, renewals or replacements made by the City under this provision of the Lease; except that if any such lien is established and the City first notifies or causes to be notified the Authority of the City's intention to do so, the City may in good faith contest any lien filed or established against the Leased Property, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom and will provide the Authority with full security against any loss or forfeiture which might arise from the nonpayment of any such item, in form satisfactory to the Authority. The Authority will cooperate fully in any such contest, upon the request and at the expense of the City.

Substitution

Under the Lease, the City has the option at any time and from time to time, to substitute other real property (the "**Substitute Property**") for the Leased Property or any portion thereof (the "**Former Property**"), upon satisfaction of all of the requirements set forth in the Lease, which includes (among others) the following:

- The City has filed with the Authority and the Trustee, and caused to be recorded in the office of the County Recorder, sufficient memorialization of an amendment of the Lease, the Site Lease and the Assignment Agreement that adds the legal description of the Substitute Property and deletes therefrom the legal description of the Former Property, and has filed and caused to be recorded corresponding amendments to the Site Lease and Assignment Agreement.
- The City has obtained a CLTA policy of title insurance insuring the City's leasehold estate under the Lease in the Substitute Property, subject only to Permitted Encumbrances (as defined in the Lease), in an amount at least equal to the estimated value thereof.
- The City has certified in writing to the Authority and the Trustee that the Substitute Property serves the municipal purposes of the City and constitutes property which the City is permitted to lease under the laws of the State of California, and has been determined to be essential to the proper, efficient and economic operation of the City and to serve an essential governmental function of the City.
- The City has filed with the Authority and the Trustee a written certificate of the City or other written evidencing stating that the useful life of the Substitute Property at least extends to the final maturity date of the Bonds, that the estimated value of the Leased Property, after substitution of the Substitute Property and release of the Former Property, is at least equal to the aggregate Outstanding principal amount of the Bonds, and the fair rental value of the Leased Property, after substitution of the Substitute Property and release of the Former Property, is at least equal to the Lease Payments thereafter coming due and payable under the Lease.

See "APPENDIX B – SUMMARY OF PRINCIPAL LEGAL DOCUMENTS."

Upon the satisfaction of all such conditions precedent, the Term of the Lease will thereupon end as to the Former Property and commence as to the Substitute Property, and all references to the Former Property will apply with full force and effect to the Substitute Property.

The City is not entitled to any reduction, diminution, extension or other modification of the Lease Payments whatsoever as a result of any substitution of property under this provision of the Lease.

Release of Leased Property

Under the Lease, the City has the option at any time and from time to time to release any portion of the Leased Property from the Lease (the “**Released Property**”) provided that the City has satisfied all of the requirements under the Lease that are conditions precedent to such release, which include (among others) the following:

- The City has filed with the Authority and the Trustee, and caused to be recorded in the office of the County Recorder sufficient memorialization of an amendment of the Lease, the Site Lease and the Assignment Agreement which removes the Released Property from the Lease, the Site Lease and the Assignment Agreement.
- The City has certified in writing to the Authority and the Trustee that the value of the property which remains subject to the Lease following such release is at least equal to the aggregate Outstanding principal amount of the Bonds, and the fair rental value of the property which remains subject to the Lease following such release is at least equal to the Lease Payments thereafter coming due and payable thereunder.

See “APPENDIX B – SUMMARY OF PRINCIPAL LEGAL DOCUMENTS.”

THE BONDS

This section provides summaries of the Bonds and certain provisions of the Indenture. See APPENDIX B for a more complete summary of the Indenture. Capitalized terms used but not defined in this section have the meanings given in APPENDIX B.

Authority for Issuance

The Bonds are being issued under the Law, the Authority Resolution, City Resolution and Indenture. Under the Authority Resolution and City Resolution, the Bonds may be issued in a principal amount not to exceed \$5,500,000.

General Provisions

Bond Terms. The Bonds will be dated their date of delivery and issued in fully registered form without coupons in integral multiples of \$5,000, so long as no Bond has more than one maturity date.

Interest on the Bonds will be payable on April 1 and October 1 in each year, commencing October 1, 2021 (each an “**Interest Payment Date**”). The Bonds will mature in the amounts and on the dates, and bear interest at the annual rates, set forth on the inside cover page of this Official Statement.

Calculation of Interest. Interest on the Bonds is payable from the Interest Payment Date next preceding the date of authentication thereof unless:

(a) a Bond is authenticated on or before an Interest Payment Date and after the close of business on the preceding Record Date, in which event it will bear interest from such Interest Payment Date;

(b) a Bond is authenticated on or before the first Record Date, in which event interest thereon will be payable from the Closing Date; or

(c) interest on any Bond is in default as of the date of authentication thereof, in which event interest thereon will be payable from the date to which interest has been paid in full, payable on each Interest Payment Date.

Interest with respect to the Bonds will be computed on the basis of a 360-day year composed of 12 months of 30 days each.

Record Date. Under the Indenture, “Record Date” means, with respect to any Interest Payment Date, the 15th calendar day of the month preceding such Interest Payment Date, whether or not such day is a Business Day.

Payments of Principal and Interest. Interest is payable on each Interest Payment Date to the persons in whose names the ownership of the Bonds is registered on the Registration Books at the close of business on the immediately preceding Record Date, except as provided below. Interest on any Bond which is not punctually paid or duly provided for on any Interest Payment Date is payable to the person in whose name the ownership of such Bond is registered on the Registration Books at the close of business on a special record date for the payment of such defaulted interest to be fixed by the Trustee, notice of which is given to such Owner by first-class mail not less than 10 days prior to such special record date.

The Trustee will pay interest on the Bonds by check of the Trustee mailed by first class mail, postage prepaid, on each Interest Payment Date to the Owners of the Bonds at their respective addresses shown on the Registration Books as of the close of business on the preceding Record Date. At the written request of the Owner of Bonds in an aggregate principal amount of at least \$1,000,000, which written request is on file with the Trustee as of any Record Date, the Trustee will pay interest on such Bonds on each succeeding Interest Payment Date by wire transfer in immediately available funds to such account of a financial institution within the United States of America as specified in such written request, which will remain in effect until rescinded in writing by the Owner.

The Trustee will pay principal of the Bonds in lawful money of the United States of America by check of the Trustee upon presentation and surrender thereof at the Office of the Trustee.

While the Bonds are subject to the book-entry system, the principal, interest and any redemption premium with respect to the Bonds will be paid by the Trustee to DTC for subsequent disbursement to beneficial owners of the Bonds. See “– Book-Entry Only System” below.

Redemption*

Optional Redemption. The Bonds maturing on or before October 1, 2030, are not subject to optional redemption prior to their stated maturity. The Bonds maturing on or after October 1, 2031, are subject to redemption, as a whole or in part at the election of the Authority among

* Preliminary; subject to change.

maturities on such basis as designated by the Authority and by lot within a maturity, at the option of the Authority, on October 1, 2030, and on any date thereafter, at a redemption price equal to 100% of the principal amount of Bonds to be redeemed, together with accrued interest thereon to the date fixed for redemption, without premium.

Special Mandatory Redemption From Insurance or Condemnation Proceeds. The Bonds are subject to redemption as a whole, or in part on a pro rata basis among maturities, on any date, from any Net Proceeds required to be used for such purpose as provided in the Indenture, at a redemption price equal to 100% of the principal amount thereof plus interest accrued thereon to the date fixed for redemption, without premium.

Mandatory Sinking Fund Redemption. The Term Bonds are subject to mandatory redemption in part by lot, at a redemption price equal to 100% of the principal amount thereof to be redeemed, without premium, in the aggregate respective principal amounts and on October 1 in the respective years as set forth in the following tables; *provided, however*, that if some but not all of the Term Bonds have been redeemed through an optional redemption or special mandatory redemption from insurance or condemnation proceeds, the total amount of all future sinking fund payments will be reduced by the aggregate principal amount of the Term Bonds so redeemed, to be allocated among such sinking fund payments on a pro rata basis in integral multiples of \$5,000 (as set forth in a schedule provided by the Authority to the Trustee).

Mandatory Sinking Fund Redemption of
Term Bonds Maturing October 1, 20__

Sinking Fund Redemption Date (<u>October 1</u>)	Principal Amount To Be Redeemed
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Mandatory Sinking Fund Redemption of
Term Bonds Maturing October 1, 20__

Sinking Fund Redemption Date (<u>October 1</u>)	Principal Amount To Be Redeemed
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Selection of Bonds for Redemption. Whenever provision is made in the Indenture for the redemption of less than all of the Bonds of a single maturity, the Trustee will select the Bonds of that maturity to be redeemed from all Bonds of that maturity to be redeemed by lot in any manner which the Trustee in its sole discretion deems appropriate. For purposes of such selection, the Trustee shall treat each Bond as consisting of separate \$5,000 portions and each such portion shall be subject to redemption as if such portion were a separate Bond.

Notice of Redemption. The Trustee shall mail notice of redemption of the Bonds by first class mail, postage prepaid, not less than 20 nor more than 60 days before any redemption date,

to the respective Owners of any Bonds designated for redemption at their addresses appearing on the Registration Books and to one or more Securities Depositories and to the Municipal Securities Rulemaking Board as provided in the Continuing Disclosure Certificate.

Neither the failure to receive any notice nor any defect therein will affect the sufficiency of the proceedings for such redemption or the cessation of accrual of interest from and after the redemption date.

Rescission of Redemption. The Authority has the right to rescind any notice of optional redemption of the Bonds by written notice to the Trustee on or prior to the date fixed for redemption.

