



Office of the City Manager

ACTION CALENDAR

June 9, 2015

To: Honorable Mayor and Members of the City Council

From:  Christine Daniel, City Manager

Submitted by: Henry Oyekanmi, Acting Director, Finance Department

Subject: Authorizing the Issuance and Sale of 2015 General Obligation Refunding Bonds for the Purpose of Refunding Outstanding Bonds (Measures G, S & I)

RECOMMENDATION

Adopt a Resolution authorizing the issuance and sale of 2015 general obligation refunding bonds for the purpose of refunding outstanding bonds, and approving related documents and official actions related hereto.

FISCAL IMPACTS OF RECOMMENDATION

Authorization of the resolution will provide the City an opportunity to refinance four outstanding series of bonds with lower interest rates thereby saving taxpayers starting in tax year 2015/16. Concurrently with the refinancing of the outstanding bonds, the City will contribute a portion of funds on hand in dedicated tax revenue funds that have been previously appropriated toward the redemption of outstanding bonds. \$6,275,000 will be applied to the refinancing.

It is anticipated that the refunding of the 2002 and 2007A Bonds (Measure G), 2007B Bonds (Measure S) and 2008 Bonds (Measure I), and the adjustments made to the fund balances, will result in present value savings of approximately \$4,500,000 and total debt service savings of approximately \$8,000,000.

These savings will enable staff to reduce the tax rates to property owners (ad valorem property tax payments) which are collected on the County tax bill each year. Staff anticipates that the average tax (for Measure G, S & I) will be reduced 22% for FY 2016 with substantial savings through the final maturity of each bond series (Tax Year 2036/37).

There will be no fiscal impact to the City's General Fund from the issuance of the general obligation bonds.

CURRENT SITUATION AND ITS EFFECTS

The decline in interest rates provides the City with an opportunity to refund a portion of the outstanding bonds and reduce the amount of taxes required by taxpayers. The proposed bonds to be refinanced are callable on the following dates:

- Measure G (2002) – Any Date
- Measure G (2007A) – September 1, 2015
- Measure S (2007B) – September 1, 2015
- Measure I (2008) – September 1, 2016

The average interest rate for the above referenced bonds is 4.33% and the anticipated refunding bond interest rate is 2.25%. The debt service savings based on these estimates (including the cash contribution from the tax revenue funds) will be \$725,000 in the first year and decrease over time as the total aggregate bond principal amount decreases.

By adopting this recommendation, the City can take advantage of lower interest rates in order to generate significant savings by lowering the annual debt service on these three outstanding obligations.

ENVIRONMENTAL SUSTAINABILITY

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

BACKGROUND

Measure G - On November 3, 1992, the voters of the City of Berkeley approved the incurring of bonded indebtedness for fire safety and seismic improvements to emergency facilities. This indebtedness was not to exceed an aggregate principal amount of \$55,000,000. Series 'A' bonds in the amount of \$8,000,000 were issued on June 1, 1993; Series 'B' bonds in the amount of \$14,000,000 were issued on July 25, 1995; and Series 'C' bonds in the amount of \$10,500,000 were issued on July 1, 1997.

The indebtedness on the total bonds issued of \$32,500,000 is payable solely from the levy of an ad valorem tax against taxable property in the City. The proceeds of the bonds were used to pay for, among other things, "repairing and seismic retrofitting of existing fire stations, the Public Safety Building, which contains the City communication center, and the Emergency Operations Center (EOC)."

On November 1, 2002, the City issued \$17,865,000 in General Obligation refunding bonds to refund the 1993 Measure G (Series A) and 1995 Measure G (Series B) General Obligation bonds. In May 2007, the City issued \$4,340,000 in refunding bonds to refund the 1997 Measure G, (Series C) General Obligation bonds.

Measure S - On November 5, 1996, the voters of the City of Berkeley approved incurring a total of \$49,000,000 bonded indebtedness to ensure the safety of its public and employees and to revitalize downtown.

The indebtedness is payable solely from the levy of an ad valorem tax against taxable property in the City. The proceeds were used to restore, expand and make the Main Library earthquake-safe and improve disabled access to it; to internally retrofit and increase disabled accessibility to Martin Luther King Jr., Civic Center Building; and to install landscaping, street improvements, street lighting, and other related capital improvements within the downtown area of Berkeley.

On June 4, 1997 Series 'A' Bonds in the amount of \$10,000,000 were issued; On December 1, 1998 Series 'B' Bonds in the amount of \$25,000,000 were issued; and on August 1, 1999 Series 'C' Bonds in the amount of \$14,000,000 were issued. In May 2007, the City issued \$41,245,000 in refunding bonds to refund the 1997, 1998, and 1999 Measure S (Series A, B, and C) General Obligation bonds.

Measure I - In November 2002, the residents of Berkeley voted for and approved Ballot Measure I, in the sum of \$7,200,000 of General Obligation Bonds to acquire property, if necessary, and to construct or rehabilitate a building for an animal shelter that meets the requirements of state law.

The indebtedness on the total bonds issued of \$7,200,000 is payable solely from the levy of an ad valorem tax against taxable property in the City. The proceeds of the bonds were used to acquire property, and to construct a building for an animal shelter that meets the requirements of state law.

The General Obligation Bonds in the amount of \$7,200,000 were issued on January 9, 2008.

RATIONALE FOR RECOMMENDATION

The City can take advantage of lower interest rates in order to generate significant savings by lowering the annual debt service on its three outstanding obligations. These refunding will also consolidate these three bond issues into one single obligation.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Henry Oyekanmi, Acting Director, Finance, 510-981-7300

Attachments:

- 1: Resolution
- 2: Draft Preliminary Official Statement
- 3: Form of Notice of Intention to Sell Bonds
- 4: Form of Notice of Sale

- 5: Draft Costs of Issuance Custodian Agreement
- 6. Escrow Deposit and Trust Agreement

RESOLUTION NO. ##,### – N.S.

AUTHORIZING THE ISSUANCE AND SALE OF 2015 GENERAL OBLIGATION REFUNDING BONDS FOR THE PURPOSE OF REFUNDING OUTSTANDING BONDS, AND APPROVING RELATED DOCUMENTS AND OFFICIAL ACTIONS

WHEREAS, at an election held on November 3, 1992, more than two-thirds of the voters of the City of Berkeley (the “City”) approved a proposition (“Measure G”) authorizing the issuance by the City of general obligation bonds in the aggregate principal amount of \$55,000,000, for the purpose of providing funds for fire safety and seismic improvements; and

WHEREAS, pursuant to such authorization the City issued two series of bonds:

(i) City of Berkeley 1993 General Obligation Bonds (Election of 1992, Series A), dated July 1, 1993, in the principal amount of \$8,000,000 (the “1993 Bonds”); and

(ii) City of Berkeley 1995 General Obligation Bonds (Election of 1992, Series B), dated August 1, 1995, in the principal amount of \$14,000,000 (the “1995 Bonds”); and

WHEREAS, to refund the 1993 Bonds and the 1995 Bonds on a current basis, the City subsequently issued its City of Berkeley (Alameda County, California) 2002 General Obligation Refunding Bonds (the “2002 Refunding Bonds (Measure G)”, pursuant to Resolution No. 61,792-N.S., adopted by the City Council on October 22, 2002 (the “2002 Refunding Bonds Resolution (Measure G)”); and

WHEREAS, under the 2002 Refunding Bonds Resolution (Measure G), the City is authorized to redeem the 2002 Refunding Bonds (Measure G) in full on any date on or after September 1, 2013, at a redemption price equal to the par amount thereof, plus accrued interest to the redemption date, without premium; and

WHEREAS, also pursuant to the Measure G authorization, the City issued the City of Berkeley 1997 General Obligation Bonds (Election of 1992, Series C), dated July 1, 1997 in the principal amount of \$10,500,000 (the “1997 Bonds (Measure G)”; and

WHEREAS, to refund the 1997 Bonds (Measure G) on a current basis, the City subsequently issued its City of Berkeley (Alameda County, California) General Obligation Refunding Bonds, 2007 Series A (the “2007 Refunding Bonds (Measure G)”, pursuant to Resolution No. 63,672-N.S., adopted by the City Council on May 8, 2007 (the “2007 Refunding Bonds Resolution (Measure G)”; and

WHEREAS, under the 2007 Refunding Bonds Resolution (Measure G), the City is authorized to redeem the 2007 Refunding Bonds (Measure G) in full on any date on or

after September 1, 2015, at a redemption price equal to the par amount thereof, plus accrued interest to the redemption date, plus a redemption premium of 2%; and

WHEREAS, at an election held on November 5, 1996, more than two-thirds of the voters of the City approved a proposition ("Measure S") authorizing the issuance by the City of general obligation bonds in the aggregate principal amount of \$49,000,000, for the purpose of providing funds to ensure the safety of its public and employees and to revitalize downtown; and

WHEREAS, pursuant to such authorization the City issued three series of bonds:

(i) City of Berkeley 1997 General Obligation Bonds (Election of 1996, Series A), dated June 1, 1997, in the principal amount of \$10,000,000 (the "1997 Bonds (Measure S)"); and

(ii) City of Berkeley 1998 General Obligation Bonds (Election of 1996, Series B), dated December 1, 1998, in the principal amount of \$25,000,000 (the "1998 Bonds"); and

(iii) City of Berkeley 1999 General Obligation Bonds (Election of 1996, Series C), dated August 1, 1999, in the principal amount of \$14,000,000 (the "1999 Bonds"); and

WHEREAS, to refund the 1997 Bonds (Measure S) on a current basis, the 1998 Bonds on a current basis and the 1999 Bonds on a current basis, the City subsequently issued its City of Berkeley (Alameda County, California) General Obligation Refunding Bonds, 2007 Series B (the "2007 Refunding Bonds (Measure S)"), pursuant to Resolution No. 63,691-N.S., adopted by the City Council on May 8, 2007 (the "2007 Refunding Bonds Resolution (Measure S)"); and

WHEREAS, under the 2007 Refunding Bonds Resolution (Measure S), the City is authorized to redeem the 2007 Refunding Bonds (Measure S) in full on any date on or after September 1, 2015, at a redemption price equal to the par amount thereof, plus accrued interest to the redemption date, plus a 2% redemption premium; and

WHEREAS, at an election held on November 5, 2002, more than two-thirds of the voters of the City approved a proposition ("Measure I") authorizing the issuance by the City of general obligation bonds in the aggregate principal amount of \$7,200,000 for the purpose of financing a new animal shelter to replace the existing shelter at the same location; and

WHEREAS, pursuant to such authorization the City issued its City of Berkeley (Alameda County, California) General Obligation Bonds, Series 2008 (Measure I - Animal Shelter Project), dated January 29, 2008, in the principal amount of \$7,200,000 (the "2008 Bonds (Measure I)"), pursuant to Resolution No. 63,907-N.S., adopted by the City Council on December 11, 2007 (the "2008 Bonds Resolution (Measure I)"); and

WHEREAS, under the 2008 Bonds Resolution (Measure I), the City is authorized to redeem the 2008 Bonds (Measure I) in full on any date on or after September 1, 2016, at a redemption price equal to the par amount thereof, plus accrued interest to the redemption date, without premium; and

WHEREAS, collectively in this Resolution, the 2002 Refunding Bonds (Measure G), the 2007 Refunding Bonds (Measure G), the 2007 Refunding Bonds (Measure S) and the 2008 Bonds (Measure I) are referred to as the “Refunded Bonds”; and

WHEREAS, collectively in this Resolution, the 2002 Refunding Bonds Resolution (Measure G), the 2007 Refunding Bonds Resolution (Measure G), the 2007 Refunding Bonds Resolution (Measure S) and the 2008 Bonds Resolution (Measure I) are referred to as the “Refunded Bonds Resolutions”; and

WHEREAS, in order to realize debt service savings for the benefit of the taxpayers of the City, the City Council wishes at this time to authorize the issuance and sale of its City of Berkeley (County of Alameda, California) 2015 General Obligation Refunding Bonds (the “Refunding Bonds”) for the purpose of refinancing the Refunded Bonds; and

WHEREAS, the City Council is authorized to provide for the issuance and sale of the Refunding Bonds under the provisions of Articles 9 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code, commencing with Section 53550 of said Code (the “Bond Law”); and

WHEREAS, the County of Alameda has previously levied ad valorem property taxes for the payment of the Refunded Bonds in an amount which has exceeded the annual debt service requirements on the Refunded Bonds, and the City Council wishes at this time to authorize the expenditure of a portion of such accumulated property taxes for the purpose of paying a portion of the redemption price of the Refunded Bonds, thereby reducing the principal amount of the Refunding Bonds and resulting in additional debt service savings which will be passed through to the taxpayers of the City.

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

ARTICLE I

DEFINITIONS; AUTHORITY

Section 1.01. Definitions. The terms defined in this Section 1.01, as used and capitalized herein, shall, for all purposes of this Resolution, have the meanings given them below, unless the context clearly requires some other meaning.

“Bond Counsel” means (a) Jones Hall, A Professional Law Corporation, and (b) any other attorney or firm of attorneys nationally recognized for expertise in rendering opinions as to the legality and tax exempt status of securities issued by public entities.

“Bond Law” means Articles 9 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California, commencing with Section 53550 of said Code, as amended from time to time.

“City” means the City of Berkeley, a municipal corporation organized under the laws of the State of California, and any successor thereto.

“City Representative” means the City Manager, the Finance Director and any other officer of the City authorized by resolution of the City Council of the City to act on behalf of the City with respect to this Resolution and the Refunding Bonds.

“Closing Date” means the date upon which there is a physical delivery of the Refunding Bonds in exchange for the amount representing the purchase price of the Refunding Bonds by the Original Purchaser.

“Continuing Disclosure Certificate” means the Continuing Disclosure Certificate which is executed and delivered by a City Representative on the Closing Date.

“Costs of Issuance” means all items of expense directly or indirectly payable by or reimbursable to the City and related to the authorization, issuance, sale and delivery of the Refunding Bonds and the refunding of the Refunded Bonds, including but not limited to the costs of preparation and reproduction of documents, printing expenses, filing and recording fees, initial fees and charges of the Paying Agent and its counsel, fees and charges of Bond Counsel, disclosure counsel and other legal firms, fees and disbursements of consultants and professionals, rating agency fees, fees and charges for preparation, execution and safekeeping of the Refunding Bonds and any other cost, charge or fee in connection with the original issuance of the Refunding Bonds and the refunding of the Refunded Bonds.

“County” means the County of Alameda, a political subdivision of the State of California, duly organized and existing under the Constitution and laws of the State of California.

“Debt Service Fund” means the account established and held by the City under Section 4.03.

“Depository” means (a) initially, DTC, and (b) any other Securities Depository acting as Depository under Section 2.09.

“Depository System Participant” means any participant in the Depository’s book-entry system.

“DTC” means The Depository Trust Company, New York, New York, and its successors and assigns.

“Escrow Agent” means The Bank of New York Mellon Trust Company, N.A., in its capacity as escrow agent under the Escrow Agreement.

“Escrow Agreement” means the Escrow Deposit and Trust Agreement dated as of the Closing Date, between the City and the Escrow Agent, relating to the refunding and discharge of the outstanding Refunded Bonds.

“Federal Securities” means: (a) any direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), for which the full faith and credit of the United States of America are pledged; or (b) obligations of any agency, department or instrumentality of the United States of America, the timely payment of principal and interest on which are directly or indirectly secured or guaranteed by the full faith and credit of the United States of America.