Any notice of redemption will be cancelled and annulled if for any reason funds will not be or are not available on the date fixed for redemption for the payment in full of the Bonds then called for redemption, and such cancellation will not constitute an Event of Default under the Indenture.

The Authority and the Trustee have no liability to the Bond Owners or any other party related to or arising from such rescission of redemption. The Trustee will mail notice of such rescission of redemption in the same manner as the original notice of redemption was sent under the Indenture.

Effect of Redemption. If notice of redemption has been duly given as provided in the Indenture, and moneys for payment of the redemption price of, together with interest accrued to the date fixed for redemption on, including any applicable premium, the Bonds (or portions thereof) so called for redemption being held by the Trustee, on the redemption date designated in such notice, the Bonds (or portions thereof) so called for redemption will become due and payable, interest on the Bonds so called for redemption will cease to accrue, said Bonds (or portions thereof) will cease to be entitled to any benefit or security under the Indenture, and the Owners of said Bonds will have no rights in respect thereof except to receive payment of the redemption price thereof.

Book-Entry Only System

The Bonds will be issued as fully registered bonds in book-entry only form, registered in the name of Cede & Co. as nominee of DTC, and will be available to ultimate purchasers in the denomination of \$5,000 or any integral multiple of \$5,000, under the book-entry system maintained by DTC. While the Bonds are subject to the book-entry system, the principal, interest and any redemption premium with respect to a Bond will be paid by the Trustee to DTC, which in turn is obligated to remit such payment to its DTC Participants for subsequent disbursement to Beneficial Owners of the Bonds. Purchasers of the Bonds will not receive certificates representing their interests therein, which will be held at DTC.

See "APPENDIX F – DTC AND THE BOOK-ENTRY ONLY SYSTEM" for further information regarding DTC and the book-entry system.

Transfer, Registration and Exchange

The following provisions regarding the exchange and transfer of the Bonds apply only during any period in which the Bonds are not subject to DTC's book-entry system. While the Bonds are subject to DTC's book-entry system, their exchange and transfer will be effected

through DTC and the Participants and will be subject to the procedures, rules and requirements established by DTC. See "APPENDIX F – DTC AND THE BOOK-ENTRY ONLY SYSTEM."

Bond Register. The Trustee will keep or cause to be kept, at the Office of the Trustee, sufficient records for the registration and transfer of ownership of the Bonds, which shall upon reasonable notice as agreed to by the Trustee, be open to inspection during regular business hours by the Authority; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on such records, the ownership of the Bonds as provided in the Indenture.

Transfer of Bonds. Any Bond may, in accordance with its terms, be transferred, upon the Registration Books, by the person in whose name it is registered, in person or by a duly authorized attorney of such person, upon surrender of such Bond to the Trustee at its Office for cancellation, accompanied by delivery of a written instrument of transfer in a form acceptable to the Trustee, duly executed. The Trustee will require the Owner requesting such transfer to pay any tax or other governmental charge required to be paid with respect to such transfer. Whenever any Bond or Bonds are surrendered for transfer, the Authority will execute and the Trustee will authenticate and deliver to the transferee a new Bond or Bonds of like series, interest rate, maturity and aggregate principal amount. The Authority will pay the cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any transfer of Bonds.

Exchange of Bonds. The Bonds may be exchanged at the Office of the Trustee for a like aggregate principal amount of Bonds of other authorized denominations and of the same series, interest rate and maturity. The Trustee will require the Owner requesting such exchange to pay any tax or other governmental charge required to be paid with respect to such exchange. The Authority will pay the cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any exchange of Bonds.

Limitations on Transfer and Exchange. The Trustee may refuse to transfer or exchange, under these provisions of the Indenture, any Bonds selected by the Trustee for redemption under the Indenture, or any Bonds during the period established by the Trustee for the selection of Bonds for redemption.

DEBT SERVICE SCHEDULE

The table below shows annual debt service payments on the Bonds, assuming no optional or mandatory redemption thereof.

Year Ending October 1	Principal	Interest	Total Debt Service
2021			
2022			
2023			
2024			
2025			
2026			
2027			
2028			
2029			
2030			
2031			
2032			
2033			
2034			
2035			
2036			
2037			
2038			
2039			
Total:			

SECURITY FOR THE BONDS

The principal of and interest on the Bonds are not a debt of the Authority or the City, nor a legal or equitable pledge, charge, lien or encumbrance, upon any of their respective property, or upon any of their income, receipts, or revenues except the Revenues and other amounts pledged under the Indenture.

This section provides summaries of the security for the Bonds and certain provisions of the Indenture, the Lease and the Site Lease. See "APPENDIX B – SUMMARY OF PRINCIPAL LEGAL DOCUMENTS" for a more complete summary of the Indenture, the Lease and the Site Lease. Capitalized terms used but not defined in this section have the meanings given in APPENDIX B.

Revenues; Pledge of Revenues

Pledge of Revenues and Other Amounts. Subject only to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth therein, all of the Revenues and all amounts (including proceeds of the sale of the Bonds) held in any fund or account established under the Indenture are pledged to secure the payment of the principal of and interest and premium (if any) on the Bonds in accordance with their terms and the provisions of the Indenture. Said pledge constitutes a lien on and security interest in the Revenues and such amounts and will attach, be perfected and be valid and binding from and after the Closing Date, without the need for any physical delivery thereof or further act.

"**Revenues**" are defined in the Indenture to mean:

- (a) all amounts received by the Authority or the Trustee under or with respect to the Lease, including, without limiting the generality of the foregoing, all of the Lease Payments (including both timely and delinquent payments, any late charges, and whether paid from any source), but excluding (i) any amounts described in the provisions of the Lease relating to permitted amendments that provide for additional rental to be pledged or assigned for the payment of bonds issued to finance or refinance projects for which the City is authorized to expend its funds, and (ii) any Additional Rental Payments (consisting of certain administrative costs due to the Authority and the Trustee under the Lease), and
- (b) all interest, profits or other income derived from the investment of amounts in any fund or account established under the Indenture.

Assignment to Trustee. Under the Assignment Agreement, the Authority has transferred to the Trustee all of the rights of the Authority in the Lease (other than the rights of the Authority under the provisions of the Lease regarding Additional Rental Payments, advances, release and indemnification covenants, and agreement to pay attorneys' fees).

The Trustee is entitled to collect and receive all of the Revenues, and any Revenues collected or received by the Authority will be deemed to be held, and to have been collected or received, by the Authority as the agent of the Trustee and will forthwith be paid by the Authority to the Trustee.

The Trustee is also entitled to and required to, subject to the provisions of the Indenture regarding rights of the Trustee, take all steps, actions and proceedings which the Trustee

determines to be reasonably necessary in its judgment to enforce, either jointly with the Authority or separately, all of the rights of the Authority and all of the obligations of the City under the Lease.

Allocation of Revenues by Trustee; Application of Funds

Deposit of Revenues in Bond Fund. All Revenues will be promptly deposited by the Trustee upon receipt thereof in a special fund designated as the "Bond Fund," which the Trustee will establish, maintain and hold in trust; except that all moneys received by the Trustee and required under the Indenture or under the Lease to be deposited in the Redemption Fund or the Insurance and Condemnation Fund will be promptly deposited in such funds.

All Revenues deposited with the Trustee will be held, disbursed, allocated and applied by the Trustee only as provided in the Indenture. Any surplus remaining in the Bond Fund, after payment in full of the principal of and interest on the Bonds or provision therefore under Indenture, and any applicable fees and expenses to the Trustee, will be withdrawn by the Trustee and remitted to the City.

Allocation of Revenues. On or before each Interest Payment Date, the Trustee will transfer from the Bond Fund and deposit into the following respective accounts (each of which the Trustee will establish and maintain within the Bond Fund), the following amounts in the following order of priority:

(a) Deposit to Interest Account. The Trustee will deposit in the Interest Account an amount required to cause the aggregate amount on deposit in the Interest Account to be at least equal to the amount of interest becoming due and payable on such Interest Payment Date on all Bonds then Outstanding.

(b) Deposit to Principal Account. The Trustee will deposit in the Principal Account an amount required to cause the aggregate amount on deposit in the Principal Account to equal the principal amount of the Bonds coming due and payable on such Interest Payment Date, including principal of any Term Bonds payable as a result of mandatory sinking fund redemption.

Lease Payments; Covenant to Appropriate

Obligation to Pay. Under the Lease, subject to the provisions of Lease regarding abatement and prepayment, the City agrees to pay to the Authority, its successors and assigns, the Lease Payments in the respective amounts specified in the Lease, to be due and payable in immediately available funds on the Interest Payment Dates immediately following each of the respective Lease Payment Dates specified in the Lease, and to be deposited by the City with the Trustee on each of the Lease Payment Dates specified in the Lease.

Any amount held in the Bond Fund, the Interest Account and the Principal Account on any Lease Payment Date (other than amounts resulting from the prepayment of the Lease Payments in part but not in whole under the Lease, and amounts required for payment of past due principal or interest on any Bonds not presented for payment) will be credited towards the Lease Payment then required to be paid under the Lease. The City is not required to deposit any Lease Payment with the Trustee on any Lease Payment Date if the amounts then held in the Bond Fund, the Interest Account and the Principal Account are at least equal to the Lease Payment then required to be deposited with the Trustee.

The Lease Payments payable in any Rental Period are for the use of the Leased Property during that Rental Period.

Fair Rental Value. The aggregate amount of the Lease Payments and Additional Rental Payments coming due and payable during each Rental Period constitute the total rental for the Leased Property for such Rental Period, and are payable by the City in each Rental Period for and in consideration of the right of the use and occupancy of, and the continued quiet use and enjoyment of the Leased Property during each Rental Period.

The City and the Authority have agreed and determined that the total Lease Payments represent the fair rental value of the Leased Property. In making that determination, consideration has been given to the estimated value of the Leased Property, other obligations of the City and the Authority under this Lease, the uses and purposes which may be served by the Leased Property and the benefits therefrom which will accrue to the City and the general public.

Source of Payments; Covenant to Budget and Appropriate. Under the Lease, the Lease Payments are payable from any source of available funds of the City, subject to the provisions of the Lease regarding abatement. See “ – Abatement” below.

The City covenants in the Lease to take all actions required to include the Lease Payments in each of its budgets during the Term of the Lease and to make the necessary appropriations for all Lease Payments and Additional Rental Payments. This covenant of the City constitutes a duty imposed by law and each and every public official of the City is required to take all actions required by law in the performance of the official duty of such officials to enable the City to carry out and perform the covenants and agreements agreed to be carried out and performed by the City under the Lease.

Limited Obligation

THE OBLIGATION OF THE CITY TO MAKE THE LEASE PAYMENTS DOES NOT CONSTITUTE A DEBT OF THE CITY, THE AUTHORITY OR THE STATE OR OF ANY POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMIT OR RESTRICTION, AND DOES NOT CONSTITUTE AN OBLIGATION FOR WHICH THE CITY IS OBLIGATED TO LEVY OR PLEDGE ANY FORM OF TAXATION OR FOR WHICH THE CITY HAS LEVIED OR PLEDGED ANY FORM OF TAXATION.

Abatement

Termination or Abatement Due to Eminent Domain. Under the Lease, if the Leased Property is taken permanently under the power of eminent domain or sold to a government threatening to exercise the power of eminent domain, the Term of the Lease thereupon ceases as of the day possession is taken. If less than all of the Leased Property is taken permanently, or if the Leased Property is taken temporarily, under the power of eminent domain, then:

- (a) the Lease will continue in full force and effect with respect thereto and does not terminate by virtue of such taking, and the parties waive the benefit of any law to the contrary; and

(b) the Lease Payments are subject to abatement in an amount determined by the City such that the resulting Lease Payments represent fair consideration for the use and occupancy of the remaining usable portions of the Leased Property.

Abatement Due to Damage or Destruction. Under the Lease, the Lease Payments are subject to abatement during any period in which by reason of damage or destruction (other than by eminent domain as described above) there is substantial interference with the use and occupancy by the City of the Leased Property or any portion thereof.

The Lease Payments are subject to abatement in an amount determined by the City such that the resulting Lease Payments represent fair consideration for the use and occupancy of the remaining usable portions of the Leased Property not damaged or destroyed. Such abatement will continue for the period commencing with such damage or destruction and ending with the substantial completion of the work of repair or reconstruction.

In the event of any such damage or destruction, this Lease continues in full force and effect and the City waives any right to terminate this Lease by virtue of any such damage and destruction.

No Reserve Fund

No debt service reserve fund has been established with respect to the Bonds. See “BOND OWNERS’ RISKS – No Debt Service Reserve Fund.”

Property Insurance

Liability and Property Damage Insurance. Under the Lease, the City is required to maintain or cause to be maintained throughout the Term of the Lease, but only if and to the extent available from reputable insurers at reasonable cost in the reasonable opinion of the City, a standard commercial general liability insurance policy or policies in protection of the Authority, the City, and their respective members, officers, agents, employees and assigns. Said policy or policies shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of the operation of the Leased Property.

Such policy or policies shall provide coverage in such liability limits and be subject to such deductibles as the City deems adequate and prudent. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of self-insurance by the City, subject to the provisions of the Lease, or in the form of the participation by the City in a joint powers agency or other program providing pooled insurance.

The proceeds of such liability insurance must be applied toward extinguishment or satisfaction of the liability with respect to which paid.

Casualty Insurance. Under the Lease, the City is required to procure and maintain, or cause to be procured and maintained, throughout the Term of the Lease, casualty insurance against loss or damage to all buildings situated on the Leased Property, in an amount at least equal to the lesser of (a) 100% of the replacement value of the insured buildings, or (b) 100% of the aggregate principal amount of the Outstanding Bonds.

Such insurance must, as nearly as practicable, cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance, and must include earthquake insurance if available at reasonable cost from reputable insurers in the judgment of the City.

Such insurance may be subject to such deductibles as the City deems adequate and prudent. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of the participation by the City in a joint powers agency or other program providing pooled insurance; provided that such insurance may not be maintained by the City in the form of self-insurance. The Net Proceeds of such insurance must be applied as provided in the Lease and described below.

Rental Interruption Insurance. Under the Lease, the City is required to procure and maintain, or cause to be procured and maintained, throughout the Term of the Lease, rental interruption or use and occupancy insurance to cover loss, total or partial, of the use of any portion of the Leased Property constituting buildings or other improvements as a result of any of the hazards covered in the casualty insurance described above, in an amount at least equal to the maximum such Lease Payments coming due and payable during any consecutive two Fiscal Years.

Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of the participation by the City in a joint powers agency or other program providing pooled insurance; provided that such insurance may not be maintained by the City in the form of self-insurance.

The Net Proceeds of such insurance, if any, must be paid to the Trustee and deposited in the Bond Fund, to be applied as a credit towards the payment of the Lease Payments allocable to the insured improvements as the same become due and payable.

Application of Net Proceeds. The Trustee, as assignee of the Authority under the Assignment Agreement, has the right to receive all Net Proceeds. As provided in the Indenture, the Trustee will deposit all Net Proceeds in the Insurance and Condemnation Fund to be applied to the redemption of Bonds as set forth in the Indenture.

THE AUTHORITY

The Authority was originally established as a joint exercise of powers authority organized and existing under and pursuant to a Joint Exercise of Powers Agreement dated January 11, 1994, by and between the City and the Berkeley Redevelopment Agency (the "**Original Agreement**"). Following the dissolution of redevelopment agencies pursuant to the 2011 California Budget Act, the City subsequently revised the Original Agreement pursuant to an Amended and Restated Joint Exercise of Powers Agreement dated as of October 2, 2012, by and among the City, the Berkeley Redevelopment Successor Agency, as successor agency to the Berkeley Redevelopment Agency, and the California Municipal Finance Authority, a joint exercise of powers authority. The Authority is authorized pursuant to Article 4 (commencing with Section 6584) of the Act to borrow money for the purpose of financing the acquisition of bonds, notes and other obligations of, or for the purpose of making loans to, public entities, including the City and to provide financing for public capital improvements for lease to public entities, including the City. The members of the City Council of the City also sit as the Board of Directors of the Authority.

CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS

The constitutional and statutory provisions discussed in this section have the potential to affect the ability of the City to levy taxes and spend tax proceeds for operating and other purposes.

Article XIII A of the State Constitution

On June 6, 1978, California voters approved Proposition 13, which added Article XIII A to the State Constitution. Article XIII A, as amended, limits the amount of any *ad valorem* tax on real property to one percent of the full cash value thereof, except that additional *ad valorem* taxes may be levied to pay debt service (i) on indebtedness approved by the voters prior to July 1, 1978, (ii) on bonded indebtedness approved by a two-thirds vote on or after July 1, 1978, for the acquisition or improvement of real property or (iii) bonded indebtedness incurred by a school district, community college district or county office of education for the construction, reconstruction, rehabilitation or replacement of school facilities, including the furnishing and equipping of school facilities or the acquisition or lease of real property for school facilities, approved by 55 percent of the voters voting on the proposition. Article XIII A defines full cash value to mean “the county assessor’s valuation of real property as shown on the 1975-76 tax bill under “full cash value,” or thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment.” This full cash value may be increased at a rate not to exceed two percent per year to account for inflation.

Article XIII A has subsequently been amended to permit reduction of the “full cash value” base in the event of declining property values caused by damage, destruction or other factors, to provide that there would be no increase in the “full cash value” base in the event of reconstruction of property damaged or destroyed in a disaster, and in other minor or technical ways.

Legislation Implementing Article XIII A

Legislation has been enacted and amended a number of times since 1978 to implement Article XIII A. Under current law, local agencies are no longer permitted to levy directly any property tax (except to pay voter-approved indebtedness). The one percent property tax is automatically levied by the County and distributed according to a formula among taxing agencies. The formula apportions the tax roughly in proportion to the relative shares of taxes levied prior to 1989.

Increases of assessed valuation resulting from reappraisals of property due to new construction, change in ownership or from the two percent annual adjustment are allocated among the various jurisdictions in the “taxing area” based upon their respective “situs.” Any such allocation made to a local agency continues as part of its allocation in future years.

All taxable property is shown at full market value on the tax rolls. Consequently, the tax rate is expressed as \$1 per \$100 of taxable value. All taxable property value included in this Official Statement is shown at 100 percent of market value (unless noted differently) and all tax rates reflect the \$1 per \$100 of taxable value.