“Interest Payment Date” means March 1 and September 1 in each year, commencing March 1, 2016, or as otherwise set forth in the Official Notice of Sale.

“Official Notice of Sale” means the Official Notice of Sale for the Refunding Bonds which is approved under Section 3.01(a).

“Outstanding,” when used as of any particular time with reference to Bonds, means all Refunding Bonds except: (a) Refunding Bonds theretofore canceled by the Paying Agent or surrendered to the Paying Agent for cancellation; (b) Refunding Bonds paid or deemed to have been paid within the meaning of Section 9.02; and (c) Refunding Bonds in lieu of or in substitution for which other Refunding Bonds shall have been authorized, executed, issued and delivered by the City under this Resolution.

“Original Purchaser” means the original purchaser of the Refunding Bonds upon the competitive public sale thereof.

“Owner”, whenever used herein with respect to a Refunding Bond, means the person in whose name the ownership of such Refunding Bond is registered on the Registration Books.

“Paying Agent” means the Paying Agent appointed by the City and acting as paying agent, registrar and authenticating agent for the Refunding Bonds, its successors and assigns, and any other corporation or association which may at any time be substituted in its place, as provided in Section 6.01.

“Principal Office” means the office or offices of the Paying Agent for the payment of the Refunding Bonds and the administration of its duties hereunder, as such office or offices shall be identified in a written notice filed with the City by the Paying Agent.

“Record Date” means the 15th day of the month preceding an Interest Payment Date, whether or not such day is a business day.

“Refunding Bonds” means the City of Berkeley (County of Alameda, California) 2015 General Obligation Refunding Bonds authorized to be issued under this Resolution.

“Registration Books” means the records maintained by the Paying Agent for the registration of ownership and registration of transfer of the Refunding Bonds under Section 2.08.

“Resolution” means this Resolution, as originally adopted by the City Council on June 9, 2015, and including all amendments hereto and supplements hereof which are duly adopted by the City Council from time to time in accordance herewith.

“Securities Depositories” means DTC; and, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such other securities depositories as the City may designate in a Written Request of the City delivered to the Paying Agent.

“Supplemental Resolution” means any resolution supplemental to or amendatory of this Resolution, adopted by the City in accordance with Article VIII.

“Tax Code” means the Internal Revenue Code of 1986 as in effect on the Closing Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Closing Date, together with applicable temporary and final regulations promulgated, and applicable official public guidance published, under said Code.

“Refunded Bonds” has the meaning given that term in the preamble to this Resolution.

“Refunded Bonds Resolution” has the meaning given that term in the preamble to this Resolution.

“Written Request of the City” means an instrument in writing signed by a City Representative or by any other officer of the City duly authorized to act on behalf of the City under a written certificate of a City Representative.

Section 1.02. Interpretation.

(a) Unless the context otherwise indicates, words expressed in the singular shall include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and shall be deemed to include the neuter, masculine or feminine gender, as appropriate.

(b) Headings of articles and sections herein are solely for convenience of reference, do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.

(c) All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Resolution; the words "herein," "hereof," "hereby," "hereunder" and other words of similar import refer to this Resolution as a whole and not to any particular Article, Section or subdivision hereof.

Section 1.03. Authority for this Resolution; Findings. This Resolution is entered into under the provisions of the Bond Law. It is hereby certified that all of the things, conditions and acts required to exist, to have happened or to have been performed precedent to and in the issuance of the Refunding Bonds do exist, have happened or have been performed in due and regular time and manner as required by the laws of the State of California, and that the amount of the Refunding Bonds, together with all other indebtedness of the City, does not exceed any limit prescribed by any laws of the State of California.

ARTICLE II

THE REFUNDING BONDS

Section 2.01. Authorization. The City Council hereby authorizes the issuance of the Refunding Bonds under and subject to the terms of the Bond Law and this Resolution, for the purpose of raising money to refund the Refunded Bonds and to pay the Costs of Issuance incurred in connection therewith. This Resolution constitutes a continuing agreement between the City and the Owners of all of the Refunding Bonds issued or to be issued hereunder and then Outstanding to secure the full and final payment of principal of and interest and premium, if any, on all Refunding Bonds which may be Outstanding hereunder, subject to the covenants, agreements, provisions and conditions herein contained. The Refunding Bonds are designated the "City of Berkeley (County of Alameda, California) 2015 General Obligation Refunding Bonds."

As provided in Section 53552 of the Bond Law, the Refunding Bonds shall not be issued unless the total net interest cost to maturity on the Refunding Bonds plus the principal amount of the Refunding Bonds is less than the total net interest cost to maturity on the Refunded Bonds to be refunded plus the principal amount of the Refunded Bonds to be refunded. Before issuing the Refunding Bonds, the City shall

receive confirmation from its financial advisor that the requirements of Section 53552 of the Bond Law have been satisfied.

Section 2.02. Terms of Refunding Bonds.

(a) Principal Amount of Refunding Bonds. The Refunding Bonds are authorized to be issued in an aggregate principal amount which is sufficient to provide the refunding of the Refunded Bonds and the payment of all Costs of Issuance incurred in connection therewith.

(b) Form; Numbering. The Refunding Bonds will be issued in fully registered form, without coupons, in authorized denominations of \$5,000 each or any integral multiple thereof. The Refunding Bonds will be lettered and numbered as the Paying Agent prescribes.

(c) Date of Refunding Bonds. The Refunding Bonds will be dated as of the Closing Date.

(d) CUSIP Identification Numbers. "CUSIP" identification numbers will be imprinted on the Refunding Bonds, but such numbers do not constitute a part of the contract evidenced by the Refunding Bonds and no error or omission with respect thereto will constitute cause for refusal of the Original Purchaser to accept delivery of and pay for the Refunding Bonds. In addition, failure on the part of the City to use such CUSIP numbers in any notice to Owners of the Refunding Bonds will not constitute an event of default or any violation of the City's contract with such Owners and will not impair the effectiveness of any such notice.

(e) Maturities; Basis of Interest Calculation. The Refunding Bonds shall mature (or, alternatively, be subject to mandatory sinking fund redemption as hereinafter provided) on September 1 in the years and in the amounts, and shall bear interest at the rates, as determined upon the sale thereof. The final maturity of the Refunding Bonds shall be not later than the final maturity of the Refunded Bonds that are refunded. Interest on the Refunding Bonds shall be calculated on the basis of a 360-day year comprised of twelve 30-day months.

Each Refunding Bond shall bear interest from the Interest Payment Date next preceding the date of registration and authentication thereof unless (i) it is authenticated as of an Interest Payment Date, in which event it shall bear interest from such date, or (ii) it is authenticated prior to an Interest Payment Date and after the close of business on the preceding Record Date, in which event it shall bear interest from such Interest Payment Date, or (iii) it is authenticated on or before the first Record Date, in which event it shall bear interest from the Closing Date; *provided, however*, that if at the time of authentication of a Refunding Bond, interest is in default thereon, such Refunding Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

(f) Manner of Payment. Interest on the Refunding Bonds (including the final interest payment upon maturity or earlier redemption) is payable by check of the Paying Agent mailed to the Owner thereof at such Owner's address as it appears on the Registration Books at the close of business on the preceding Record Date; except that at the written request of the Owner of at least \$1,000,000 aggregate principal amount of the Refunding Bonds, which written request is on file with the Paying Agent as of any Record Date, interest on such Refunding Bonds shall be paid by wire transfer on the succeeding Interest Payment Date to an account in the United States of America as shall be specified in such written request. Principal of and premium (if any) on the Refunding Bonds is payable in lawful money of the United States of America upon presentation and surrender at the Principal Office of the Paying Agent.

Section 2.03. Redemption.

(a) Optional Redemption. The Refunding Bonds are subject to redemption prior to maturity, at the option of the City, in whole or in part among maturities on such basis as designated by the City and by lot within a maturity, from any available source of funds, on the dates and at the respective redemption prices as set forth in the Official Notice of Sale.

(b) Mandatory Sinking Fund Redemption. If the Official Notice of Sale specifies that any one or more maturities of the Refunding Bonds are term bonds which are subject to mandatory sinking fund redemption, each such maturity of Refunding Bonds shall be subject to such mandatory sinking fund redemption on September 1 in each of the years and in the respective principal amounts as set forth in the Official Notice of Sale, at a redemption price equal to 100% of the principal amount thereof to be redeemed (without premium), together with interest accrued thereon to the date fixed for redemption. If any such term bonds are redeemed under the provisions of the preceding clause (a), the total amount of all future payments under this subsection (b) with respect to such term bonds shall be reduced by the aggregate principal amount of such term bonds so redeemed, to be allocated among such payments as determined by the City (written notice of which determination shall be given by the City to the Paying Agent).

(c) Selection of Refunding Bonds for Redemption. Whenever less than all of the Outstanding Refunding Bonds of any one maturity are designated for redemption, the Paying Agent shall select the Outstanding Refunding Bonds of such maturity to be redeemed by lot in any manner deemed fair by the Paying Agent. For purposes of such selection, each Refunding Bond will be deemed to consist of individual Refunding Bonds of \$5,000 denominations each, which may be separately redeemed.

(d) Redemption Procedure. The Paying Agent will cause notice of any redemption to be mailed, first class mail, postage prepaid, at least 20 days but not more than 60 days prior to the date fixed for redemption, to (i) one or more of the Information Services, and (ii) to the respective Owners of any Refunding Bonds designated for redemption, at their addresses appearing on the Registration Books. Such mailing is not a condition precedent to such redemption and the failure to mail or to receive any

such notice will not affect the validity of the proceedings for the redemption of such Refunding Bonds. In addition, the Paying Agent will give notice of redemption by telecopy or certified, registered or overnight mail to each of the Securities Depositories at least two days prior to such mailing to the Refunding Bond Owners.

Such notice must state the redemption date and the redemption price and, if less than all of the then Outstanding Refunding Bonds are to be called for redemption, shall designate the serial numbers of the Refunding Bonds to be redeemed by giving the individual number of each Refunding Bond or by stating that all Refunding Bonds between two stated numbers, both inclusive, or by stating that all of the Refunding Bonds of one or more maturities have been called for redemption, and shall require that such Refunding Bonds be then surrendered at the Principal Office of the Paying Agent for redemption at the said redemption price, giving notice also that further interest on such Refunding Bonds will not accrue from and after the redemption date.

Upon surrender of Refunding Bonds redeemed in part only, the City shall execute and the Paying Agent shall authenticate and deliver to the Owner, at the expense of the City, a new Refunding Bond or Bonds, of the same maturity, of authorized denominations in aggregate principal amount equal to the unredeemed portion of the Refunding Bond or Bonds.

From and after the date fixed for redemption, if notice of such redemption has been duly given and funds available for the payment of the principal of and interest (and premium, if any) on the Refunding Bonds so called for redemption have been duly provided, the Refunding Bonds called for redemption will cease to be entitled to any benefit under this Resolution other than the right to receive payment of the redemption price, and no interest will accrue thereon on or after the redemption date specified in the notice. The Paying Agent will cancel all Refunding Bonds redeemed under this Section 2.03 and will furnish a certificate of cancellation to the City.

(e) Conditional Redemption Notice; Right to Rescind Notice of Optional Redemption. The City may send a conditional redemption notice that provides that redemption is subject to the availability of sufficient funds on the proposed redemption date. The City has the right to rescind any notice of the optional redemption of Refunding Bonds by written notice to the Paying Agent on or before the date fixed for redemption. Any notice of optional redemption shall 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 Refunding Bonds then called for redemption, and such cancellation will not constitute a default hereunder. The City and the Paying Agent have no liability to the Owners or any other party related to or arising from such rescission of redemption. The Paying Agent shall mail notice of such rescission of redemption in the same manner as the original notice of redemption was sent under subsection (d) of this Section.

Section 2.04. Form of Refunding Bonds. The form of the Refunding Bonds, including the form of the Paying Agent's Certificate of Authentication and the form of

Assignment to appear thereon, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Resolution, are set forth in Appendix A attached hereto.

Section 2.05. Execution of Refunding Bonds. The Refunding Bonds shall be executed on behalf of the City by the facsimile signatures of its Mayor and City Clerk who are in office on the date of adoption of this Resolution or at any time thereafter. If any officer whose signature appears on any Refunding Bond ceases to be such officer before delivery of the Refunding Bonds to the Original Purchaser, such signature will nevertheless be as effective as if the officer had remained in office until the delivery of the Refunding Bonds to the Original Purchaser. Any Refunding Bond may be signed and attested on behalf of the City by such persons as at the actual date of the execution of such Refunding Bond are the proper officers of the City although at the nominal date of such Refunding Bond any such person does not serve as such officer of the City.

Only those Refunding Bonds bearing a Certificate of Authentication in the form set forth in Appendix A attached hereto, executed and dated by the Paying Agent, will be valid or obligatory for any purpose or entitled to the benefits of this Resolution, and such Certificate of Authentication of the Paying Agent constitutes conclusive evidence that the Refunding Bonds so registered have been duly authenticated, registered and delivered hereunder and are entitled to the benefits of this Resolution.

Section 2.06. Transfer of Refunding Bonds. Any Refunding 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 his duly authorized attorney, upon surrender of such Refunding Bond for cancellation at the Principal Office at the Paying Agent, accompanied by delivery of a written instrument of transfer in a form approved by the Paying Agent, duly executed. The City may charge a reasonable sum for each new Refunding Bond issued upon any transfer.

Whenever any Refunding Bond or Bonds is surrendered for transfer, the City shall execute and the Paying Agent shall authenticate and deliver a new Refunding Bond or Bonds, for like aggregate principal amount.

No transfers of Refunding Bonds shall be required to be made (a) 15 days prior to the date established by the Paying Agent for selection of Refunding Bonds for redemption or (b) with respect to a Refunding Bond which has been selected for redemption.

Section 2.07. Exchange of Refunding Bonds. Refunding Bonds may be exchanged at the Principal Office of the Paying Agent for a like aggregate principal amount of Refunding Bonds of authorized denominations and of the same maturity. The City may charge a reasonable sum for each new Refunding Bond issued upon any exchange.

No exchange of Refunding Bonds is required to be made (a) 15 days prior to the date established by the Paying Agent for selection of Refunding Bonds for redemption or (b) with respect to a Refunding Bond after it has been selected for redemption.

Section 2.08. Registration Books. The Paying Agent shall keep or cause to be kept sufficient books for the registration and transfer of the Refunding Bonds, which shall at all times be open to inspection by the City upon reasonable notice; and, upon presentation for such purpose, the Paying Agent shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said books, Bonds as herein before provided.

Section 2.09. Book-Entry System. Except as provided below, DTC will be the Owner of all of the Refunding Bonds, and the Refunding Bonds will be registered in the name of Cede & Co. as nominee for DTC. The Refunding Bonds shall be initially executed and delivered in the form of a single fully registered Bond for each maturity date of the Refunding Bonds in the full aggregate principal amount of the Refunding Bonds maturing on such date. The Paying Agent and the City may treat DTC (or its nominee) as the sole and exclusive owner of the Refunding Bonds registered in its name for all purposes of this Resolution, and neither the Paying Agent nor the City shall be affected by any notice to the contrary. The Paying Agent and the City shall not have any responsibility or obligation to any Depository System Participant, any person claiming a beneficial ownership interest in the Refunding Bonds under or through DTC or a Depository System Participant, or any other person which is not shown on the register of the City as being an owner, with respect to the accuracy of any records maintained by DTC or any Depository System Participant or the payment by DTC or any Depository System Participant by DTC or any Depository System Participant of any amount in respect of the principal or interest with respect to the Refunding Bonds. The City shall cause to be paid all principal and interest with respect to the Refunding Bonds only to DTC, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to the principal and interest with respect to the Refunding Bonds to the extent of the sum or sums so paid. Except under the conditions noted below, no person other than DTC shall receive a Refunding Bond. Upon delivery by DTC to the City of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the term "Cede & Co." in this Resolution shall refer to such new nominee of DTC.

If the City determines that it is in the best interest of the beneficial owners that they be able to obtain Refunding Bonds and delivers a written certificate to DTC and the City to that effect, DTC shall notify the Depository System Participants of the availability through DTC of Refunding Bonds. In such event, the City shall issue, transfer and exchange Bonds as requested by DTC and any other owners in appropriate amounts. DTC may determine to discontinue providing its services with respect to the Refunding Bonds at any time by giving notice to the City and discharging its responsibilities with respect thereto under applicable law. Under such circumstances (if there is no successor securities depository), the City shall be obligated to deliver Bonds as described in this Resolution. Whenever DTC requests the City to do so, the City will

cooperate with DTC in taking appropriate action after reasonable notice to (a) make available one or more separate Bonds evidencing the Refunding Bonds to any Depository System Participant having Bonds credited to its DTC account or (b) arrange for another securities depository to maintain custody of certificates evidencing the Refunding Bonds.

Notwithstanding any other provision of this Resolution to the contrary, so long as any Refunding Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to the principal and interest with respect to such Refunding Bond and all notices with respect to such Refunding Bond shall be made and given, respectively, to DTC as provided as in the representation letter delivered on the date of issuance of the Refunding Bonds.

ARTICLE III

SALE OF REFUNDING BONDS; APPLICATION OF PROCEEDS

Section 3.01. Sale of Refunding Bonds; Approval of Sale Documents.

(a) Competitive Sale of Refunding Bonds. The City Council hereby authorizes the sale of the Refunding Bonds by competitive public bidding in accordance with the provisions of the Official Notice of Sale in substantially the form on file with the City Clerk, together with such additions thereto and changes therein as may be approved by a City Representative. The terms and conditions of the offering and the competitive public sale of the Refunding Bonds shall be as specified in the Official Notice of Sale. A City Representative, on behalf of the City, is hereby authorized and directed to accept the best responsible bid for the purchase of the Refunding Bonds, determined in accordance with the Official Notice of Sale. Sale of the Refunding Bonds shall be awarded, or all bids shall be rejected, not later than 24 hours after the expiration of the time prescribed for the receipt of proposals unless such time of award is waived by the successful bidder.

(b) Publication of Notice of Intention. The City Council hereby authorizes and directs Bond Counsel to publish a notice of the City's intention to sell the Refunding Bonds, in form and substance acceptable to Bond Counsel, in *The Bond Buyer* once at least 15 days prior to the date fixed for receipt of bids, in accordance with Section 53692 of the California Government Code. The City Council further hereby authorizes and directs the City Clerk to cause the publication of such notice in a newspaper of general circulation circulated within the City once at least 10 days prior to the date fixed for receipt of bids, in accordance with Sections 53569 and 53583 of the California Government Code.

(c) Sale Documentation to be Controlling. Notwithstanding the foregoing provisions of this Resolution, any of the terms of the Refunding Bonds may be

established or modified by the final form of the Official Sale, and in the event of a conflict or inconsistency between this Resolution and the Official Notice of Sale relating to the terms of the Refunding Bonds, the provisions of the Official Notice of Sale shall be controlling.

(d) Official Statement. The City Council hereby approves and deems final within the meaning of Rule 15c2-12 of the Securities Exchange Act of 1934, the preliminary Official Statement describing the Refunding Bonds in the form on file with the Clerk of the City Council. A City Representative is hereby individually authorized, at the request of the Original Purchaser, to execute an appropriate certificate affirming the City Council's determination that the preliminary Official Statement has been deemed final within the meaning of such Rule. Distribution of the preliminary Official Statement by the financial advisor to prospective bidders on the Refunding Bonds is hereby approved. A City Representative is hereby individually authorized and directed to approve any changes in or additions to a final form of the Official Statement, and the execution thereof by such City Representative 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 Original Purchaser. A City Representative shall execute the final Official Statement in the name and on behalf of the City.

Section 3.02. Application of Proceeds of Sale of Refunding Bonds. The proceeds of the Refunding Bonds shall be applied by the Original Purchaser on the Closing Date in accordance with a Written Request of the City, as follows:

- (a) The Original Purchaser shall transfer a portion of the proceeds of the Refunding Bonds to The Bank of New York Mellon Trust Company, N.A., as custodian under the agreement referred to in Section 3.04, to be applied to pay the Costs of Issuance.
- (b) The Original Purchaser shall transfer the remainder of such proceeds to the Escrow Agent to be held, invested and applied to refund and discharge the outstanding Refunded Bonds in accordance with the Escrow Agreement.

Section 3.03. Refunding of Refunded Bonds; Approval of Escrow Agreement. The Refunded Bonds shall be refunded in accordance with the provisions of the Escrow Agreement. The City Council hereby approves the Escrow Agreement in substantially the form on file with the City Clerk, together with any changes therein or modifications thereof which are approved by a City Representative, and the execution thereof by a City Representative will be conclusive evidence of the approval of any such changes or modifications. A City Representative is directed to authenticate and execute the final form of the Escrow Agreement on behalf of the City, and to deliver the executed Escrow Agreement on the Closing Date.

Section 3.04. Costs of Issuance Custodian Agreement. The City Council hereby approves the payment of all Costs of Issuance from the proceeds of the

Refunding Bonds in accordance with Section 53556 of the Bond Law. Such Costs of Issuance shall be paid pursuant to a Costs of Issuance Custodian Agreement between the City and The Bank of New York Mellon Trust Company, N.A., as custodian, which the City Council hereby approves in substantially the form on file with the City Clerk. As provided in said agreement, amounts held thereunder shall be requisitioned by a City Representative for payment of Costs of Issuance in accordance with said agreement. Any amounts held thereunder which are not required for payment of Costs of Issuance shall be transferred to the City and deposited into the Debt Service Fund, to be applied to pay interest next coming due and payable on the Refunding Bonds.

Section 3.05. Appropriation and Expenditure of Prior Tax Revenues. The City Council hereby appropriates funds from the debt service funds for payment of the Refunded Bonds, in an amount to be determined by the City Manager to be available for that purpose after consultation with the City's financial advisor and its bond counsel, for the purpose of paying a portion of the redemption price of the Refunded Bonds, thereby reducing the principal amount of the Refunding Bonds and resulting in additional debt service savings that will be passed through to the taxpayers of the City.

The City Manager shall cause the amounts that are appropriated under the previous paragraph to be transferred to the Escrow Agent, to be held and administered for the sole purpose of redeeming a portion of the Refunded Bonds. Such transfer shall be made on or before the date on which the Refunding Bonds are issued.

ARTICLE IV

SECURITY FOR THE REFUNDING BONDS; PAYMENT OF DEBT SERVICE

Section 4.01. Security for the Refunding Bonds. The Refunding Bonds are general obligations of the City, and the City Council has the power to direct the County to levy *ad valorem* taxes upon all property within the City subject to taxation without limitation of rate or amount, for the payment of the Refunding Bonds and the interest thereon, in accordance with Section 43632 of the Government Code. The City hereby directs the County to levy on all the taxable property in the City, in addition to all other taxes, a continuing direct and *ad valorem* tax annually during the period the Refunding Bonds are Outstanding in an amount sufficient to pay the principal of and interest on the Refunding Bonds when due, including the principal of any Refunding Bonds upon the mandatory sinking fund redemption thereof under Section 2.03(b), which moneys when collected will be deposited in the Debt Service Fund.

Amounts in the General Fund of the City are not pledged to the payment of the Refunding Bonds. However, nothing herein limits the ability of the City to provide for payment of the principal of and interest and redemption premium (if any) on the Refunding Bonds from any source of legally available funds of the City. Any amounts

so advanced by the City from legally available funds may be reimbursed from *ad valorem* property taxes subsequently collected for the payment of the Refunding Bonds.

The principal of and interest and redemption premium (if any) on the Refunding Bonds do not constitute a debt of the County, the State of California, or any of its political subdivisions other than the City, or any of the officers, agents or employees thereof, and neither the County, the State of California, any of its political subdivisions nor any of the officers, agents or employees thereof shall be liable thereon.

Section 4.02. Debt Service Fund. The City Council hereby establishes a special fund to be held by the City separate and apart from all other funds of the City, to be known as the “2015 General Obligation Refunding Bonds Debt Service Fund”. All taxes levied by the County, as directed by the City, for the payment of the principal of and interest and premium (if any) on the Refunding Bonds shall be deposited in the Debt Service Fund by the City promptly upon the receipt thereof from the County. The Debt Service Fund is hereby pledged for the payment of the principal of and interest on the Refunding Bonds when and as the same become due. The City shall transfer amounts in the Debt Service Fund, to the extent necessary to pay the principal of and interest on the Refunding Bonds as the same become due and payable, to the Paying Agent. Alternatively, the City may direct the County to transfer such taxes, in whole or in part, directly to the Paying Agent for the purpose of making payments of principal of and interest on the Refunding Bonds.

If, after payment in full of the Refunding Bonds, any amounts remain on deposit in the Debt Service Fund, the City shall transfer such amounts to its General Fund, to be applied solely in a manner which is consistent with the requirements of applicable state and federal tax law.

Section 4.03. Investments. The City shall invest all moneys held in any of the funds or accounts established with it hereunder in accordance with the investment policies of the City, as such policies shall exist at the time of investment, and in accordance with Section 53601 of the California Government Code. Obligations purchased as an investment of moneys in any fund or account shall be deemed to be part of such fund or account.

All interest or gain derived from the investment of amounts in any of the funds or accounts established hereunder shall be deposited in the fund or account from which such investment was made, and shall be expended for the purposes thereof. The City covenants that all investments of amounts deposited in any fund or account created by or under this Resolution, or otherwise containing proceeds of the Refunding Bonds, shall be acquired and disposed of at the Fair Market Value thereof. For purposes of this Section 4.03, the term “Fair Market Value” shall mean, with respect to any investment, the price at which a willing buyer would purchase such investment from a willing seller in a bona fide, arm’s length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Tax Code)

and, otherwise, the term “Fair Market Value” means the acquisition price in a bona fide arm’s length transaction (as described above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Tax Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Tax Code, or (iii) the investment is a United States Treasury Security - State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt.

ARTICLE V

OTHER COVENANTS OF THE CITY

Section 5.01. Punctual Payment. The City shall punctually pay, or cause to be paid, the principal of and interest on the Refunding Bonds, in strict conformity with the terms of the Refunding Bonds and of this Resolution, and shall faithfully observe and perform all of the conditions, covenants and requirements of this Resolution and of the Refunding Bonds. Nothing herein contained prevents the City from making advances of its own moneys howsoever derived to any of the uses or purposes permitted by law.

Section 5.02. Extension of Time for Payment. In order to prevent any accumulation of claims for interest after maturity, the City will not, directly or indirectly, extend or consent to the extension of the time for the payment of any claim for interest on any of the Refunding Bonds and will not, directly or indirectly, approve any such arrangement by purchasing or funding said claims for interest or in any other manner.

Section 5.03. Books and Accounts; Financial Statements. The City will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the City in which complete and correct entries are made of all transactions relating to the Refunding Bonds. Such books of record and accounts shall at all times during business hours be subject to the inspection of the Paying Agent and the Owners of not less than 10% in aggregate principal amount of the Refunding Bonds then Outstanding, or their representatives authorized in writing.

Section 5.04. Protection of Security and Rights of Refunding Bond Owners. The City will preserve and protect the security of the Refunding Bonds and the rights of the Refunding Bond Owners, and will warrant and defend their rights against all claims and demands of all persons. From and after the sale and delivery of any of the Refunding Bonds by the City, the City may not contest the authorization, issuance, sale or repayment of the Refunding Bonds.

Section 5.05. Tax Covenants Relating to the Refunding Bonds. The City shall take all actions necessary to assure the exclusion of interest on the Refunding

Bonds from the gross income of the Owners of the Refunding Bonds to the same extent as such interest is permitted to be excluded from gross income under the Tax Code as in effect on the Closing Date. To that end, and without limiting the generality of the foregoing covenant, the City hereby covenants with the Owners of the Refunding Bonds as follows:

- (a) Private Activity Bond Limitation. The proceeds of the Refunding Bonds shall not be so used as to cause the Refunding Bonds to satisfy the private business tests of Section 141(b) of the Tax Code or the private loan financing test of Section 141(c) of the Tax Code.
- (b) Federal Guarantee Prohibition. The City shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Refunding Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Tax Code.
- (c) No Arbitrage. The City shall not take, or permit or suffer to be taken by the Paying Agent or otherwise, any action with respect to the Refunding Bond proceeds which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Closing Date, would have caused the Refunding Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Tax Code.
- (d) Rebate of Excess Investment Earnings. The City shall calculate or cause to be calculated all amounts of excess investment earnings with respect to the Refunding Bonds which are required to be rebated to the United States of America under Section 148(f) of the Tax Code, at the times and in the manner required under the Tax Code. The City shall pay or cause to be paid when due an amount equal to excess investment earnings to the United States of America in such amounts, at such times and in such manner as may be required under the Tax Code, such payments to be made from any source of legally available funds of the City. The City shall keep or cause to be kept, and retain or cause to be retained for a period of 6 years following the retirement of the Refunding Bonds, records of the determinations made under this subsection (d).
- (e) Maintenance of Tax-Exemption. The City shall take all actions necessary to assure the exclusion of interest on the Refunding Bonds from the gross income of the owners of the Refunding Bonds to the same extent as such interest is permitted to be excluded from gross income under the Tax Code as in effect on the date of issuance of the Refunding Bonds.

Section 5.06. Continuing Disclosure. The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate, which a City Representative is hereby authorized and directed to execute and deliver on the Closing Date. Notwithstanding any other provision of this Resolution, failure of the City to comply with the Continuing Disclosure Certificate will not be considered a default by the City hereunder or under the Refunding Bonds; however, any Participating Underwriter (as such term is defined in the Continuing Disclosure Certificate) or any holder or beneficial owner of the Refunding Bonds may, take such actions as may be necessary and appropriate to compel performance, including seeking mandate or specific performance by court order.

Section 5.07. Further Assurances. The City will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Resolution, and for the better assuring and confirming unto the Owners of the Refunding Bonds of the rights and benefits provided in this Resolution.

ARTICLE VI

THE PAYING AGENT

Section 6.01. Appointment of Paying Agent. The Bank of New York Mellon Trust Company, N.A. is hereby appointed to act as Paying Agent for the Refunding Bonds. The Paying Agent undertakes to perform such duties, and only such duties, as are specifically set forth in this Resolution, and even during the continuance of an event of default with respect to the Refunding Bonds, no implied covenants or obligations shall be read into this Resolution against the Paying Agent. The Paying Agent shall signify its acceptance of the duties and obligations imposed upon it by this Resolution by executing and delivering to the City a certificate to that effect.