Article XIII B of the State Constitution

In addition to the limits Article XIII A imposes on property taxes that may be collected by local governments, certain other revenues of the State and most local governments are subject to an annual "appropriations limit" imposed by Article XIII B which effectively limits the amount of such revenues those entities are permitted to spend. Article XIII B, approved by the voters in June 1979, was modified substantially by Proposition 111 in 1990. The appropriations limit of each government entity applies to "proceeds of taxes," which consist of tax revenues, State subventions and certain other funds, including proceeds from regulatory licenses, user charges or other fees to the extent that such proceeds exceed "the cost reasonably borne by such entity in providing the regulation, product or service." "Proceeds of taxes" excludes tax refunds and some benefit payments such as unemployment insurance. No limit is imposed on the appropriation of funds which are not "proceeds of taxes," such as reasonable user charges or fees, and certain other non-tax funds. Article XIII B also does not limit appropriation of local revenues to pay debt service on Bonds existing or authorized by January 1, 1979, or subsequently authorized by the voters, appropriations required to comply with mandates of courts or the federal government, appropriations for qualified capital outlay projects, and appropriation by the State of revenues derived from any increase in gasoline taxes and motor vehicle weight fees above January 1, 1990, levels. The appropriations limit may also be exceeded in case of emergency; however, the appropriations limit for the next three years following such emergency appropriation must be reduced to the extent by which it was exceeded, unless the emergency arises from civil disturbance or natural disaster declared by the Governor, and the expenditure is approved by two-thirds of the legislative body of the local government.

The State and each local government entity have its own appropriations limit. Each year, the limit is adjusted to allow for changes, if any, in the cost of living, the population of the jurisdiction, and any transfer to or from another government entity of financial responsibility for providing services. Proposition 111 requires that each agency's actual appropriations be tested against its limit every two years.

If the aggregate "proceeds of taxes" for the preceding two-year period exceeds the aggregate limit, the excess must be returned to the agency's taxpayers through tax rate or fee reductions over the following two years.

Articles XIII C and XIII D of the State Constitution

General. On November 5, 1996, the voters of the State approved Proposition 218, known as the "Right to Vote on Taxes Act." Proposition 218 adds Articles XIII C and XIII D to the California Constitution and contains a number of interrelated provisions affecting the ability of the City to levy and collect both existing and future taxes, assessments, fees and charges.

On November 2, 2010, California voters approved Proposition 26, entitled the "Supermajority Vote to Pass New Taxes and Fees Act." Section 1 of Proposition 26 declares that Proposition 26 is intended to limit the ability of the State Legislature and local government to circumvent existing restrictions on increasing taxes by defining the new or expanded taxes as "fees." Proposition 26 amended Articles XIII A and XIII C of the State Constitution. The amendments to Article XIII A limit the ability of the State Legislature to impose higher taxes (as defined in Proposition 26) without a two-thirds vote of the Legislature. The amendments to Article XIII C define "taxes" that are subject to voter approval as "any levy, charge, or exaction of any kind imposed by a local government," with certain exceptions.

Taxes. Article XIII C requires that all new local taxes be submitted to the electorate before they become effective. Taxes for general governmental purposes of the City (“general taxes”) require a majority vote; taxes for specific purposes (“special taxes”), even if deposited in the City’s General Fund, require a two-thirds vote.

Property-Related Fees and Charges. Article XIII D also adds several provisions making it generally more difficult for local agencies to levy and maintain property-related fees, charges, and assessments for municipal services and programs.

Reduction or Repeal of Taxes, Assessments, Fees and Charges. Article XIII C also removes limitations on the initiative power in matters of reducing or repealing local taxes, assessments, fees or charges. No assurance can be given that the voters of the City will not, in the future, approve an initiative or initiatives which reduce or repeal local taxes, assessments, fees or charges currently comprising a substantial part of the City’s General Fund. If such repeal or reduction occurs, the City’s ability to pay debt service on the Bonds could be adversely affected.

Burden of Proof. Article XIII C provides that local government “bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor’s burdens on, or benefits received from, the governmental activity.” Similarly, Article XIII D provides that in “any legal action contesting the validity of a fee or charge, the burden shall be on the agency to demonstrate compliance” with Article XIII D.

Judicial Interpretation of Proposition 218. The interpretation and application of Articles XIII C and XIII D will ultimately be determined by the courts, and it is not possible at this time to predict with certainty the outcome of such determination.

Impact on City’s General Fund. The City does not believe that any material source of General Fund revenue is subject to challenge under Proposition 218 or Proposition 26.

The approval requirements of Articles XIII C and XIII D reduce the flexibility of the City to raise revenues for the General Fund, and no assurance can be given that the City will be able to impose, extend or increase the taxes, fees, charges or taxes in the future that it may need to meet increased expenditure needs.

Proposition 62

Proposition 62 was adopted by the voters at the November 4, 1986, general election and (a) requires that any new or higher taxes for general governmental purposes imposed by local governmental entities such as the City be approved by a two-thirds vote of the governmental entity’s legislative body and by a majority vote of the voters of the governmental entity voting in an election on the tax, (b) requires that any special tax (defined as taxes levied for other than general governmental purposes) imposed by a local governmental entity be approved by a two-thirds vote of the voters of the governmental entity voting in an election on the tax, (c) restricts the use of revenues from a special tax to the purposes or for the service for which the special tax was imposed, (d) prohibits the imposition of ad valorem taxes on real property by local governmental entities except as permitted by Article XIII A, (e) prohibits the imposition of transaction taxes and sales taxes on the sale of real property by local governmental entities, and (f) requires that any tax imposed by a local governmental entity on or after August 1, 1985, be

ratified by a majority vote of the voters voting in an election on the tax within two years of the adoption of the initiative or be terminated by November 15, 1988.

California appellate court cases have overturned the provisions of Proposition 62 pertaining to the imposition of taxes for general government purposes. However, the California Supreme Court upheld Proposition 62 in its decision on August 28, 1995, in *Fresno County Transportation Authority v. Guardino*. This decision reaffirmed the constitutionality of Proposition 62. Certain matters regarding Proposition 62 were not addressed in the Supreme Court's decision, such as what remedies exist for taxpayers subject to a tax not in compliance with Proposition 62, and whether the decision applies to charter cities. The City has not experienced any substantive adverse financial impact as a result of the passage of this initiative.

Proposition 1A; Proposition 22

Proposition 1A. Proposition 1A, proposed by the Legislature in connection with the State's Fiscal Year 2004-05 Budget, approved by the voters in November 2004 and generally effective in Fiscal Year 2006-07, provided that the State may not reduce any local sales tax rate, limit existing local government authority to levy a sales tax rate or change the allocation of local sales tax revenues, subject to certain exceptions. Proposition 1A generally prohibited the State from shifting to schools or community colleges any share of property tax revenues allocated to local governments for any Fiscal Year, as set forth under the laws in effect as of November 3, 2004. Any change in the allocation of property tax revenues among local governments within a county had to be approved by two-thirds of both houses of the Legislature.

Proposition 22. Proposition 22, entitled "The Local Taxpayer, Public Safety and Transportation Protection Act," was approved by the voters of the State in November 2010. Proposition 22 eliminates or reduces the State's authority to (i) temporarily shift property taxes from cities, counties and special districts to schools, (ii) use vehicle license fee revenues to reimburse local governments for State-mandated costs (the State will have to use other revenues to reimburse local governments), (iii) redirect property tax increment from redevelopment agencies to any other local government, (iv) use State fuel tax revenues to pay debt service on State transportation bonds, or (v) borrow or change the distribution of State fuel tax revenues.

Possible Future Initiatives

Articles XIII A, XIII B, XIII C and XIII D and Propositions 62, 1A and 22 were each adopted as measures that qualified for the ballot pursuant to the State's initiative process. From time to time other initiative measures could be adopted, further affecting revenues of the City or the City's ability to expend revenues. The nature and impact of these measures cannot be anticipated by the City.

BOND OWNERS' RISKS

The following describes certain special considerations and risk factors affecting the payment of and security for the Bonds. The following discussion is not meant to be an exhaustive list of the risks associated with the purchase of any Bonds and does not necessarily reflect the relative importance of the various risks. Potential investors in the Bonds are advised to consider the following special factors along with all other information in this Official Statement in evaluating the Bonds. There can be no assurance that other considerations will not materialize in the future.

No Pledge of Taxes

The obligation of the City to pay the Lease Payments and Additional Rental does not constitute an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. The obligation of the City to pay Lease Payments and Additional Rental does not constitute a debt or indebtedness of the Authority, the City, the State of California or any of its political subdivisions within the meaning of any constitutional or statutory debt limitation or restriction.

The City is currently liable on other obligations payable from general revenues, which are described above under "APPENDIX A – FINANCIAL, ECONOMIC AND DEMOGRAPHIC INFORMATION FOR THE CITY OF BERKELEY AND ALAMEDA COUNTY – Long-Term General Fund Obligations."

Limitations on Taxes and Fees

Limitations on Taxes and Fees. Certain taxes, assessments, fees and charges presently imposed by the City could be subject to the voter approval requirements of Article XIIC and Article XIID of the State Constitution. Based upon the outcome of an election by the voters, such fees, charges, assessments and taxes might no longer be permitted to be imposed, or may be reduced or eliminated and new taxes, assessments fees and charges may not be approved. The City has assessed the potential impact on its financial condition of the provisions of Article XIIC and Article XIID of the State Constitution respecting the imposition and increase of taxes, fees, charges and assessments and does not believe that an election by the voters to reduce or eliminate the imposition of certain existing fees, charges, assessments and taxes would substantially affect its financial condition. However, the City believes that if the initiative power was exercised so that all local taxes, assessments, fees and charges that may be subject to Article XIIC and Article XIID of the State Constitution are eliminated or substantially reduced, the financial condition of the City, including its General Fund, could be materially adversely affected.

Although the City does not currently anticipate that the provisions of Article XIIC and Article XIID of the State Constitution would adversely affect its ability to pay Lease Payments and its other obligations payable from the General Fund, no assurance can be given regarding the ultimate interpretation or effect of Article XIIC and Article XIID of the State Constitution on the City's finances. See "CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS."