The City may remove the Paying Agent initially appointed, and any successor thereto, and may appoint a successor or successors thereto, but any such successor shall be a bank or trust company doing business and having an office in the State of California, having a combined capital (exclusive of borrowed capital) and surplus of at least \$50,000,000, and subject to supervision or examination by federal or state authority. If such bank or trust company publishes a report of condition at least annually, under law or under the requirements of any supervising or examining authority above referred to, then for the purposes of this Section 6.01 the combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

The Paying Agent may at any time resign by giving written notice to the City and the Refunding Bond Owners of such resignation. Upon receiving notice of such resignation, the City shall promptly appoint a successor Paying Agent by an instrument in writing. Any resignation or removal of the Paying Agent and appointment of a

successor Paying Agent becomes effective upon acceptance of appointment by the successor Paying Agent.

Section 6.02. Paying Agent May Hold Bonds. The Paying Agent may become the Owner of any of the Refunding Bonds in its own or any other capacity with the same rights it would have if it were not Paying Agent.

Section 6.03. Liability of Paying Agent. The recitals of facts, covenants and agreements herein and in the Refunding Bonds contained shall be taken as statements, covenants and agreements of the City, and the Paying Agent assumes no responsibility for the correctness of the same, nor makes any representations as to the validity or sufficiency of this Resolution or of the Refunding Bonds, nor shall incur any responsibility in respect thereof, other than as set forth in this Resolution. The Paying Agent is not liable in connection with the performance of its duties hereunder, except for its own negligence or willful default.

In the absence of bad faith, the Paying Agent may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Paying Agent and conforming to the requirements of this Resolution.

The Paying Agent has no liability for any error of judgment made in good faith by a responsible officer of its corporate trust department in the absence of the negligence of the Paying Agent.

No provision of this Resolution requires the Paying Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it has reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

The Paying Agent may execute any of the powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Paying Agent is not responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder.

Section 6.04. Notice to Paying Agent. The Paying Agent may rely and shall be protected in acting or refraining from acting upon any notice, resolution, request, consent, order, certificate, report, warrant, bond or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or proper parties. The Paying Agent may consult with counsel, who may be of counsel to the City, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith.

Whenever in the administration of its duties under this Resolution the Paying Agent deems it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of bad faith on the part of the Paying Agent, be deemed to be conclusively proved and established by a certificate of the City, and such certificate will be full warrant to the Paying Agent for any action taken or suffered under the provisions of this Resolution upon the faith thereof, but in its discretion the Paying Agent may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable.

Section 6.05. Compensation; Indemnification. The City will pay to the Paying Agent from time to time reasonable compensation for all services rendered under this Resolution, and also all reasonable expenses, charges, counsel fees and other disbursements, including those of their attorneys, agents and employees, incurred in and about the performance of their powers and duties under this Resolution. The City further agrees to indemnify the Paying Agent against any liabilities which it may incur in the exercise and performance of its powers and duties hereunder which are not due to its negligence or bad faith.

Section 6.06. Furnishing of Statements. The Paying Agent shall furnish the City periodic cash transaction statements which include detail for all investment transactions effected by the Paying Agent or brokers selected by the City. Upon the City's election, such statements will be delivered via the Paying Agent's online service and upon electing such service, paper statements will be provided only upon request. The City waives the right to receive brokerage confirmations of security transactions effected by the Paying Agent as they occur, to the extent permitted by law. The City further understands that trade confirmations for securities transactions effected by the Paying Agent will be available upon request and at no additional cost and other trade confirmations may be obtained from the applicable broker.

ARTICLE VII

REMEDIES OF REFUNDING BOND OWNERS

Section 7.01. Remedies of Refunding Bond Owners. Upon the happening and continuation of any default by the City hereunder or under the Refunding Bonds, any Refunding Bond Owner has the right, for the equal benefit and protection of all Refunding Bond Owners similarly situated:

- (a) by mandamus, suit, action or proceeding, to compel the City and its members, officers, agents or employees to perform each and every term, provision and covenant contained in this Resolution and in the Refunding Bonds, and to require the carrying out of any or all such covenants and agreements of the City and the fulfillment of all duties imposed upon it;

- (b) by suit, action or proceeding in equity, to enjoin any acts or things which are unlawful, or the violation of any of the Refunding Bond Owners' rights; or
- (c) by suit, action or proceeding in any court of competent jurisdiction, to require the City and its members and employees to account as if it and they were the trustees of an express trust.

Section 7.02. Remedies Not Exclusive. No remedy herein conferred upon the Owners of Refunding Bonds is exclusive of any other remedy. Each remedy is cumulative and shall be in addition to every other remedy given hereunder or thereafter conferred on the Refunding Bond Owners.

ARTICLE VIII

AMENDMENT OF THIS RESOLUTION

Section 8.01. Amendments Effective Without Consent of the Owners. For any one or more of the following purposes and at any time or from time to time, the City Council may by Supplemental Resolution amend this Resolution in whole or in part, without the consent of any of the Refunding Bond Owners:

- (a) to add to the covenants and agreements of the City in this Resolution, other covenants and agreements to be observed by the City which are not contrary to or inconsistent with this Resolution as theretofore in effect;
- (b) to confirm, as further assurance, any pledge under, and to subject to any lien or pledge created or to be created by, this Resolution, of any moneys, securities or funds, or to establish any additional funds or accounts to be held under this Resolution;
- (c) to cure any ambiguity, supply any omission, or cure or correct any defect or inconsistent provision in this Resolution, which in any event does not materially adversely affect the interests of the Refunding Bond Owners, in the opinion of Bond Counsel filed with the City; or
- (d) to make such additions, deletions or modifications as may be necessary to assure compliance with the applicable provisions of the Tax Code relating to the rebate of excess investment earnings to the United States or otherwise as may be necessary to assure that the interest on the Refunding Bonds remains excludable from gross income of the Owners thereof for federal income tax purposes, in the opinion of Bond Counsel filed with the City.

Section 8.02. Amendments Effective With Consent to the Owners. Any modification or amendment of this Resolution and of the rights and obligations of the City and of the Owners of the Refunding Bonds, in any particular, may be made by a Supplemental Resolution, with the written consent of the Owners of a majority in aggregate principal amount of the Refunding Bonds Outstanding at the time such consent is given. Without the consent of the Owners of all affected Refunding Bonds, no such modification or amendment may (a) change the maturity of the principal of any Refunding Bonds or any interest payable thereon, (b) reduce the principal amount of the Refunding Bonds or the rate of interest thereon, (c) reduce the percentage of Refunding Bonds the consent of the Owners of which is required to effect any such modification or amendment, (d) change any of the provisions in Section 7.01 relating to a default by the City hereunder or under the Refunding Bonds, (e) reduce the amount of moneys pledged for the repayment of the Refunding Bonds. Without the consent of the Paying Agent, no such modification or amendment may change or modify any of the rights or obligations of the Paying Agent.

ARTICLE IX

MISCELLANEOUS

Section 9.01. Benefits of Resolution Limited to Parties. Nothing in this Resolution, expressed or implied, is intended to give to any person other than the City, the Paying Agent, the Owners of the Refunding Bonds and any bond insurer which insures all or a portion of the Refunding Bonds, any right, remedy, claim under or by reason of this Resolution. Any covenants, stipulations, promises or agreements in this Resolution contained by and on behalf of the City shall be for the sole and exclusive benefit of the Owners of the Refunding Bonds.

Section 9.02. Defeasance.

(a) Discharge of Resolution. Refunding Bonds may be paid by the City, in whole or in part, in any of the following ways provided that the City also pays or causes to be paid any other sums payable hereunder by the City:

- (i) by paying or causing to be paid the principal or redemption price of and interest on such Refunding Bonds, as and when the same become due and payable;
- (ii) by irrevocably depositing, in trust, at or before maturity, money or securities in the necessary amount to pay such Refunding Bonds as provided in Section 9.02(c); or
- (iii) by delivering such Refunding Bonds to the Paying Agent for cancellation by it.

If the City pays all Outstanding Refunding Bonds and also pays or causes to be paid all other sums payable hereunder by the City, then and in that case, at the election of the City (evidenced by a certificate of a City Representative filed with the Paying Agent, signifying the intention of the City to discharge all such indebtedness and this Resolution), and notwithstanding that any Refunding Bonds have not been surrendered for payment, this Resolution, all taxes and other assets pledged under this Resolution and all covenants, agreements and other obligations of the City under this Resolution shall cease, terminate, become void and be completely discharged and satisfied, except only as provided in Section 9.02(b). In such event, upon request of the City, the Paying Agent shall cause an accounting for such period or periods as may be requested by the City to be prepared and filed with the City and shall execute and deliver to the City all such instruments as may be necessary to evidence such discharge and satisfaction, and the Paying Agent shall pay over, transfer, assign or deliver to the City all moneys or securities or other property held by it under this Resolution which are not required for the payment or redemption of Refunding Bonds not theretofore surrendered for such payment or redemption.

(b) Discharge of Liability on Bonds. Upon the deposit, in trust, at or before maturity, of money or securities in the necessary amount to pay any Outstanding Bond Bonds as provided in Section 9.02(c), then all liability of the City in respect of such Refunding Bond will cease and be completely discharged, except only that thereafter the Owner thereof is entitled only to payment of the principal of and interest on such Refunding Bond by the City, and the City remains liable for such payment, but only out of such money or securities deposited with the Paying Agent as aforesaid for such payment, provided further, however, that the provisions of Section 9.02(d) apply in all events.

The City may at any time surrender to the Paying Agent for cancellation by it any Refunding Bonds previously issued and delivered, which the City acquires in any manner whatsoever, and such Refunding Bonds, upon such surrender and cancellation, will be deemed paid and retired.

(c) Deposit of Money or Securities with Paying Agent. Whenever in this Resolution it is provided or permitted that there be deposited with or held in trust by the Paying Agent money or securities in the necessary amount to pay any Refunding Bonds, the money or securities so to be deposited or held may include money or securities held by the Paying Agent in the funds and accounts established under this Resolution and must be:

- (i) lawful money of the United States of America in an amount equal to the principal amount or redemption price of such Refunding Bonds and all unpaid interest thereon to maturity or the prior redemption date; or

- (ii) Federal Securities the principal of and interest on which when due, in the opinion of a certified public accountant delivered to the City, will provide money sufficient to pay the principal of and all unpaid interest to maturity or redemption date on the Refunding Bonds to be paid, as such principal and interest or redemption price become due.

(d) Payment of Refunding Bonds After Discharge of Resolution. Notwithstanding any provisions of this Resolution, any moneys held by the Paying Agent in trust for the payment of the principal of, or interest on, or redemption price, any Refunding Bonds and remaining unclaimed for two years after the principal of all of the Refunding Bonds has become due and payable, if such moneys were so held at such date, or two years after the date of deposit of such moneys if deposited after said date when all of the Refunding Bonds became due and payable, shall, upon request of the City, be repaid to the City free from the trusts created by this Resolution, and all liability of the Paying Agent with respect to such moneys shall thereupon cease. Before the repayment of such moneys to the City as aforesaid, the Paying Agent may (at the cost of the City) first mail to the Owners of all Refunding Bonds which have not been paid at the addresses shown on the Registration Books a notice in such form as may be deemed appropriate by the Paying Agent, with respect to the Refunding Bonds so payable and not presented and with respect to the provisions relating to the repayment to the City of the moneys held for the payment thereof.

Section 9.03. Execution of Documents and Proof of Ownership. Any request, declaration or other instrument which this Resolution may require or permit to be executed by Owners of Refunding Bonds may be in one or more instruments of similar tenor, and shall be executed by such Owners in person or by their attorneys appointed in writing.

Except as otherwise herein expressly provided, the fact and date of the execution by any Refunding Bond Owner or his attorney of such request, declaration or other instrument, or of such writing appointing such attorney, may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the person signing such request, declaration or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer.

Except as otherwise herein expressly provided, the ownership of registered Bonds and the amount, maturity, number and date of holding the same are proved by the Registration Books.

Any request, declaration or other instrument or writing of the Owner of any Refunding Bond binds all future Owners of such Refunding Bond in respect of anything done or suffered to be done by the City or the Paying Agent in good faith and in accordance therewith.

Section 9.04. Waiver of Personal Liability. No City Council member, officer, agent or employee of the City has any individual or personal liability for the payment of the principal of or interest on the Refunding Bonds. Nothing herein contained relieves any City Council member, officer, agent or employee from the performance of any official duty provided by law.

Section 9.05. Destruction of Canceled Bonds. Whenever in this Resolution provision is made for the surrender to the City of any Refunding Bonds which have been paid or canceled under the provisions of this Resolution, a certificate of destruction duly executed by the Paying Agent constitutes the equivalent of the surrender of such canceled Bonds and the City is entitled to rely upon any statement of fact contained in any certificate with respect to the destruction of any such Refunding Bonds therein referred to.

Section 9.06. Partial Invalidity. If any section, paragraph, sentence, clause or phrase of this Resolution is for any reason held illegal or unenforceable, such holding will not affect the validity of the remaining portions of this Resolution. The City hereby declares that it would have adopted this Resolution and each and every other section, paragraph, sentence, clause or phrase hereof and authorized the issue of the Refunding Bonds pursuant hereto irrespective of the fact that any one or more sections, paragraphs, sentences, clauses, or phrases of this Resolution may be held illegal, invalid or unenforceable.

Section 9.07. Execution of Documents. Each City Representative, and any and all other officers of the City, are each authorized and directed in the name and on behalf of the City to make any and all certificates, requisitions, agreements, notices, consents, warrants and other documents, which they or any of them might deem necessary or appropriate in order to consummate the lawful issuance, sale and delivery of the Refunding Bonds. 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 shall be absent or unavailable.

Section 9.08. Effective Date of Resolution. This Resolution becomes effective upon the date of its passage and adoption.

APPENDIX A

FORM OF REFUNDING BOND

REGISTERED BOND NO. _____

\$ _____

CITY OF BERKELEY
(County of Alameda, California)
2015 GENERAL OBLIGATION REFUNDING BOND

INTEREST RATE:	MATURITY DATE:	DATED DATE:	CUSIP
_____ % per annum	September 1, _____		

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The CITY OF BERKELEY, a municipal corporation duly organized and existing under the laws of the State of California (the "City"), for value received, hereby promises to pay to the Registered Owner named above, or registered assigns, the Principal Amount set forth above on the Maturity Date set forth above, together with interest thereon at the Interest Rate set forth above, calculated on a 30/360 day basis, until the Principal Amount hereof is paid or provided for, such interest to be paid on March 1 and September 1 of each year, commencing _____, 201__ (the "Interest Payment Dates"). This Bond will bear interest from the Interest Payment Date next preceding the date of authentication hereof, unless (a) it is authenticated as of a business day following the 15th day of the month immediately preceding any Interest Payment Date and on or before such Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or (b) it is authenticated on or before _____, 201__, in which event it shall bear interest from the Dated Date set forth above.

The principal and redemption premium (if any) of and interest on this Bond are payable in lawful money of the United States of America to the person in whose name this Bond is registered (the "Registered Owner") on the Bond registration books maintained by the Paying Agent, initially The Bank of New York Mellon Trust Company, N.A., San Francisco, California. Principal hereof and any redemption premium is payable upon presentation and surrender of this Bond at the principal corporate trust office of the Paying Agent. Interest hereon is payable by check mailed by the Paying Agent on each Interest Payment Date to the Registered Owner of this Bond by first-class mail at the address appearing on the Bond registration books at the close of business on the 15th day of the calendar month next preceding such Interest Payment Date (the

“Record Date”); *provided, however*, that at the written request of the registered owner of Bonds in an aggregate principal amount of at least \$1,000,000, which written request is on file with the Paying Agent prior to any Record Date, interest on such Bonds shall be paid 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 shall be specified in such written request.

This Bond is one of a series of \$_____ of bonds (the “Bonds”) issued for the purpose of refinancing outstanding bonded indebtedness of the City and paying all necessary financing costs in connection therewith. The Bonds have been issued under authority of and under the laws of the State of California, and under a resolution of the City Council of the City adopted on June 9, 2015 (the “Bond Resolution”). The Bonds are payable as to both principal, redemption premium (if any) and interest from the proceeds of the levy of *ad valorem* taxes on all property subject to such taxes in the City, which taxes are unlimited as to rate or amount.

The principal and redemption premium (if any) of and interest on this Bond do not constitute a debt of the County, the State of California, or any of its political subdivisions other than the City, or any of the officers, agents and employees thereof, and neither the County, the State of California, any of its political subdivisions other than the City, nor any of the officers, agents and employees thereof shall be liable hereon. In no event shall the principal and redemption premium (if any) of and interest on this Bond be payable out of any funds or properties of the City other than *ad valorem* taxes levied upon all taxable property in the City.

The Bonds are issuable only as fully registered Bonds in the denominations of \$5,000 or any integral multiple thereof. This Bond is exchangeable and transferable for Bonds of other authorized denominations at the principal corporate trust office of the Paying Agent, by the Registered Owner or by a person legally empowered to do so, upon presentation and surrender hereof to the Paying Agent, together with a request for exchange or an assignment signed by the Registered Owner or by a person legally empowered to do so, in a form satisfactory to the Paying Agent, all subject to the terms, limitations and conditions provided in the Bond Resolution. Any tax or governmental charges shall be paid by the transferor. The City and the Paying Agent may deem and treat the Registered Owner as the absolute owner of this Bond for the purpose of receiving payment of or on account of principal or interest and for all other purposes, and neither the City nor the Paying Agent shall be affected by any notice to the contrary.

The Bonds maturing on or before September 1, 2023 are not subject to redemption prior to their respective stated maturities. The Bonds maturing on or after September 1, 2024 are subject to redemption prior to maturity as a whole, or in part among maturities on such basis as shall be designated by the City and by lot within a maturity, at the option of the City, from any available source of funds, on September 1, 2023 and on any Interest Payment Date thereafter, at a redemption price (expressed as a percentage of the principal amount of Bonds to be redeemed) as set forth in the following table, together with interest thereon to the date fixed for redemption.

Redemption Dates

Redemption Price

[If applicable:] The Bonds maturing on September 1, 20__ (the "Term Bonds") are also subject to mandatory sinking fund redemption on September 1 in the years, and in the amounts, as set forth in the following table, at a redemption price equal to 100% of the principal amount thereof to be redeemed (without premium), together with interest accrued thereon to the date fixed for redemption; *provided, however*, that if some but not all of the Term Bonds have been redeemed under the preceding paragraph, the aggregate principal amount of Term Bonds to be redeemed under this paragraph shall be reduced as shall be designated under written notice filed by the City with the Paying Agent.

Sinking Fund
Redemption Date
(September 1)

Principal
Amount To Be
Redeemed

The Paying Agent shall give notice of the redemption of the Bonds at the expense of the City. Such notice shall specify: (a) that the Bonds or a designated portion thereof are to be redeemed, (b) the numbers and CUSIP numbers of the Bonds to be redeemed, (c) the date of notice and the date of redemption, (d) the place or places where the redemption will be made, and (e) descriptive information regarding the Bonds including the dated date, interest rate and stated maturity date. Such notice shall further state that on the specified date there shall become due and payable upon each Bond to be redeemed, the portion of the principal amount of such Bond to be redeemed, together with interest accrued to said date, the redemption premium, if any, and that from and after such date interest with respect thereto shall cease to accrue and be payable.

Notice of redemption shall be by registered or otherwise secured mail or delivery service, postage prepaid, to the registered owner of the Bonds, to a municipal registered securities depository and to a national information service that disseminates securities redemption notices and, by first class mail, postage prepaid, to the City and the respective Owners of any Bonds designated for redemption at their addresses appearing on the Bond registration books, in every case at least 20 days, but not more than 60 days, prior to the redemption date; provided that neither failure to receive such notice nor any defect in any notice so mailed shall affect the sufficiency of the proceedings for the redemption of such Bonds.

The City may send a conditional redemption notice and rescind such notice, all as set forth in the Bond Resolution.

Neither the City nor the Paying Agent will be required: (a) to issue or transfer any Bond during a period beginning with the opening of business on the 15th calendar day next preceding either any Interest Payment Date or any date of selection of any Bond to be redeemed and ending with the close of business on the Interest Payment Date or a day on which the applicable notice of redemption is given, or (b) to transfer any Bond which has been selected or called for redemption in whole or in part.

Reference is made to the Bond Resolution for a more complete description of the provisions, among others, with respect to the nature and extent of the security for the Bonds, the rights, duties and obligations of the City, the Paying Agent and the Registered Owners, and the terms and conditions upon which the Bonds are issued and secured. The owner of this Bond assents, by acceptance hereof, to all of the provisions of the Bond Resolution.

IT IS CERTIFIED, RECITED AND DECLARED that all acts and conditions required by the Constitution and laws of the State of California to exist, to be performed or to have been met precedent to and in the issuing of the Bonds in order to make them legal, valid and binding general obligations of the City, have been performed and have been met in regular and due form as required by law; that payment in full for the Bonds has been received; that no statutory or constitutional limitation on indebtedness or taxation has been exceeded in issuing the Bonds; and that due provision has been made for levying and collecting ad valorem property taxes on all of the taxable property within the City in an amount sufficient to pay principal and interest when due, and for levying and collecting such taxes the full faith and credit of the City are hereby pledged.

This Bond shall not be valid or obligatory for any purpose and shall not be entitled to any security or benefit under the Bond Resolution until the Certificate of Authentication below has been manually signed by the Paying Agent.

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or the Paying Agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

IN WITNESS WHEREOF, the City of Berkeley has caused this Bond to be executed by the facsimile signature of its Mayor and attested by the facsimile signature of its City Clerk, all as of the date stated above.

CITY OF BERKELEY

By _____
Mayor

Attest:

City Clerk

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds described in the Bond Resolution referred to herein.

Date of Authentication:

**THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.,**
as Paying Agent

By _____
Authorized Signatory

FORM OF ASSIGNMENT

For value received, the undersigned do(es) hereby sell, assign and transfer unto

(Name, Address and Tax Identification or Social Security Number of Assignee)

the within Bond and do(es) hereby irrevocably constitute and appoint

_____ attorney, to transfer the same on the registration books of the Bond Registrar, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

Note: Signature(s) must be guaranteed by an eligible guarantor institution.

Note: The signature(s) on this Assignment must correspond with the name(s) as written on the face of the within Bond in every particular without alteration or enlargement or any change whatsoever.

NEW ISSUE - FULL BOOK-ENTRY

RATING: Standard & Poor's: "___"

Moody's: "___"

See "RATINGS" herein.

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 Refunding 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 imposed on individuals and corporations, provided, however, that, for the purpose of computing the alternative minimum tax imposed on corporations, such interest is taken into account in determining certain income and earnings. In the further opinion of Bond Counsel, such interest is exempt from California personal income taxes. See "LEGAL MATTERS - Tax Exemption."

\$ _____ *

CITY OF BERKELEY
(County of Alameda, California)
2015 General Obligation Refunding Bonds

Dated: Date of Delivery

Due September 1, as shown on inside front cover

Issuance. The general obligation refunding bonds captioned above (the "Refunding Bonds") are being issued by the City of Berkeley, California (the "City") under provisions of the California Government Code and under a Resolution adopted by the City Council of the City (the "City Council") on _____, 2015 (the "Bond Resolution"). See "THE REFUNDING BONDS - Authority for Issuance."

Purpose. The Refunding Bonds are being issued to refinance the City's outstanding (i) 2002 General Obligation Refunding Bonds, (ii) 2007 Series A General Obligation Refunding Bonds, (iii) City of Berkeley 2007 General Obligation Refunding Bonds, 2007 Series B, and (iv) General Obligation Bonds, Series 2008 (Measure I – Animal Shelter Project) (collectively, the "Prior Bonds"). The Prior Bonds were issued to refinance certain general obligation bonds of the City. See "REFINANCING PLAN."

Security. The Refunding Bonds are general obligations of the City, payable solely from *ad valorem* property taxes levied by the City and collected by Alameda County (the "County"). The City Council is empowered and is obligated to annually levy *ad valorem* taxes for the payment of interest on, and principal of, the Refunding Bonds upon all property subject to taxation by the City, without limitation of rate or amount (except certain personal property which is taxable at limited rates). See "SECURITY FOR THE REFUNDING BONDS."

Book-Entry Only. The Refunding 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 Refunding Bonds are issuable as fully registered securities in denominations of \$5,000 or any integral multiple of \$5,000. Purchasers of the Refunding Bonds (the "Beneficial Owners") will not receive physical certificates representing their interest in the Refunding Bonds. See "THE REFUNDING BONDS" and "APPENDIX E - DTC AND THE BOOK-ENTRY ONLY SYSTEM."

Payments. Interest on the Refunding Bonds accrues from the date of delivery and is payable semiannually on March 1 and September 1 of each year, commencing March 1, 2016. Payments of principal and interest on the Refunding Bonds will be paid by The Bank of New York Mellon Trust Company, N.A., as Paying Agent, to DTC for subsequent disbursement to DTC Participants, which will remit such payments to the Beneficial Owners of the Refunding Bonds. See "THE REFUNDING BONDS - Description of the Refunding Bonds."

Redemption. The Refunding Bonds are subject to redemption prior to maturity. See "THE REFUNDING BONDS - Optional Redemption" and "– Mandatory Sinking Fund Redemption."

Municipal Advisor. The following firm, serving as independent registered municipal advisor to the City, has structured this issue.

NHA | ADVISORS
 Strategy. Innovation. Solutions.

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 Refunding Bonds. Prospective investors must read the entire Official Statement to obtain information essential to making an informed investment decision.

The Refunding Bonds will be sold and awarded by competitive bid held on June 25, 2015, subject to the conditions set forth in the Official Notice of Sale. The Refunding Bonds will be offered when, as and if issued, subject to the approval as to legality by Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel to the City, and subject to certain other conditions. Jones Hall is also serving as Disclosure Counsel to the City. Certain legal matters are being passed upon for the City by the City Attorney. It is anticipated that the Refunding Bonds, in book entry form, will be available for delivery through the facilities of DTC in New York, New York, on or about July __, 2015.

The date of this Official Statement is _____, 2015.

*Preliminary; subject to change.

CITY OF BERKELEY
2015 General Obligation Refunding Bonds

MATURITY SCHEDULE*
(Base CUSIP[†]: _____)

\$_____ Serial Bonds

Maturity Date (September 1)	Principal Amount	Interest Rate	Yield	Price	CUSIP[†]
2015					
2016					
2017					
2018					
2019					
2020					
2021					
2022					
2023					
2024					
2025					
2026					
2027					
2028					
2029					
2030					
2031					
2032					
2032					
2033					
2034					
2035					
2036					
2037					

**Preliminary; subject to change.*

† Copyright 2015, American Bankers Association. CUSIP data herein are provided by Standard & Poor's CUSIP Service Bureau, a division of The McGraw-Hill Companies, Inc., and are provided for convenience of reference only. Neither the City nor the Purchaser assumes any responsibility for the accuracy of these CUSIP data.

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 City or the Purchasers.

No Offering Except by This Official Statement. No dealer, broker, salesperson or other person has been authorized by the City or the Purchasers 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 City 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 Refunding 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 City 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 City in any press release and in any oral statement made with the approval of an authorized officer of the City 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 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 Refunding 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 over allot or take other steps that stabilize or maintain the market prices of the Refunding 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 Refunding 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 Purchasers.

Document Summaries. All summaries of the Bond Resolution 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 Refunding 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 Refunding 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 Refunding Bonds will, under any circumstances, give rise to any implication that there has been no change in the affairs of the City, the County, 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 Refunding Bonds

CITY OF BERKELEY, CALIFORNIA

ELECTED OFFICIALS

Tom Bates, Mayor
Linda Maio, Councilmember District 1
Darryl Moore, Councilmember District 2
Max Anderson, Councilmember District 3
Jesse Arreguín, Councilmember District 4
Laurie Capitelli, Councilmember District 5
Susan Wengraf, Councilmember District 6
Kriss Worthington, Councilmember District 7
Lori Droste, Councilmember District 8

CITY OFFICIALS

Christine Daniel
City Manager

Henry Oyekanmi
Acting Director of Finance

Dee Williams-Ripley
Deputy City Manager

Zach Cowan
City Attorney

Ann-Marie Hogan
Auditor

PROFESSIONAL SERVICES

BOND AND DISCLOSURE COUNSEL

Jones Hall, A Professional Law Corporation
San Francisco, California

INDEPENDENT REGISTERED MUNICIPAL ADVISOR

NHA Advisors LLC
San Rafael, California

BOND REGISTRAR, TRANSFER AGENT, AND PAYING AGENT

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

VERIFICATION AGENT

_____, _____

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
THE REFINANCING PLAN	4
SOURCES AND USES OF FUNDS	7
THE REFUNDING BONDS	8
Authority for Issuance	8
Description of the Refunding Bonds	8
Payment	9
Optional Redemption	9
Mandatory Sinking Fund Redemption	9
Registration, Transfer and Exchange of Bonds	10
Defeasance	10
DEBT SERVICE SCHEDULES	11
SECURITY FOR THE REFUNDING BONDS	13
Ad Valorem Taxes	13
Debt Service Fund	13
Limited Obligation	14
PROPERTY TAXATION	14
Property Tax Collection Procedures	14
Taxation of State-Assessed Utility Property	15
Assessed Valuation	15
Tax Rates	16
Tax Levies and Delinquencies	16
Major Taxpayers	17
Direct and Overlapping Debt	17
CONSTITUTIONAL AND STATUTORY PROVISIONS AFFECTING CITY	
REVENUES AND APPROPRIATIONS	19
Article XIII A of the State Constitution	19
Legislation Implementing Article XIII A	19
Article XIII B of the State Constitution	20
Articles XIII C and XIII D of the State Constitution	21
Proposition 62	21
Proposition 1A	22
Possible Future Initiatives	23
LEGAL MATTERS	23
Tax Exemption	23
Absence of Material Litigation	24
CONTINUING DISCLOSURE	24
RATING	25
INDEPENDENT REGISTERED MUNICIPAL ADVISOR	25
COMPETITIVE SALE OF BONDS	26
EXECUTION	26

APPENDIX A - FINANCIAL, ECONOMIC AND DEMOGRAPHIC INFORMATION FOR THE CITY OF BERKELEY AND ALAMEDA COUNTY
APPENDIX B - FISCAL YEAR 2013-14 COMPREHENSIVE ANNUAL FINANCIAL REPORT
APPENDIX C - PROPOSED FORM OF OPINION OF BOND COUNSEL
APPENDIX D - FORM OF CONTINUING DISCLOSURE CERTIFICATE
APPENDIX E - DTC AND THE BOOK-ENTRY ONLY SYSTEM

OFFICIAL STATEMENT

\$ _____ *

CITY OF BERKELEY
(County of Alameda, California)
2015 General Obligation Refunding Bonds

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 Refunding Bonds captioned above (the “**Bonds**”) by the City of Berkeley, California (the “**City**”). All capitalized terms used in this Official Statement, unless noted otherwise, have the meanings set forth in the Refunding Bond Resolution (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 Bonds to potential investors is made only by means of the entire Official Statement.