Additional Obligations of the City

The City has existing obligations payable from its General Fund. See "APPENDIX A – FINANCIAL, ECONOMIC AND DEMOGRAPHIC INFORMATION FOR THE CITY OF BERKELEY AND ALAMEDA COUNTY – Long-Term General Fund Obligations." The City is

permitted to enter into other obligations which constitute additional charges against its revenues without the consent of Owners of the Bonds. To the extent that additional obligations are incurred by the City, the funds available to pay Lease Payments may be decreased.

The Lease Payments and other payments due under the Lease (including payment of costs of repair and maintenance of the Leased Property, taxes and other governmental charges levied against the Leased Property) are payable from funds lawfully available to the City. If the amounts that the City is obligated to pay in a fiscal year exceed the City's revenues for such year, the City may choose to make some payments rather than making other payments, including Lease Payments and Additional Rental, based on the perceived needs of the City. The same result could occur if, because of California Constitutional limits on expenditures, the City is not permitted to appropriate and spend all of its available revenues or is required to expend available revenues to preserve the public health, safety and welfare.

Default

Whenever any event of default referred to in the Lease happens and continues, the Authority is authorized under the terms of the Lease to exercise any and all remedies available under law or granted under the Lease. See "APPENDIX B – SUMMARY OF PRINCIPAL LEGAL DOCUMENTS" for a detailed description of available remedies in the case of a default under the Lease.

If a default occurs, there is no remedy of acceleration of the total Lease Payments due over the term of the Lease. The Trustee is not empowered to sell the Leased Property and use the proceeds of such sale to prepay the Bonds or pay debt service on the Bonds.

The City will be liable only for Lease Payments on an annual basis and, in the event of a default, the Trustee would be required to seek a separate judgment each year for that year's defaulted Lease Payments. Any such suit for money damages would be subject to limitations on legal remedies against municipalities in the State, including a limitation on enforcement of judgments against funds of a fiscal year other than the fiscal year in which the Lease Payments were due and against funds needed to serve the public welfare and interest.

Abatement

Under certain circumstances related to damage, destruction, condemnation or title defects which cause a substantial interference with the use and possession of the Leased Property, the City's obligation to make Lease Payments will be subject to full or partial abatement and could result in the Trustee having inadequate funds to pay the principal and interest on the Bonds as and when due. See "SECURITY FOR THE BONDS – Abatement" and "APPENDIX B – SUMMARY OF PRINCIPAL LEGAL DOCUMENTS."

Although the City is required under the Lease to maintain property and liability insurance with respect to the Leased Property, the required insurance coverage is subject to certain conditions and restrictions. See "SECURITY FOR THE BONDS – Property Insurance."

In addition, the Authority is required to use the proceeds of rental interruption insurance maintained under the Lease to make debt service payments on the Bonds during any period of abatement. See "SECURITY FOR THE BONDS – Property Insurance." However, there is no assurance that the Authority will receive proceeds of rental interruption insurance in time to make debt service payments on the Bonds when due.

No Debt Service Reserve Fund

The Authority will not fund a debt service reserve fund for the Bonds. If Revenues are insufficient for the Authority to pay debt service on the Bonds when due, no debt service reserve will be available under the Indenture for the Authority to make such payments.

Property Taxes

Levy and Collection. The City does not have any independent power to levy and collect property taxes. Any reduction in the tax rate or the implementation of any constitutional or legislative property tax decrease could reduce the City's property tax revenues, and accordingly, could have an adverse impact on the ability of the City to make Lease Payments. Likewise, delinquencies in the payment of property taxes could have an adverse effect on the City's ability to pay principal of and interest on the Bonds when due.

Reduction in Inflationary Rate. Article XIII A of the California Constitution provides that the full cash value base of real property used in determining assessed value may be adjusted from year to year to reflect the inflationary rate, not to exceed a 2% increase for any given year, or may be reduced to reflect a reduction in the consumer price index or comparable local data. See "CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS." Such measure is computed on a calendar year basis. Because Article XIII A limits inflationary assessed value adjustments to the lesser of the actual inflationary rate or 2%, there have been years in which the assessed values were adjusted by actual inflationary rates, which were less than 2%. Since Article XIII A was approved, the annual adjustment for inflation has fallen below the 2% limitation a limited number of times.

The City is unable to predict if any adjustments to the full cash value base of real property within the City, whether an increase or a reduction, will be realized in the future.

Appeals of Assessed Values. There are two types of appeals of assessed values that could adversely impact property tax revenues:

Proposition 8 Appeals. Most of the appeals that might be filed in the City would be based on Section 51 of the Revenue and Taxation Code, which requires that for each lien date the value of real property must be the lesser of its base year value annually adjusted by the inflation factor pursuant to Article XIII A of the State Constitution or its full cash value, taking into account reductions in value due to damage, destruction, depreciation, obsolescence, removal of property or other factors causing a decline in value.

Under California law, property owners may apply for a reduction of their property tax assessment by filing a written application, in form prescribed by the State Board of Equalization, with the appropriate county board of equalization or assessment appeals board. In most cases, the appeal is filed because the applicant believes that present market conditions (such as residential home prices) cause the property to be worth less than its current assessed value. These market-driven appeals are known as Proposition 8 appeals.

Any reduction in the assessment ultimately granted as a Proposition 8 appeal applies to the year for which application is made and during which the written application was filed. These reductions are often temporary and are adjusted back to their original

values when market conditions improve. Once the property has regained its prior value, adjusted for inflation, it once again is subject to the annual inflationary factor growth rate allowed under Article XIII A.

Base Year Appeals. A second type of assessment appeal is called a base year appeal, where the property owners challenge the original (basis) value of their property. Appeals for reduction in the “base year” value of an assessment, if successful, reduce the assessment for the year in which the appeal is taken and prospectively thereafter. The base year is determined by the completion date of new construction or the date of change of ownership. Any base year appeal must be made within four years of the change of ownership or new construction date.

No assurance can be given that property tax appeals in the future will not significantly reduce the City’s property tax revenues.

Limitations on Remedies Available to Bond Owners

The ability of the City to comply with its covenants under the Lease may be adversely affected by actions and events outside of the control of the City, and may be adversely affected by actions taken (or not taken) by voters, property owners, taxpayers or payers of assessments, fees and charges. See “CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS” above. Furthermore, any remedies available to the owners of the Bonds upon the occurrence of an event of default under the Lease or the Indenture are in many respects dependent upon judicial actions, which are often subject to discretion and delay and could prove both expensive and time consuming to obtain.

In addition to the limitations on Bondowner remedies contained in the Lease and the Indenture, the rights and obligations under the Bonds, the Lease and the Indenture may be subject to the following: the United States Bankruptcy Code and applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws relating to or affecting the enforcement of creditors’ rights generally, now or hereafter in effect; usual equity principles which may limit the specific enforcement under State law of certain remedies; the exercise by the United States of America of the powers delegated to it by the Federal Constitution; and the reasonable and necessary exercise, in certain exceptional situations, of the police power inherent in the sovereignty of the State and its governmental bodies in the interest of serving a significant and legitimate public purpose. Bankruptcy proceedings, or the exercise of powers by the federal or state government, if initiated, could subject the Owners of the Bonds to judicial discretion and interpretation of their rights in bankruptcy or otherwise, and consequently may entail risks of delay, limitation or modification of their rights.

The opinion to be delivered by Bond Counsel, concurrently with the issuance of the Bonds, will include a qualification that the rights of the owners of the Bonds and the enforceability of the Bonds and the Indenture, the Lease and the Site Lease may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors’ rights heretofore or hereafter enacted and may also be subject to the exercise of judicial discretion in accordance with principles of equity or otherwise in appropriate cases. See “APPENDIX D – PROPOSED FORM OF OPINION OF BOND COUNSEL.”

Climate Change

The adoption by the State of the California Global Warming Solutions Act of 2006 (AB 32) and subsequent companion bills demonstrate the commitment by the State to take action and reduce greenhouse gases (“GHG”) to 1990 levels by 2020 and 80% below 1990 levels by 2050. The State Attorney General’s Office, in accordance with SB 375, now requires that local governments examine local policies and large-scale planning efforts to determine how to reduce greenhouse gas emissions. Additionally, the State adopted Senate Bill No. 32, which established a revised statewide GHG emission reduction target of 40% below 1990 levels by 2030.

The City is vulnerable to the impacts of climate change. The severity of these impacts will depend on the amount of greenhouse gas emissions produced worldwide over the coming decades and the City’s ability to adapt to the changing climate. These impacts will continue to grow in intensity and will disproportionately affect vulnerable communities such as the elderly, children, people with disabilities, and people with low incomes. In order to mitigate climate change locally, the City developed the Berkeley Climate Action Plan (CAP). The CAP sets a target of achieving 80% GHG reductions below 2000 levels by 2050. The City also has goals to achieve net zero carbon emissions by 2050, become a fossil fuel free city, and reach 100% renewable electricity citywide by 2035. From 2000 to 2016, the City has reduced its greenhouse gas emissions by 15% despite a population increase of approximately 18% in that same period. The City’s mitigation efforts include developing plans, programs and policies to:

- Reduce energy use in building construction and operation, in transportation by shifting travel to walking, biking, and transit, and by minimizing landfilled waste;
- Clean the electricity used in the City and
- Electrify transportation and buildings to significantly reduce natural gas and petroleum use.