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 an estimated January 1, 2014 population of 117,372, 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 approximately 12,700 full and part-time workers.

For demographic and financial information regarding the City and County, see “APPENDIX A - FINANCIAL, ECONOMIC AND DEMOGRAPHIC INFORMATION FOR THE CITY OF BERKELEY AND ALAMEDA COUNTY” and “APPENDIX B - FISCAL YEAR 2013-14 COMPREHENSIVE ANNUAL FINANCIAL REPORT.”

Purpose of the Issuance. The Refunding Bonds are being issued to refinance the City's outstanding:

- City of Berkeley 2002 General Obligation Refunding Bonds, which were issued on November 26, 2002 in the aggregate principal amount of \$17,865,000 (the “**2002 Refunding Bonds (Measure G)**”),

* Preliminary; subject to change.

- City of Berkeley General Obligation Refunding Bonds, 2007 Series A, which were issued on June 7, 2007 in the aggregate principal amount of \$4,340,000 (the “**2007 Refunding Bonds (Measure G)**”); and

- City of Berkeley 2007 General Obligation Refunding Bonds, 2007 Series B, which were issued on June 7, 2007 in the aggregate principal amount of \$41,245,000 (the “**2007 Refunding Bonds (Measure S)**”); and

- City of Berkeley (Alameda County, California) General Obligation Bonds, Series 2008 (Measure I – Animal Shelter Project), which were issued on January 29, 2008 in the aggregate principal amount of \$7,200,000 (the “**2008 Bonds**” and, together with the 2002 Refunding Bonds and the 2007 Refunding Bonds (Measure G), the “**Prior Bonds**”)

The 2002 Refunding Bonds (Measure G) are currently outstanding in the aggregate principal amount of \$6,485,000, the 2007 Refunding Bonds (Measure G) are currently outstanding in the amount of \$3,350,000, the 2007 Refunding Bonds (Measure S) are currently outstanding in the aggregate principal amount of \$28,645,000 and the 2008 Bonds are currently outstanding in the aggregate principal amount of \$6,460,000. See “REFINANCING PLAN.”

Authority for Issuance. The Refunding Bonds are being issued under Articles 9 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code (the “**Bond Law**”) and a resolution adopted by the City Council of the City (the “**City Council**”) on _____, 2015 (the “**Bond Resolution**”).

Security and Sources of Payment for the Refunding Bonds. The Refunding Bonds are general obligations of the City payable solely from *ad valorem* property taxes levied by the City and collected by the County. The City Council is empowered and is obligated to annually levy *ad valorem* taxes for the payment of interest on, and principal of, the Refunding Bonds upon all property subject to taxation by the City, without limitation of rate or amount (except with respect to certain personal property which is taxable at limited rates). See “SECURITY FOR THE REFUNDING BONDS.”

Payment and Registration of the Refunding Bonds. The Refunding Bonds will be dated their date of original issuance and delivery (the “**Dated Date**”) and will be issued as fully registered bonds, without coupons, in the denominations of \$5,000 or any integral multiple of \$5,000, registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York (“**DTC**”), and will be available under the book-entry system maintained by DTC, only through brokers and dealers who are or act through DTC Participants as described below. Beneficial Owners will not be entitled to receive physical delivery of the Refunding Bonds. See “THE REFUNDING BONDS” and “APPENDIX E - DTC AND THE BOOK-ENTRY ONLY SYSTEM.”

Interest on the Refunding Bonds accrues from the Dated Date and is payable semiannually on March 1 and September 1 of each year, commencing March 1, 2016. See “THE REFUNDING BONDS - Description of the Refunding Bonds.”

Redemption. The Refunding Bonds are subject to redemption prior to their maturity as described in “THE REFUNDING BONDS – Optional Redemption” and “– Mandatory Sinking Fund Redemption.”

Tax Matters. Assuming compliance with certain covenants and provisions of the Internal Revenue Code of 1986, in the opinion of Bond Counsel, interest on the Refunding Bonds will not be includable in gross income for federal income tax purposes although it may be includable in the calculation for certain taxes. Also, in the opinion of Bond Counsel, interest on the Refunding Bonds will be exempt from State of California (the “**State**”) personal income taxes. See “LEGAL MATTERS – Tax Exemption” herein.

Other Information. This Official Statement speaks only as of its date, and the information contained herein is subject to change. Copies of documents referred to in this Official Statement and information concerning the Refunding Bonds are available from the City of Berkeley City Clerk, 2180 Milvia Street, Berkeley, California 94704, (510) 981-7002. The City may impose a charge for copying, mailing and handling.

THE REFINANCING PLAN

Authority and Purpose of Issue. At an election held on November 3, 1992, more than two-thirds of the voters of the City approved a proposition ("**Measure G**") authorizing the issuance by the City of general obligation bonds in the aggregate principal amount of \$55,000,000, for the purpose of providing funds for fire safety and seismic improvements (the "**1992 Authorization**"). Pursuant to the 1992 Authorization, the City issued bonds designated the "City of Berkeley 1993 General Obligation Bonds (Election of 1992, Series A)" in the aggregate principal amount of \$8,000,000 (the "**1993 Bonds**") and "City of Berkeley 1995 General Obligation Bonds (Election of 1992, Series B)" in the aggregate principal amount of \$14,000,000 (the "**1995 Bonds**"). Thereafter, on November 26, 2002, the City refunded the 1993 Bonds and the 1995 Bonds in full from the proceeds of the 2002 Refunding Bonds.

Pursuant to the 1992 Authorization, the City issued bonds designated the "City of Berkeley General Obligation Bonds (Election of 1992, Series C)" in the aggregate principal amount of \$10,500,000 (the "**1997 Bonds (Measure G)**"). Thereafter, on June 7, 2007, the City refunded the 1997 Bonds (Measure G) in full from the proceeds of the 2007 Refunding Bonds (Measure G).

At an election held on November 5, 1996, more than two-thirds of the voters of the City approved a proposition ("**Measure S**") authorizing the issuance by the City of general obligation bonds in the aggregate principal amount of \$49,000,000, for the purpose of providing funds to ensure the safety of its public and employees and to revitalize downtown (the "**1996 Authorization**"). Pursuant to the 1996 Authorization, the City issued bonds designated the "City of Berkeley 1997 General Obligation Bonds (Election of 1996, Series A)" in the aggregate principal amount of \$10,000,000 (the "**1997 Bonds (Measure S)**"), "City of Berkeley 1998 General Obligation Bonds (Election of 1996, Series B)" in the aggregate principal amount of \$25,000,000 (the "**1998 Bonds**") and "City of Berkeley 1999 General Obligation Bonds (Election of 1996, Series C)" in the aggregate principal amount of \$14,000,000 (the "**1999 Bonds**"). Thereafter, on June 7, 2007, the City refunded the 1997 Bonds (Measure S), the 1998 Bonds and the 1999 Bonds in full from the proceeds of the 2007 Refunding Bonds (Measure S).

At an election held on November 5, 2002, more than two-thirds of the voters of the City approved a proposition ("**Measure I**") authorizing the issuance by the City of general obligation bonds in the aggregate principal amount of \$7,200,000, for the purpose of financing and new animal shelter to replace the existing animal shelter in the same location (the "**2002 Authorization**"). Pursuant to the 2002 Authorization, on January 29, 2008, the City issued bonds designated the "City of Berkeley (Alameda County, California) General Obligation Bonds, Series 2008 (Measure I – Animal Shelter Project)" in the aggregate principal amount of \$7,200,000 (the "**2008 Bonds (Measure I)**").

The Refunding Bonds are being issued by the City to refund a portion of the outstanding maturities of the 2002 Refunding Bonds, the 2007 Refunding Bonds (Measure G), the 2007 Refunding Bonds (Measure S) and the 2008 Bonds (Measure I) (collectively, the "**Refunded Bonds**"), as identified in the following tables.

CITY OF BERKELEY
Identification of Refunded 2002 Refunding Bonds (Measure G)*

Maturities to be Refunded (September 1)	CUSIP†	Principal Amount Redeemed	Redemption Date	Redemption Price (% of Par Amount Redeemed)
2015	0841113 JV2	\$1,205,000	7/15/2015	100%
2016	0841113 JW0	1,265,000	7/15/2015	100
2017	0841113 JX8	1,325,000	7/15/2015	100
2018	0841113 JY6	860,000	7/15/2015	100
2019	0841113 JZ3	895,000	7/15/2015	100
2020	0841113 KA6	935,000	7/15/2015	100
		\$6,485,000		

CITY OF BERKELEY
Identification of Refunded 2007 Series A Refunding Bonds (Measure G)*

Maturities to be Refunded (September 1)	CUSIP†	Principal Amount Redeemed	Redemption Date	Redemption Price (% of Par Amount Redeemed)
2015	0841113 KQ1	\$200,000	9/1/2015	102%
2016	0841113 KR9	210,000	9/1/2015	102
2017	0841113 KS7	220,000	9/1/2015	102
2018	0841113 KT5	225,000	9/1/2015	102
2019	0841113 KU2	235,000	9/1/2015	102
2020	0841113 KV0	245,000	9/1/2015	102
2021	0841113 KW8	255,000	9/1/2015	102
2022	0841113 KX6	265,000	9/1/2015	102
2023	0841113 K Y4	275,000	9/1/2015	102
2024	0841113 KZ1	285,000	9/1/2015	102
2025	0841113 LA5	300,000	9/1/2015	102
2026	0841113 LB3	310,000	9/1/2015	102
2027	0841113 LC1	325,000	9/1/2015	102
		\$3,350,000		

CITY OF BERKELEY
Identification of Refunded 2007 Series B Refunding Bonds (Measure S)*

Maturities to be Refunded (September 1)	CUSIP†	Principal Amount Redeemed	Redemption Date	Redemption Price (% of Par Amount Redeemed)
2015	0841113 LM9	\$1,565,000	9/1/2015	102%
2016	0841113 LN7	1,625,000	9/1/2015	102
2017	0841113 LP2	1,690,000	9/1/2015	102
2018	0841113 LQ0	1,760,000	9/1/2015	102
2019	0841113 LR8	1,830,000	9/1/2015	102
2020	0841113 LS6	1,900,000	9/1/2015	102
2021	0841113 LT4	1,980,000	9/1/2015	102
2022	0841113 LU1	2,060,000	9/1/2015	102
2023	0841113 LV9	2,145,000	9/1/2015	102
2024	0841113 LW7	2,235,000	9/1/2015	102
2025	0841113 LX5	2,330,000	9/1/2015	102
2026	0841113 LY3	2,435,000	9/1/2015	102
2027	0841113 LZ0	2,540,000	9/1/2015	102
2028	0841113 MA4	1,885,000	9/1/2015	102
2029	0841113 MB2	665,000	9/1/2015	102
		\$28,645,000		

**Preliminary, subject to change.*

† CUSIP Copyright American Bankers Association. CUSIP data herein is provided by Standard & Poor's CUSIP Service Bureau, a division of McGraw Hill Companies, Inc. Neither the City nor the Purchaser is responsible for the accuracy of such data.

CITY OF BERKELEY
Identification of Refunded 2008 Bonds (Measure I)*

Maturities to be Refunded (September 1)	CUSIP†	Principal Amount Redeemed	Redemption Date	Redemption Price (% of Par Amount Redeemed)
2015	0841113 MJ5	\$170,000	9/1/2016	100%
2016	0841113 MK2	180,000	9/1/2016	100
2017	0841113 ML0	185,000	9/1/2016	100
2018	0841113 MM8	195,000	9/1/2016	100
2019	0841113 MN6	200,000	9/1/2016	100
2020	0841113 MP1	210,000	9/1/2016	100
2021	0841113 MQ9	215,000	9/1/2016	100
2022	0841113 MR7	225,000	9/1/2016	100
2023	0841113 MS5	235,000	9/1/2016	100
2024	0841113 MT3	245,000	9/1/2016	100
2025	0841113 MU0	255,000	9/1/2016	100
2026	0841113 MV8	270,000	9/1/2016	100
2030 (T)	0841113 MW6	1,195,000	9/1/2016	100
2037 (T)	0841113 MX4	2,680,000	9/1/2016	100
		\$6,460,000		

**Preliminary, subject to change.*

† CUSIP Copyright American Bankers Association. CUSIP data herein is provided by Standard & Poor's CUSIP Service Bureau, a division of McGraw Hill Companies, Inc. Neither the City nor the Purchaser is responsible for the accuracy of such data.

Irrevocable Escrow Fund Deposit. Pursuant to an Escrow Deposit and Trust Agreement, dated July __, 2015 (the “**Escrow Agreement**”), by and between the City and The Bank of New York Mellon Trust Company, N.A., San Francisco, California, as escrow agent for the Refunded Bonds (the “**Escrow Agent**”), the City will deliver the net proceeds of the Refunding Bonds, together with a contribution from the debt service fund established for the 2005 Bonds, for deposit in an escrow fund (the “**Escrow Fund**”) established under the Escrow Agreement a portion of the proceeds of the Refunding Bonds which is sufficient to cause the payment and redemption of the Refunded Bonds in accordance with the tables above. Such amounts will be used to pay the principal of and interest on the Refunded Bonds, including the redemption price of the Refunded Bonds, as set forth above, together with accrued interest to the redemption dates shown above.

The amounts held by the Escrow Bank in the Escrow Fund are pledged solely to the payment of the Refunded Bonds. The funds deposited in the Escrow Fund will not be available for the payment of debt service with respect to the Refunding Bonds.

SOURCES AND USES OF FUNDS

The estimated sources and uses of funds with respect to the Refunding Bonds will be applied as follows:

Sources of Funds

Principal Amount of Bonds
Original Issue Premium/(Discount)
Debt Service Fund Contribution⁽¹⁾
Total Sources

Uses of Funds

Deposit to Escrow Fund
Deposit to Costs of Issuance Fund⁽²⁾
Total Uses

(1) Represents funds accumulated in the existing debt service funds for the Refunded Bonds, which will be applied to the redemption of the Prior Bonds.

(2) All estimated costs of issuance including, but not limited to, Underwriter's discount, printing costs, and fees of Bond Counsel, Disclosure Counsel, the Municipal Advisor, Escrow Bank, and the rating agency.

THE REFUNDING BONDS

Authority for Issuance

The Refunding Bonds are being issued to defease and redeem the 2005 Bonds under the Refunding Bond Law and the Resolution. The 1996 Authorization provided the original authority for issuance of general obligation bonds by the City. See “THE REFINANCING PLAN.”