It is also critical that the City adapt to current and projected climate change impacts, including sea level rise, drought, severe storms, and extreme heat, in order to protect its community, infrastructure, buildings, and economy. The City has several plans that address climate adaptation including the Local Hazard Mitigation Plan, the Resilience Strategy, and the Climate Action Plan. The City is also developing a sea level rise plan for the Berkeley Marina and a green infrastructure plan. Some key climate resilience actions that the City is taking include implementing green infrastructure projects and identifying opportunities for clean energy assurance solutions, such as solar plus storage, for buildings. The City also actively participates in regional organizations such as the Bay Area Climate Adaptation Network to develop regional strategies and solutions to adapt to climate change.

Climate change will have new, direct impacts and will also exacerbate existing local natural hazards. Rising sea levels have the potential to impact infrastructure and community members in west Berkeley and the Berkeley waterfront. This could increase the City’s exposure to tsunami inundation and to flooding of critical infrastructure in these areas, which includes sanitary sewers, state highways, and railroad lines. Increased temperatures, when coupled with prolonged drought events, can increase the intensity of wildfires that may occur, and pose significant health and safety risks for vulnerable communities. Shorter, more intense wet seasons could make flooding more frequent, and may increase the landslide risk in the Berkeley hills. California may experience greater water and food insecurity, and drought may become a more persistent issue as the effects of climate change deepen.

Cybersecurity

The City and its departments face multiple cyber threats including, but not limited to, hacking, viruses, malware and other attacks on computers and other sensitive digital networks and systems. There have been, however, only limited cyber-attacks on the computer systems of the City. No assurances can be given that the security and operational control measures of the City will be successful in guarding against any and each cyber threat and attack. The results of any attack on the computer and information technology systems could have a material adverse impact on the operations of the City and damage the digital networks and systems. The resulting costs and/or impacts on operations and General Fund revenues could be material.

Loss of Tax-Exemption

As discussed under the caption "TAX MATTERS," interest on the Bonds could become includable in gross income for purposes of federal income taxation retroactive to the date the Bonds were issued, as a result of future acts or omissions of the Authority or the City in violation of their respective covenants in the Lease and the Indenture. Should such an event of taxability occur, the Bonds are not subject to special redemption and will remain Outstanding until maturity or until redeemed under other provisions set forth in the Indenture.

Secondary Market for Bonds

There can be no guarantee that there will be a secondary market for the Bonds or, if a secondary market exists, that any Bonds can be sold for any particular price. Occasionally, because of general market conditions or because of adverse history or economic prospects connected with a particular issue, secondary marketing practices in connection with a particular issue are suspended or terminated. Additionally, prices of issues for which a market is being made will depend upon then-prevailing circumstances. Such prices could be substantially different from the original purchase price.

TAX MATTERS

Federal Tax Status. In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, subject, however to the qualifications set forth below, under existing law, the interest on the Bonds is excluded from gross income for federal income tax purposes and such interest is not an item of tax preference for purposes of the federal alternative minimum tax.

The opinions set forth in the preceding paragraph are subject to the condition that the Authority comply with all requirements of the Internal Revenue Code of 1986, as amended (the "Tax Code") that must be satisfied subsequent to the issuance of the Bonds in order that the interest thereon be, and continue to be, excludable from gross income for federal income tax purposes. The Authority has made certain representations and covenants in order to comply with each such requirement. Inaccuracy of those representations, or failure to comply with certain of those covenants, may cause the inclusion of such interest in gross income for federal income tax purposes, which may be retroactive to the date of issuance of the Bonds.

Tax Treatment of Original Issue Discount and Premium. If the initial offering price to the public at which a Bond is sold is less than the amount payable at maturity thereof, then such difference constitutes "original issue discount" for purposes of federal income taxes and State of

California personal income taxes. If the initial offering price to the public at which a Bond is sold is greater than the amount payable at maturity thereof, then such difference constitutes "bond premium" for purposes of federal income taxes and State of California personal income taxes.

Under the Tax Code, original issue discount is treated as interest excluded from federal gross income and exempt from State of California personal income taxes to the extent properly allocable to each owner thereof subject to the limitations described in the first paragraph of this section. The original issue discount accrues over the term to maturity of the Bond on the basis of a constant interest rate compounded on each interest or principal payment date (with straight-line interpolations between compounding dates). The amount of original issue discount accruing during each period is added to the adjusted basis of such Bonds to determine taxable gain upon disposition (including sale, redemption, or payment on maturity) of such Bond. The Tax Code contains certain provisions relating to the accrual of original issue discount in the case of purchasers of the Bonds who purchase the Bonds after the initial offering of a substantial amount of such maturity. Owners of such Bonds should consult their own tax advisors with respect to the tax consequences of ownership of Bonds with original issue discount, including the treatment of purchasers who do not purchase in the original offering to the public at the first price at which a substantial amount of such Bonds is sold to the public.

Under the Tax Code, bond premium is amortized on an annual basis over the term of the Bond (said term being the shorter of the Bond's maturity date or its call date). The amount of bond premium amortized each year reduces the adjusted basis of the owner of the Bond for purposes of determining taxable gain or loss upon disposition. The amount of bond premium on a Bond is amortized each year over the term to maturity of the Bond on the basis of a constant interest rate compounded on each interest or principal payment date (with straight-line interpolations between compounding dates). Amortized Bond premium is not deductible for federal income tax purposes. Owners of premium Bonds, including purchasers who do not purchase in the original offering, should consult their own tax advisors with respect to State of California personal income tax and federal income tax consequences of owning such Bonds.

California Tax Status. In the further opinion of Bond Counsel, interest on the Bonds is exempt from California personal income taxes.

Other Tax Considerations. Current and future legislative proposals, if enacted into law, clarification of the Tax Code or court decisions may cause interest on the Bonds to be subject, directly or indirectly, to federal income taxation or to be subject to or exempted from state income taxation, or otherwise prevent beneficial owners from realizing the full current benefit of the tax status of such interest. The introduction or enactment of any such legislative proposals, clarification of the Tax Code or court decisions may also affect the market price for, or marketability of, the Bonds. It cannot be predicted whether or in what form any such proposal might be enacted or whether, if enacted, such legislation would apply to bonds issued prior to enactment.

The opinions expressed by Bond Counsel are based upon existing legislation and regulations as interpreted by relevant judicial and regulatory authorities as of the date of such opinion, and Bond Counsel has expressed no opinion with respect to any proposed legislation or as to the tax treatment of interest on the Bonds, or as to the consequences of owning or receiving interest on the Bonds, as of any future date. Prospective purchasers of the Bonds should consult their own tax advisors regarding any pending or proposed federal or state tax legislation, regulations or litigation, as to which Bond Counsel expresses no opinion.

Owners of the Bonds should also be aware that the ownership or disposition of, or the accrual or receipt of interest on, the Bonds may have federal or state tax consequences other than as described above. Other than as expressly described above, Bond Counsel expresses no opinion regarding other federal or state tax consequences arising with respect to the Bonds, the ownership, sale or disposition of the Bonds, or the amount, accrual or receipt of interest on the Bonds.

CERTAIN LEGAL MATTERS

Jones Hall, A Professional Law Corporation, Bond Counsel, will render an opinion with respect to the validity of the Bonds, the form of which is set forth in APPENDIX D. Certain legal matters will also be passed upon for the City and the Authority by Jones Hall, as Disclosure Counsel. Certain legal matters will be passed upon for the City and the Authority by the City Attorney.

LITIGATION

To the best knowledge of the City, there is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending and notice of which has been served on and received by the City or, to the knowledge of the City, threatened against or affecting the City or the assets, properties or operations of the City which, if determined adversely to the City or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of the Lease, the Site Lease or the Indenture, or upon the financial condition, assets, properties or operations of the City, and the City is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially adversely affect the consummation of the transactions contemplated by the Lease, the Site Lease or the Indenture, or the financial conditions, assets, properties or operations of the City, including but not limited to the payment and performance of the City's obligations under the Lease.

RATING

S&P Global Ratings ("**S&P**") has assigned its municipal bond rating of "___" to the Bonds.

This rating reflects only the views of S&P, and an explanation of the significance of this rating, and any outlook assigned to or associated with this rating, should be obtained from S&P.

Generally, a rating agency bases its rating on the information and materials furnished to it and on investigations, studies and assumptions of its own. There is no assurance that this rating will continue for any given period of time or that this rating will not be revised downward or withdrawn entirely by the rating agency, if in the judgment of the rating agency, circumstances so warrant. Any such downward revision or withdrawal of any rating on the Bonds may have an adverse effect on the market price or marketability of the Bonds.

CONTINUING DISCLOSURE

The City (on behalf of the Authority and itself) will covenant for the benefit of owners of the Bonds to provide certain financial information and operating data relating to the City (the “**Annual Report**”), by not later than nine months after the end of the City’s fiscal year (presently June 30) and commencing April 1, 2022, with the report for the fiscal year ending June 30, 2021, and to provide notices of the occurrence of certain listed events.

These covenants have been made in order to assist the purchaser of the Bonds in complying with Securities Exchange Commission Rule 15c2-12(b)(5), as amended (the “**Rule**”). The specific nature of the information to be contained in the Annual Report or the notices of listed events is set forth in “APPENDIX E — FORM OF CONTINUING DISCLOSURE CERTIFICATE.”

The City and its related governmental entities have previously entered into numerous disclosure undertakings under the Rule in connection with the issuance of long-term obligations (See “APPENDIX C – COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR YEAR ENDED JUNE 30, 2019,” Notes to Basic Financial Statements, Note 3”). In order to meet its continuing disclosure obligations, the City retained NHA Advisors, LLC as dissemination agent.