Description of the Refunding Bonds

Book-Entry Form. The Refunding 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**”). Purchasers of the Refunding Bonds (the “**Beneficial Owners**”) will not receive physical certificates representing their interest in the Refunding Bonds. Payments of principal of and interest on the Refunding Bonds will be paid by the Paying Agent to DTC for subsequent disbursement to DTC Participants which will remit such payments to the Beneficial Owners of the Refunding Bonds.

As long as DTC’s book-entry method is used for the Refunding Bonds, the Paying Agent will send any notice of prepayment or other notices to owners only to DTC. Any failure of DTC to advise any DTC Participant, or of any DTC Participant to notify any Beneficial Owner, of any such notice and its content or effect will not affect the validity or sufficiency of the proceedings relating to the prepayment of the Refunding Bonds called for prepayment or of any other action premised on such notice.

The Paying Agent, the City, and the Underwriter of the Refunding Bonds have no responsibility or liability for any aspects of the records relating to or payments made on account of beneficial ownership, or for maintaining, supervising or reviewing any records relating to beneficial ownership, of interests in the Refunding Bonds.

See “APPENDIX E - DTC AND THE BOOK-ENTRY ONLY SYSTEM.”

Interest. Interest on the Refunding Bonds is payable semiannually on March 1 and September 1 of each year (each, an “**Interest Payment Date**”), commencing March 1, 2016.

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

1. a Bond is authenticated as of an Interest Payment Date, in which event it will bear interest from such date,
2. a Bond is authenticated prior to an Interest Payment Date and after the close of business on the 15th day of the month preceding the Interest Payment Date (each, a “**Record Date**”), in which event it will bear interest from such Interest Payment Date,
3. a Bond is authenticated on or before July 15, 2015, in which event it shall bear interest from the Closing Date, or

4. at the time of authentication of a Bond, interest is in default thereon, in which event it will bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

Interest on the Refunding Bonds will be calculated on the basis of a 360-day year comprised of twelve 30-day months.

Denominations and Maturity. The Refunding Bonds shall be issued in the denomination of \$5,000 each or any integral multiple of \$5,000. The Refunding Bonds mature on September 1 in the years and amounts set forth on the inside cover page hereof. See the maturity schedule on the inside cover page hereof and “DEBT SERVICE SCHEDULE” below.

Payment

Interest on the Refunding Bonds (including the final interest payment upon maturity) is payable by check of the Paying Agent mailed to the owner thereof at such owner’s address as it appears on the Registration Books (as defined below) at the close of business on the 15th day of the month preceding the Interest Payment Date, except that at the written request of the Owner of at least \$1,000,000 aggregate principal amount of the Refunding Bonds, which written request is on file with the Paying Agent as of any Record Date, interest on such Bonds shall be paid by wire transfer on the succeeding Interest Payment Date to an account in the United States of America as shall be specified in such written request.

Principal of and premium (if any) on the Refunding Bonds is payable in lawful money of the United States of America upon presentation and surrender at the principal office of the Paying Agent.

Optional Redemption

The Refunding Bonds maturing on or before September 1, 2023, are not subject to redemption prior to their respective stated maturities. The Refunding Bonds maturing on or after September 1, 2024, are subject to redemption prior to maturity, at the option of the City, in whole or in part among maturities on such basis as designated by the City and by lot within a maturity, from any available source of funds, on September 1, 2023, 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.

Mandatory Sinking Fund Redemption

The Refunding Bonds maturing on September 1, 20__ (the “**Term Bonds**”) are subject to mandatory sinking fund redemption in part by lot, on September 1 of each year in accordance with the schedule set forth below. The Refunding Bonds so called for mandatory sinking fund redemption shall be redeemed at the principal amount of such Term Bonds to be redeemed, plus accrued but unpaid interest, without premium.

\$_____ **Term Bond Maturing September 1, 20__**

Redemption Year
(December 1)

Principal Amount
to be Redeemed

If any such Term Bonds are redeemed pursuant to optional redemption, the total amount of all future sinking fund payments with respect to such Term Bonds shall be reduced by the aggregate principal amount of such Term Bonds so redeemed, to be allocated among such payments on a pro rata basis in integral multiples of \$5,000 principal amount (or on such other basis as the City may determine) as set forth in written notice given by the City to the Paying Agent.

Registration, Transfer and Exchange of Bonds

If the book-entry system as described above and in Appendix E is no longer used with respect to the Refunding Bonds, the following provisions will govern the registration, transfer, and exchange of the Refunding Bonds.

Registration Books. The Paying Agent will keep or cause to be kept sufficient books for the registration and transfer of the Refunding Bonds (the “**Registration Books**”), which will at all times be open to inspection by the City upon reasonable notice; and, upon presentation for such purpose, the Paying Agent shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said books, the Refunding Bonds.

Transfer. 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 his duly authorized attorney, upon surrender of such Bond for cancellation at the principal office of the Paying Agent, accompanied by delivery of a written instrument of transfer in a form approved by the Paying Agent, duly executed.

Whenever any Bond or Bonds are surrendered for transfer, the City will execute and the Paying Agent will authenticate and deliver a new Bond or Bonds, for like aggregate principal amount.

Exchange. Bonds may be exchanged at the principal office of the Paying Agent for a like aggregate principal amount of Bonds of authorized denominations and of the same maturity. The City may charge a reasonable sum for each new Bond issued upon any exchange.

Defeasance

The City has the option to pay and discharge the entire indebtedness on all or any portion of the outstanding Bonds in any one or more of the following ways:

- (a) by paying or causing to be paid the principal of and interest on such Bonds, as and when the same become due and payable;
- (b) by irrevocably depositing, in trust, at or before maturity, money or securities in the necessary amount to pay such Bonds and all unpaid interest thereon to maturity; or
- (c) by delivery such Bonds to the Paying Agent for cancellation by it.

“**Federal Securities**” means: (a) any direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department

of the Treasury of the United States of America), for which the full faith and credit of the United States of America are pledged; (b) obligations of any agency, department or instrumentality of the United States of America, the timely payment of principal and interest on which are directly or indirectly secured or guaranteed by the full faith and credit of the United States of America.

DEBT SERVICE SCHEDULES

The following table shows the debt service schedule with respect to the Refunding Bonds.

CITY OF BERKELEY 2015 GENERAL OBLIGATION REFUNDING BONDS Debt Service Schedule

Year Ending September 1	Bonds Principal	Bonds Interest	Total Bonds Debt Service
2015			
2016			
2017			
2018			
2019			
2020			
2021			
2022			
2023			
2024			
2025			
2026			
2027			
2028			
2029			
2030			
2031			
2032			
2033			
2034			
2035			
2036			
2037			
Total			

Combined Debt Service Table. The following table shows the total debt service payable with respect to all outstanding general obligation bonds of the City, including the Bonds (assuming no optional redemptions).

Year Ending September 1	2009 Bonds	2010 Bonds	2014 Bonds	Refunding Bonds	Total Debt Service
2015	\$662,937.50	\$960,006.26	\$904,700.00		
2016	667,387.50	955,806.26	906,450.00		
2017	671,537.50	956,206.26	905,250.00		
2018	674,875.00	956,006.26	905,750.00		
2019	676,812.50	956,256.26	905,500.00		
2020	683,937.50	955,506.26	904,500.00		
2021	678,337.50	958,756.26	902,750.00		
2022	677,087.50	954,956.26	905,250.00		
2023	674,862.50	955,856.26	901,750.00		
2024	671,662.50	955,093.76	902,500.00		
2025	667,487.50	955,093.76	905,350.00		
2026	673,537.50	959,293.76	902,225.00		
2027	678,275.00	957,493.76	903,250.00		
2028	676,825.00	954,893.76	905,450.00		
2029	679,487.50	956,493.76	901,850.00		
2030	683,312.50	957,093.76	902,650.00		
2031	680,762.50	955,900.00	902,650.00		
2032	682,112.50	958,675.00	901,850.00		
2033	684,362.50	955,212.50	904,575.00		
2034	685,362.50	955,718.76	906,268.76		
2035	690,112.50	959,987.50	901,931.26		
2036	693,362.50	956,837.50	905,243.76		
2037	693,700.00	957,412.50	902,243.76		
2038	692,462.50	956,500.00	903,150.00		
2039	694,650.00	959,100.00	902,743.76		
2040	-	-	906,025.00		
2041	-	-	901,825.00		
2042	-	-	906,275.00		
2043	-	-	903,925.00		
Total	\$16,995,250.00	\$23,920,156.42	\$26,213,881.30		

SECURITY FOR THE REFUNDING BONDS

Ad Valorem Taxes

Bonds Payable from Ad Valorem Property Taxes. The Refunding Bonds are general obligations of the City, payable solely from *ad valorem* property taxes levied by the City and collected by the County. The City is empowered and is obligated to annually levy *ad valorem* taxes for the payment of the Refunding Bonds and the interest thereon upon all property within the City subject to taxation by the City, without limitation of rate or amount (except certain personal property which is taxable at limited rates).

Levy and Collection. The City will levy and the County will collect such *ad valorem* taxes in such amounts and at such times as is necessary to ensure the timely payment of debt service. Such taxes, when collected, will be deposited into a debt service fund for the Refunding Bonds, which is maintained by the City and which is irrevocably pledged for the payment of principal of and interest on the Refunding Bonds when due.

Property taxes within the City are assessed and collected by the County in the same manner and at the same time, and in the same installments as other *ad valorem* taxes on real property, and will have the same priority, become delinquent at the same times and in the same proportionate amounts, and bear the same proportionate penalties and interest after delinquency, as do the other *ad valorem* taxes on real property.

Annual Tax Rates. The amount of the annual *ad valorem* tax levied by the City to repay the Refunding Bonds will be determined by the relationship between the assessed valuation of taxable property in the City and the amount of debt service due on the Refunding Bonds. Fluctuations in the annual debt service on the Refunding Bonds and the assessed value of taxable property in the City may cause the annual tax rate to fluctuate.

Economic and other factors beyond the City's control, such as economic recession, deflation of land values, a relocation out of the City or financial difficulty or bankruptcy by one or more major property taxpayers, or the complete or partial destruction of taxable property caused by, among other eventualities, earthquake, flood or other natural disaster, could cause a reduction in the assessed value within the City and necessitate a corresponding increase in the annual tax rate.

Debt Service Fund

The City will establish the Debt Service Fund (the "**Debt Service Fund**"), which will be established as a separate fund to be maintained distinct from all other funds of the City. All taxes levied by the City pursuant to the Refunding Bond Resolution for the payment of the principal of and interest and premium (if any) on the Refunding Bonds will be deposited in the Debt Service Fund by the City promptly upon the receipt from the County. The Debt Service Fund is pledged for the payment of the principal of and interest and premium (if any) on the Refunding Bonds when and as the same become due. The City will transfer amounts in the Debt Service Fund, to the extent necessary to pay the principal of and interest on the Refunding Bonds as the same become due and payable, to the Paying Agent as required to pay the principal of and interest and premium (if any) on the Refunding Bonds.

If, after payment in full of the Refunding Bonds, any amounts remain on deposit in the Debt Service Fund, the City shall transfer such amounts to its General Fund, to be applied solely in a manner which is consistent with the requirements of applicable state and federal tax law.

Limited Obligation

The Refunding Bonds are payable solely from the proceeds of an *ad valorem* tax levied by the City, and collected by the County, for the payment of principal and interest on the Refunding Bonds. Although the County is obligated to collect the *ad valorem* tax for the payment of the Refunding Bonds, the Refunding Bonds are not a debt of the County.

PROPERTY TAXATION

Property Tax Collection Procedures

In California, property which is subject to *ad valorem* taxes is classified as “secured” or “unsecured.” The “secured roll” is that part of the assessment roll containing state assessed public utilities’ property and property, the taxes on which are a lien on real property sufficient, in the opinion of the county assessor, to secure payment of the taxes. A tax levied on unsecured property does not become a lien against such unsecured property, but may become a lien on certain other property owned by the taxpayer. Every tax which becomes a lien on secured property has priority over all other liens arising pursuant to State law on such secured property, regardless of the time of the creation of the other liens. Secured and unsecured property are entered separately on the assessment roll maintained by the county assessor. The method of collecting delinquent taxes is substantially different for the two classifications of property.

Property taxes on the secured roll are due in two installments, on November 1 and March 1 of each fiscal year. If unpaid, such taxes become delinquent after December 10 and April 10, respectively, and a 10% penalty attaches to any delinquent payment. In addition, property on the secured roll with respect to which taxes are delinquent is declared tax defaulted on or about June 30 of the fiscal year. Such property may thereafter be redeemed by payment of the delinquent taxes and a delinquency penalty, plus a redemption penalty of 1-1/2% per month to the time of redemption. If taxes are unpaid for a period of five years or more, the property is subject to sale by the County.

Property taxes are levied for each fiscal year on taxable real and personal property situated in the taxing jurisdiction as of the preceding January 1. A bill enacted in 1983, SB813 (Statutes of 1983, Chapter 498), however, provided for the supplemental assessment and taxation of property as of the occurrence of a change of ownership or completion of new construction. Thus, this legislation eliminated delays in the realization of increased property taxes from new assessments. As amended, SB813 provided increased revenue to taxing jurisdictions to the extent that supplemental assessments of new construction or changes of ownership occur subsequent to the January 1 lien date and result in increased assessed value.

Property taxes on the unsecured roll are due on the January 1 lien date and become delinquent, if unpaid on the following August 31. A 10% penalty is also attached to delinquent taxes in respect of property on the unsecured roll, and further, an additional penalty of 1-1/2% per month accrues with respect to such taxes beginning the first day of the third month following the delinquency date. The taxing authority has four ways of collecting unsecured personal property

taxes: (1) a civil action against the taxpayer; (2) filing a certificate in the office of the county clerk specifying certain facts in order to obtain a judgment lien on certain property of the taxpayer; (3) filing a certificate of delinquency for record in the county recorder's office, in order to obtain a lien on certain property of the taxpayer; and (4) seizure and sale of personal property, improvements or possessory interests belonging or assessed to the assessee. The exclusive means of enforcing the payment of delinquent taxes in respect of property on the secured roll is the sale of the property securing the taxes for the amount of taxes which are delinquent.

Taxation of State-Assessed Utility Property

The State Constitution provides that most classes of property owned or used by regulated utilities be assessed by the State Board of Equalization ("**SBE**") and taxed locally. Property valued by the SBE as an operating unit in a primary function of the utility taxpayer is known as "unitary property," a concept designed to permit assessment of the utility as a going concern rather than assessment of each individual element of real and personal property owned by the utility taxpayer. State-assessed unitary and "operating nonunitary" property (which excludes nonunitary property of regulated railways) is allocated to the counties based on the situs of the various components of the unitary property. Except for unitary property of regulated railways and certain other excepted property, all unitary and operating nonunitary property is taxed at special county-wide rates and tax proceeds are distributed to taxing jurisdictions according to statutory formulae generally based on the distribution of taxes in the prior year.

Assessed Valuation

Assessed Valuation History. The table below shows a ten-year history of the City's assessed valuation.