In the previous five years, the City failed to timely file a material event notice in connection with changes to the credit rating for one series of the City’s bonds.

To ensure future compliance with its continuing disclosure undertakings, the City has developed procedures for including all required continuing disclosure information in the supplementary section of its audited financial statements. In addition, the City engaged NHA Advisors, LLC to review this information annually to ensure compliance with its continuing disclosure undertakings.

Neither the County nor any other entity other than the City shall have any obligation or incur any liability whatsoever with respect to the performance of the City’s duties regarding continuing disclosure.

MUNICIPAL ADVISOR

The Authority and the City have retained NHA Advisors, LLC, San Rafael, California, as municipal advisor (the “**Municipal Advisor**”) in connection with the preparation of this Official Statement and with respect to the issuance of the Bonds. The Municipal Advisor is not obligated to undertake, and has not undertaken to make, an independent verification or assume responsibility for the accuracy, completeness, or fairness of the information contained in this Official Statement. The Municipal Advisor is a municipal advisory firm and is not engaged in the business of underwriting, trading or distributing municipal securities or other public securities. The Municipal Advisor’s compensation is contingent upon the delivery of the Bonds.

COMPETITIVE SALE OF BONDS

The Bonds will be sold pursuant to a competitive bidding process held on May 18, 2021, pursuant to the terms set forth in the Official Notice of Sale for the Bonds (the “**Official Notice of Sale**”).

The Bonds were awarded to _____ (the “**Purchaser**”), whose proposal represented the lowest trust interest cost for the Bonds as determined in accordance with the Official Notice of Sale. The Purchaser has agreed to purchase the Bonds at a purchase price of \$ _____ (which is equal to the par amount of the Bonds, less a Purchaser’s discount of \$ _____, and plus a net original issue premium of \$ _____).

The Purchaser intends to offer the Bonds to the public at the offering prices set forth on the cover page of this Official Statement. The Purchaser may offer and sell to certain dealers and others at a price lower than the offering prices stated on the cover page hereof. The offering price may be changed from time to time by the Purchaser.

PROFESSIONAL SERVICES

In connection with the issuance of the Bonds, fees payable to the following professionals involved in the offering are contingent upon the issuance and delivery of the Bonds: Jones Hall, A Professional Law Corporation, as Bond Counsel and Disclosure Counsel; the Municipal Advisor; and the Trustee.

VERIFICATION OF MATHEMATICAL ACCURACY

The Verification Agent will deliver a report on the mathematical accuracy of certain computations, contained in schedules provided to the Verification Agent on behalf of the Authority, relating to the sufficiency of the maturing principal of and interest earned on the Federal Securities purchased with the amounts deposited into the Escrow Fund, together with cash to be held therein, to pay on the Redemption Date the prepayment and redemption price and accrued interest on the 2010 Certificates to such date.

See “REFINANCING PLAN.”

EXECUTION

The execution of this Official Statement and its delivery have been authorized by the Board of the Authority and the City Council of the City.

BERKELEY JOINT PUBLIC FINANCING
AUTHORITY

By: _____
Chair

CITY OF BERKELEY

By: _____
City Manager

APPENDIX A

**FINANCIAL, ECONOMIC AND DEMOGRAPHIC INFORMATION FOR THE CITY OF
BERKELEY AND ALAMEDA COUNTY**

[TO COME FROM GO POS.]

APPENDIX B
SUMMARY OF PRINCIPAL LEGAL DOCUMENTS

APPENDIX C

COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR YEAR ENDED JUNE 30, 2019

APPENDIX D

PROPOSED FORM OF OPINION OF BOND COUNSEL

APPENDIX E

FORM OF CONTINUING DISCLOSURE CERTIFICATE

\$ _____
BERKELEY JOINT PUBLIC FINANCING AUTHORITY
Lease Revenue Bonds, Series 2021
(2010 Animal Shelter Financing)

This Continuing Disclosure Certificate (this “Disclosure Certificate”) is executed and delivered by the City of Berkeley (the “City”), on behalf of the Berkeley Joint Powers Financing Authority (the “Authority”) and itself, in connection with the issuance by the Authority of the bonds captioned above (the “Bonds”). The Bonds are being issued under an Indenture of Trust dated as of _____ 1, 2021 (the “Indenture”), by and between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee (the “Trustee”). The City hereby covenants and agrees as follows:

Section 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the City on behalf of itself and the Authority for the benefit of the holders and beneficial owners of the Bonds and in order to assist the Participating Underwriter in complying with S.E.C. Rule 15c2-12(b)(5).

Section 2. Definitions. In addition to the definitions set forth above and in the Indenture, which apply to any capitalized term used in this Disclosure Certificate unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“*Annual Report*” means any Annual Report provided by the City pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

“*Annual Report Date*” means nine months after the end of the City’s fiscal year (currently April 1, based on the City’s fiscal year-end of June 30).

“*Dissemination Agent*” means the City, or any successor Dissemination Agent designated in writing by the City and which has filed with the City a written acceptance of such designation.

“*Listed Events*” means any of the events listed in Section 5(a) of this Disclosure Certificate.

“*MSRB*” means the Municipal Securities Rulemaking Board, which has been designated by the Securities and Exchange Commission as the sole repository of disclosure information for purposes of the Rule, or any other repository of disclosure information that may be designated by the Securities and Exchange Commission as such for purposes of the Rule in the future.

“*Official Statement*” means the final official statement dated _____, 2021, executed by the City and the Authority in connection with the issuance of the Bonds.

“*Participating Underwriter*” means _____, the original purchaser of the Bonds required to comply with the Rule in connection with offering of the Bonds.

“*Rule*” means Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

Section 3. Provision of Annual Reports.

(a) The City shall, or shall cause the Dissemination Agent to, not later than the Annual Report Date, commencing April 1, 2022 (the “**Initial Reporting Date**”), with the report for the 2020-21 Fiscal Year, provide to the MSRB, in an electronic format as prescribed by the MSRB, an Annual Report that is consistent with the requirements of Section 4 of this Disclosure Certificate. Not later than 15 Business Days prior to the Annual Report Date, the City shall provide the Annual Report to the Dissemination Agent (if other than the City). If by 15 Business Days prior to the Annual Report Date the Dissemination Agent (if other than the City) has not received a copy of the Annual Report, the Dissemination Agent shall contact the City to determine if the City is in compliance with the previous sentence. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may include by reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the City may be submitted separately from the balance of the Annual Report, and later than the Annual Report Date, if not available by that date. If the City’s Fiscal Year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(c). The City shall provide a written general fund with each Annual Report furnished to the Dissemination Agent to the effect that such Annual Report constitutes the Annual Report required to be furnished by the City hereunder.

(b) If the City does not provide (or cause the Dissemination Agent to provide) an Annual Report by the Annual Report Date, the City shall provide (or cause the Dissemination Agent to provide) to the MSRB, in an electronic format as prescribed by the MSRB, a notice in substantially the form attached as Exhibit A.

(c) With respect to each Annual Report, the Dissemination Agent shall:

(i) determine each year prior to the Annual Report Date the then-applicable rules and electronic format prescribed by the MSRB for the filing of annual continuing disclosure reports; and

(ii) if the Dissemination Agent is other than the City, file a report with the City certifying that the Annual Report has been provided pursuant to this Disclosure Certificate, and stating the date it was provided.

Section 4. Content of Annual Reports. The City’s Annual Report shall contain or incorporate by reference the following:

(a) *Financial Statements.* Audited financial statements of the City for the preceding fiscal year, prepared in accordance generally accepted accounting principles. If the City’s audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statement, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available.

(b) *Other Annual Information.* To the extent not included in the audited final statements of the City, the Annual Report shall also include financial and operating data with respect to the City for preceding fiscal year, substantially similar to that provided in the corresponding tables and charts in the Official Statement, as follows:

- (i) summary of investments held in the City's investment portfolio for the most recently-completed fiscal year, including market value, book value and a description of any investments that do not comply with the City's investment policies;
- (ii) general fund budget for the fiscal year during which the annual report is filed;
- (iii) general fund balance sheet for the most recently-completed fiscal year;
- (iv) general fund summary of revenues and expenditures for the most recently-completed fiscal year;
- (v) general fund tax revenues by source for the most recently-completed fiscal year;
- (vi) assessed valuation of property in the City for the most recently-completed fiscal year and, to the extent the City is no longer on the Teeter Plan (or its equivalent) and such information is available from the County, information about property tax levies and collections for the most recently completed fiscal year;
- (vii) taxable transactions in the City for the most recently-completed fiscal year; and
- (viii) description of the City's outstanding general fund debt and lease obligations as of the end of the most recently-completed fiscal year, including long-term general fund obligations.

(c) *Cross References.* Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the City or related public entities, which are available to the public through the MSRB. The City shall clearly identify each such other document so included by reference. If the document included by reference is a final official statement, it must be available from the MSRB.

Section 5. Reporting of Significant Events.

(a) The City shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the Bonds:

- (1) Principal and interest payment delinquencies.
- (2) Non-payment related defaults, if material.
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties.
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties.
- (5) Substitution of credit or liquidity providers, or their failure to perform.

- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security.
- (7) Modifications to rights of security holders, if material.
- (8) Bond calls, if material, and tender offers.
- (9) Defeasances.
- (10) Release, substitution, or sale of property securing repayment of the securities, if material.
- (11) Rating changes.
- (12) Bankruptcy, insolvency, receivership or similar event of the City or other obligated person.
- (13) The consummation of a merger, consolidation, or acquisition involving the City or an obligated person, or the sale of all or substantially all of the assets of the City or an obligated person (other than in the ordinary course of business), the entry into a definitive agreement to undertake such an action, or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.
- (14) Appointment of a successor or additional trustee or the change of name of a trustee, if material.
- (15) Incurrence of a financial obligation of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the obligated person, any of which affect security holders, if material.
- (16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the obligated person, any of which reflect financial difficulties.

(b) Whenever the City obtains knowledge of the occurrence of a Listed Event, the City shall, or shall cause the Dissemination Agent (if not the City) to, file a notice of such occurrence with the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of 10 business days after the occurrence of the Listed Event. Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(8) and (9) above need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to holders of affected Bonds under the Indenture.

(c) The City acknowledges that the events described in subparagraphs (a)(2), (a)(7), (a)(8) (if the event is a bond call), (a)(10), (a)(13), and (a)(14) of this Section 5 contain the qualifier "if material" and that subparagraph (a)(6) also contains the qualifier "material" with respect to certain notices, determinations or other events affecting the tax status of the Bonds. The City

shall cause a notice to be filed as set forth in paragraph (b) above with respect to any such event only to the extent that it determines the event's occurrence is material for purposes of U.S. federal securities law. Whenever the City obtains knowledge of the occurrence of any of these Listed Events, the City will as soon as possible determine if such event would be material under applicable federal securities law. If such event is determined to be material, the City will cause a notice to be filed as set forth in paragraph (b) above.

(d) For purposes of this Disclosure Certificate, any event described in paragraph (a)(12) above is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

(e) For purposes of Section 3(a)(15) and (16), "financial obligation" means a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of (i) or (ii). The term financial obligation shall not include municipal securities as to which a final official statement has been provided to the Municipal Securities Rulemaking Board consistent with the Rule.

Section 6. Identifying Information for Filings with the MSRB. All documents provided to the MSRB under the Disclosure Certificate shall be accompanied by identifying information as prescribed by the MSRB.

Section 7. Termination of Reporting Obligation. The City's obligations under this Disclosure Certificate shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, the City shall give notice of such termination in the same manner as for a Listed Event under Section 5(b).

Section 8. Dissemination Agent. The City may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Agent, with or without appointing a successor Dissemination Agent. The initial Dissemination Agent will be the NHA Advisors, LLC. Any Dissemination Agent may resign by providing 30 days' written notice to the City.

Section 9. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the City may amend this Disclosure Certificate, and any provision of this Disclosure Certificate may be waived, provided that the following conditions are satisfied:

(a) if the amendment or waiver relates to the provisions of Sections 3(a), 4 or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of an obligated person with respect to the Bonds, or type of business conducted;

(b) the undertakings herein, as proposed to be amended or waived, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule

at the time of the primary offering of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) the proposed amendment or waiver either (i) is approved by holders of the Bonds in the manner provided in the Indenture for amendments to the Indenture with the consent of holders, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the holders or beneficial owners of the Bonds.

If the annual financial information or operating data to be provided in the Annual Report is amended pursuant to the provisions hereof, the first annual financial information filed pursuant hereto containing the amended operating data or financial information shall explain, in narrative form, the reasons for the amendment and the impact of the change in the type of operating data or financial information being provided.

If an amendment is made to the undertaking specifying the accounting principles to be followed in preparing financial statements, the annual financial information for the year in which the change is made shall present a comparison between the financial statements or information prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles. The comparison shall include a qualitative discussion of the differences in the accounting principles and the impact of the change in the accounting principles on the presentation of the financial information, in order to provide information to investors to enable them to evaluate the ability of the City to meet its obligations. To the extent reasonably feasible, the comparison shall be quantitative.

A notice of any amendment made pursuant to this Section 9 shall be filed in the same manner as for a Listed Event under Section 5(b).

Section 10. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the City chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the City shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

Section 11. Default. In the event of a failure of the City to comply with any provision of this Disclosure Certificate, the Participating Underwriter or any holder or beneficial owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an Event of Default under the Indenture, and the sole remedy under this Disclosure Certificate in the event of any failure of the City to comply with this Disclosure Certificate shall be an action to compel performance.

Section 12. Duties, Immunities and Liabilities of Dissemination Agent.

(a) The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and the City agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities

which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The Dissemination Agent shall have no duty or obligation to review any information provided to it hereunder and shall not be deemed to be acting in any fiduciary capacity for the City, the Bond owners or any other party. The obligations of the City under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

(b) The Dissemination Agent shall be paid compensation by the City for its services provided hereunder in accordance with its schedule of fees as amended from time to time, and shall be reimbursed for all expenses, legal fees and advances made or incurred by the Dissemination Agent in the performance of its duties hereunder.

Section 13. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the City, the Dissemination Agent, the Participating Underwriter and holders and beneficial owners from time to time of the Bonds, and shall create no rights in any other person or entity.

Section 14. Counterparts. This Disclosure Certificate may be executed in several counterparts, each of which shall be regarded as an original, and all of which shall constitute one and the same instrument.

Date: _____, 2021

CITY OF BERKELEY

By: _____
Finance Director

EXHIBIT A

NOTICE OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: Berkeley Joint Powers Financing Authority (the "Authority")

Name of Bond Issue: Berkeley Joint Powers Financing Authority
Lease Revenue Bonds, Series 2021
(2010 Animal Shelter Financing)

Date of Issuance: _____, 2021

NOTICE IS HEREBY GIVEN that the City of Berkeley, on behalf of itself and the Authority, has not provided an Annual Report with respect to the above-named Bonds as required by the Indenture of Trust dated as of _____ 1, 2021, between the Authority and The Bank of New York Mellon Trust Company, N.A. The City anticipates that the Annual Report will be filed by _____.

Dated: _____

CITY OF BERKELEY

By: _____
Its: _____

APPENDIX F

DTC AND THE BOOK-ENTRY ONLY SYSTEM

The following description of the Depository Trust Company (“DTC”), the procedures and record keeping with respect to beneficial ownership interests in the Bonds, payment of principal, interest and other payments on the Bonds to DTC Participants or Beneficial Owners, confirmation and transfer of beneficial ownership interest in the Bonds and other related transactions by and between DTC, the DTC Participants and the Beneficial Owners is based solely on information provided by DTC. Accordingly, no representations can be made concerning these matters and neither the DTC Participants nor the Beneficial Owners should rely on the foregoing information with respect to such matters, but should instead confirm the same with DTC or the DTC Participants, as the case may be.

Neither the City (the “Issuer”) nor the Trustee (the “Agent”) take any responsibility for the information contained in this Appendix.

No assurances can be given that DTC, DTC Participants or Indirect Participants will distribute to the Beneficial Owners (a) payments of interest, principal or premium, if any, with respect to the Bonds, (b) certificates representing ownership interest in or other confirmation or ownership interest in the Bonds, or (c) redemption or other notices sent to DTC or Cede & Co., its nominee, as the registered owner of the Bonds, or that they will so do on a timely basis, or that DTC, DTC Participants or DTC Indirect Participants will act in the manner described in this Appendix. The current “Rules” applicable to DTC are on file with the Securities and Exchange Commission and the current “Procedures” of DTC to be followed in dealing with DTC Participants are on file with DTC.

1. The Depository Trust Company (“DTC”), New York, NY, will act as securities depository for the securities (the “Securities”). The Securities will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Security certificate will be issued for each issue of the Securities, each in the aggregate principal amount of such issue, and will be deposited with DTC. If, however, the aggregate principal amount of any issue exceeds \$500 million, one certificate will be issued with respect to each \$500 million of principal amount, and an additional certificate will be issued with respect to any remaining principal amount of such issue.

2. DTC, the world’s largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing

Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has a Standard & Poor's rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com and www.dtc.org. *The information contained on this Internet site is not incorporated herein by reference.*

3. Purchases of Securities under the DTC system must be made by or through Direct Participants, which will receive a credit for the Securities on DTC's records. The ownership interest of each actual purchaser of each Security ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Securities are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Securities, except in the event that use of the book-entry system for the Securities is discontinued.

4. To facilitate subsequent transfers, all Securities deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Securities with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Securities; DTC's records reflect only the identity of the Direct Participants to whose accounts such Securities are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

5. Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Securities may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Securities, such as redemptions, tenders, defaults, and proposed amendments to the Security documents. For example, Beneficial Owners of Securities may wish to ascertain that the nominee holding the Securities for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

6. Redemption notices shall be sent to DTC. If less than all of the Securities within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

7. Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Securities unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting

rights to those Direct Participants to whose accounts Securities are credited on the record date (identified in a listing attached to the Omnibus Proxy).

8. Redemption proceeds, distributions, and dividend payments on the Securities will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from Issuer or Agent, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, Agent, or Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of Issuer or Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

9. A Beneficial Owner shall give notice to elect to have its Securities purchased or tendered, through its Participant, to the Agent, and shall effect delivery of such Securities by causing the Direct Participant to transfer the Participant's interest in the Securities, on DTC's records, to the Agent. The requirement for physical delivery of Securities in connection with an optional tender or a mandatory purchase will be deemed satisfied when the ownership rights in the Securities are transferred by Direct Participants on DTC's records and followed by a book-entry credit of tendered Securities to the Agent's DTC account.

10. DTC may discontinue providing its services as depository with respect to the Securities at any time by giving reasonable notice to Issuer or Agent. Under such circumstances, in the event that a successor depository is not obtained, Security certificates are required to be printed and delivered.

11. Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Security certificates will be printed and delivered to DTC.

12. The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that Issuer believes to be reliable, but Issuer takes no responsibility for the accuracy thereof.