Table 1
CITY OF BERKELEY
Assessed Valuations of All Taxable Property
Fiscal Years 2004-05 to 2014-15

<u>Fiscal Year</u>	<u>Local Secured</u>	<u>Utility</u>	<u>Unsecured</u>	<u>Total</u>	<u>Percent Change</u>
2005-06	\$9,499,976,877	\$2,520,396	\$574,192,669	\$10,076,689,942	--
2006-07	10,377,045,760	2,335,203	592,977,821	10,972,358,784	8.89
2007-08	11,160,531,045	1,324,910	606,785,227	11,768,641,182	7.26
2008-09	11,918,409,630	473,910	671,983,004	12,590,866,544	6.99
2009-10	12,085,578,735	473,910	720,264,455	12,806,317,100	1.71
2010-11	12,147,575,627	555,664	677,887,524	12,826,018,815	0.15
2011-12	12,525,929,662	555,664	667,789,011	13,194,274,337	2.87
2012-13	12,834,926,300	555,664	673,174,230	13,508,656,194	2.38
2013-14	13,686,258,913	555,664	677,170,723	14,363,985,300	6.33
2014-15	14,116,003,890	630,615	658,143,878	14,774,778,383	2.86

Source: Alameda County Auditor-Controller

Tax Rates

The table below shows historical property tax rates within the City:

Table 2
CITY OF BERKELEY
Typical Tax Rate Per \$100 Assessed Valuation
(TRA 13-000 – 2014-15 Assessed Valuation: \$14,461,728,674)

	Fiscal Year <u>2010-11</u>	Fiscal Year <u>2011-12</u>	Fiscal Year <u>2012-13</u>	Fiscal Year <u>2013-14</u>	Fiscal Year <u>2014-15</u>
Countywide Rate	1.0000	1.0000	1.0000	1.0000	1.0000
Berkeley Unified School District Bonds	.1463	.1478	.1406	.1544	.1353
Peralta Community College District	.0430	.0436	.0434	.0419	.0412
Bay Area Rapid Transit	.0031	.0041	.0043	.0075	.0045
East Bay Municipal Utility District	.0067	.0071	.0068	.0066	.0085
East Bay Regional Park District	.0084	.0067	.0051	.0078	.0047
City of Berkeley	<u>.0480</u>	<u>.0470</u>	<u>.0470</u>	<u>.0535</u>	<u>.0505</u>
Total	1.2555	1.2563	1.2472	1.2717	1.2447

Source: California Municipal Statistics, Inc.

Tax Levies and Delinquencies

The City does not participate in the Teeter Plan. The following table shows secured tax charges and delinquencies within the City during the past ten years.

Table 3
CITY OF BERKELEY
Secured Tax Charges and Delinquencies
Fiscal Years 2004-05 to 2013-14
(Dollar amounts in thousands)

Fiscal Year	Secured Tax Charge ⁽¹⁾	Amount Delinquent June 30	% Delinquent June 30
2004-05	\$28,028,117.55	\$552,435.47	--
2005-06	30,573,949.35	684,004.33	2.24%
2006-07	33,552,146.54	1,189,361.30	3.54
2007-08	36,038,297.51	1,680,289.97	4.66
2008-09	38,438,858.24	1,757,281.78	4.57
2009-10	38,834,067.28	1,222,174.35	3.15
2010-11	38,858,160.99	937,557.29	2.41
2011-12	40,085,111.77	814,536.14	2.03
2012-13	40,863,072.01	588,607.19	1.44
2013-14	43,482,172.03	491,490.18	1.13

(1) 1% General Fund apportionment.

Source: California Municipal Statistics, Inc.

Major Taxpayers

The following table shows the twenty largest taxpayers in the City as determined by their secured assessed valuations in 2014-15. The City cannot determine from County assessment records whether individual persons, corporations or other organizations are liable for tax payments with respect to multiple properties held in various names that in aggregate may be larger than is suggested by the table below. A large concentration of ownership in a single individual or entity results in a greater amount of tax collections which are dependent upon that property owner's ability or willingness to pay property taxes.

Table 4
CITY OF BERKELEY
Largest 2014-15 Local Secured Taxpayers

	<u>Property Owner</u>	<u>Primary Land Use</u>	<u>2014-15 Assessed Valuation</u>	<u>% of Total (1)</u>
1.	Bayer Healthcare LLC	Industrial	\$ 280,447,236	1.97%
2.	EQR Berkeley	Apartments	151,131,837	1.06
3.	CVBAF ACQ LLC	Apartments	68,117,856	0.48
4.	Granite Library Gardens LP	Apartments	65,560,707	0.46
5.	Essex Berkeley 4 th Street LP	Apartments	47,551,039	0.33
6.	SC Hillside Berkeley Inc.	Apartments	46,866,611	0.33
7.	Hanumandla J. and Hanumandla R. Reddy Trust	Apartments	42,472,867	0.30
8.	1950 MLK LLC	Apartments	37,001,956	0.26
9.	Seventh Street Properties	Apartments	30,940,995	0.22
10.	BVP Fulton LLC	Apartments	29,109,851	0.20
11.	2600 Tenth Street LLC	Office Building	27,878,972	0.20
12.	John K. Gordon and Janis L. Mitchell Trust	Office Building	27,004,318	0.19
13.	Kaiser Foundation Health Plan Inc.	Industrial	25,444,052	0.18
14.	920 Heinz LP	Commercial	24,952,946	0.18
15.	Prasad R. and Santi Lakireddy	Office Building	24,693,400	0.17
16.	Numano Sake Company Inc.	Industrial	24,497,856	0.17
17.	Pyramid Gilman Street Property LLC	Industrial	22,672,543	0.16
18.	Durant Owner LLC	Hotel	21,958,343	0.15
19.	California Family LLC & CWR Holdings LLC	Apartments	20,857,050	0.15
20.	Jamestown Premier Berkeley Grotto LP	Commercial	20,593,067	0.14
			<u>\$1,039,753,502</u>	<u>7.31%</u>

⁽¹⁾ 2014-15 Local Secured Assessed Valuation: \$14,233,336,490.
Source: California Municipal Statistics, Inc.

Direct and Overlapping Debt

Set forth below is a direct and overlapping debt report (the "**Debt Report**") prepared by California Municipal Statistics, Inc. and effective June 1, 2015. The Debt Report is included for general information purposes only. The City has not reviewed the Debt Report for completeness or accuracy and makes no representation in connection therewith.

The Debt Report generally includes long-term obligations sold in the public credit markets by public agencies whose boundaries overlap the boundaries of the City in whole or in part. Such long-term obligations generally are not payable from revenues of the City (except as indicated) nor are they necessarily obligations secured by land within the City. In many cases, long-term obligations issued by a public agency are payable only from the general fund or other revenues of such public agency.

The contents of the Debt Report are as follows: (1) the first column indicates the public agencies which have outstanding debt as of the date of the Debt Report and whose territory overlaps the City; (2) the second column shows the percentage that the City's assessed valuation represents of the total assessed valuation of each public agency identified in the first column; and the third column is an apportionment of the dollar amount of each public agency's outstanding debt to property in the City, as determined by multiplying the total outstanding debt of each agency by the percentage of the City's assessed valuation represented in the second column.

Table 5
CITY OF BERKELEY
STATEMENT OF DIRECT AND OVERLAPPING BONDED DEBT
(As of June 1, 2015)

2014-15 Assessed Valuation: \$14,892,239,283

<u>DIRECT AND OVERLAPPING TAX AND ASSESSMENT DEBT:</u>	<u>% Applicable</u>	<u>Debt 6/1/15</u>
Bay Area Rapid Transit District	2.656%	\$ 16,753,915
East Bay Municipal Utility District, Special District No. 1	17.734	1,934,779
Peralta Community College District	19.024	72,488,098
Berkeley Unified School District	99.996	228,605,855
City of Berkeley	100.	83,900,000
City of Berkeley Community Facilities District No. 1	100.	4,500,000
East Bay Regional Park District	4.077	7,207,728
City of Berkeley Thousand Oaks Heights AFUU Assessment District	100.	1,205,000
TOTAL DIRECT AND OVERLAPPING TAX AND ASSESSMENT DEBT		\$416,595,375
 <u>DIRECT AND OVERLAPPING GENERAL FUND DEBT:</u>		
Alameda County and Coliseum Obligations	6.754%	\$ 58,788,133
Alameda County Pension Obligations	6.754	4,536,272
Alameda-Contra Costa Transit District Certificates of Participation	8.008	1,985,183
Peralta Community College District Pension Obligations	19.024	31,304,770
City of Berkeley Lease Revenue Bonds and Certificates of Participation	100.	30,755,000 (1)
City of Berkeley Pension Obligations	100.	815,000
TOTAL DIRECT AND OVERLAPPING GENERAL FUND DEBT		\$128,184,358
 COMBINED TOTAL DEBT		\$544,779,733 (2)

Ratios to 2014-15 Assessed Valuation:

Direct Debt (\$83,900,000)	0.56%
Total Direct and Overlapping Tax and Assessment Debt	2.80%
Combined Direct Debt (\$115,470,000)	0.78%
Combined Total Debt	3.66%

(1)Excludes Bonds to be sold.

(2)Excludes tax and revenue anticipation notes, enterprise revenue, mortgage revenue and non-bonded capital lease obligations.

Source: California Municipal Statistics, Inc.

CONSTITUTIONAL AND STATUTORY PROVISIONS AFFECTING CITY REVENUES AND APPROPRIATIONS

Principal of and interest on the Refunding Bonds are payable from the proceeds of an *ad valorem* tax levied by the City for the payment thereof. See “THE REFUNDING BONDS” and “SECURITY FOR THE REFUNDING BONDS” above. Articles XIII A, XIII B, XIII C and XIII D of the State Constitution, Propositions 62, 111, and 218 and 1A, and certain other provisions of law discussed below are included in this section to describe the potential effect of these Constitutional and statutory measures on the ability of the City to levy taxes and spend tax proceeds for operating and other purposes, and it should not be inferred from the inclusion of such materials that these laws impose any limitation on the ability of the City to levy taxes for payment of the Refunding Bonds. The tax levied by the City for payment of the Refunding Bonds was approved by the City’s voters in compliance with Article XIII A and all applicable laws.

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 has 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.

The City has never exceeded its appropriations limit. Because the issuance of the Refunding Bonds has been approved by the voters, the tax levy which is required to pay debt service on the Refunding Bonds is not subject to the limitations of Article XIII B.

Articles XIIC and XIID of the State Constitution

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 XIIC and XIID 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. The interpretation and application of Proposition 218 will ultimately be determined by the courts with respect to a number of the matters discussed below, and it is not possible at this time to predict with certainty the outcome of such determination.

Article XIIC requires that all new local taxes be submitted to the electorate before they become effective. Taxes for general governmental purposes of the City require a majority vote and taxes for specific purposes, even if deposited in the City's General Fund, require a two-thirds vote. The voter approval requirements of Proposition 218 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 such taxes in the future to meet increased expenditure needs.

Article XIID 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. These provisions include, among other things, (i) a prohibition against assessments which exceed the reasonable cost of the proportional special benefit conferred on a parcel, (ii) a requirement that assessments must confer a "special benefit," as defined in Article XIID, over and above any general benefits conferred, (iii) a majority protest procedure for assessments which involves the mailing of notice and a ballot to the record owner of each affected parcel, a public hearing and the tabulation of ballots weighted according to the proportional financial obligation of the affected party, and (iv) a prohibition against fees and charges which are used for general governmental services, including police, fire or library services, where the service is available to the public at large in substantially the same manner as it is to property owners. If the City is unable to continue to collect these revenues, the services and programs funded with these revenues would have to be curtailed and/or the City's General Fund might have to be used to support them. The City is unable to predict whether or not in the future it will be able to continue all existing services and programs funded by the fees, charges and assessments in light of Proposition 218 or, if these services and programs are continued, which amounts (if any) would be used from the City's General Fund to continue to support these activities.

Article XIIC 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.

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 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, provides 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 prohibits 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 must be approved by two-thirds of both houses of the Legislature. Proposition 1A provides, however, that beginning in fiscal year 2008-09, the State may shift to schools and community colleges up to 8% of local government property tax revenues, which amount must be repaid, with interest, within three years, if the Governor proclaims that the shift is needed due to a severe state financial hardship, the shift is approved by two-thirds of both houses and certain other conditions are met. The State may also approve voluntary exchanges of local sales tax and property tax revenues among local governments within a county. Proposition 1A also provides that if the State reduces the motor vehicle license fee rate currently in effect, 0.65 percent of vehicle value, the State must provide local governments with equal replacement revenues. Further, Proposition 1A requires the State, beginning July 1, 2005, to suspend State mandates affecting cities, counties and special districts, excepting mandates relating to employee rights, schools or community colleges, in any year that the State does not fully reimburse local governments for their costs to comply with such mandates.

Proposition 1A may result in increased and more stable City revenues. The magnitude of such increase and stability is unknown and would depend on future actions by the State. However, Proposition 1A could also result in decreased resources being available for State programs. This reduction, in turn, could affect actions taken by the State to resolve budget difficulties. Such actions could include increasing State taxes, decreasing spending on other State programs or other action, some of which could be adverse to the City.

Possible Future Initiatives

Articles XIII A, XIII B, XIII C and XIII D and Propositions 62, 111, 218 and 1A 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.

LEGAL MATTERS

Tax Exemption

Federal Tax Status. In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, subject, however to certain qualifications set forth below, under existing law, the interest on the Refunding Bonds is excluded from gross income for federal income tax purposes, such interest is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations, provided, however, that, for the purpose of computing the alternative minimum tax imposed on corporations (as defined for federal income tax purposes), such interest is taken into account in determining certain income and earnings.

The opinions set forth in the preceding sentence are subject to the condition that the City comply with all requirements of the Tax Code that must be satisfied subsequent to the issuance of the Refunding Bonds in order that such interest be, or continue to be, excluded from gross income for federal income tax purposes. The City has covenanted to comply with each such requirement. Failure to comply with certain of such requirements may cause the inclusion of such interest in gross income for federal income tax purposes to be retroactive to the date of issuance of the Refunding Bonds.

Tax Treatment of Original Issue Discount and Premium. If the initial offering price to the public (excluding bond houses and brokers) 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 (excluding bond houses and brokers) at which each Bond is sold is greater than the amount payable at maturity thereof, then such difference constitutes "original issue premium" for purposes of federal income taxes and State of California personal income taxes. De minimis original issue discount and original issue premium is disregarded. Owners of Bonds with original issue discount or original issue premium, including purchasers who do not purchase in the original offering, should consult their own tax advisors with respect to federal income tax and State of California personal income tax consequences of owning such Bonds.

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

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

Form of Opinion. A copy of the proposed form of opinion of Bond Counsel is attached hereto as APPENDIX C.

Absence of Material Litigation

No litigation is pending or threatened concerning the validity of the Refunding Bonds, and a certificate to that effect will be furnished to the purchasers at the time of the original delivery of the Refunding Bonds. The City is not aware of any litigation pending or threatened questioning the political existence of the City or contesting the City's ability to receive ad valorem taxes or to collect other revenues or contesting the City's ability to issue and repay the Refunding Bonds.

CONTINUING DISCLOSURE

The City will covenant for the benefit of owners of the Refunding Bonds to provide certain financial information and operating data relating to the City to the Municipal Securities Rulemaking Board by not later than March 31 after the end of each fiscal year of the City (currently June 30th), commencing by March 31, 2016 with the report for the 2014-15 fiscal year (the "**Annual Report**"), and to provide notices of the occurrence of certain enumerated events. The specific nature of the information to be contained in the Annual Report or the notices of enumerated events is summarized in "APPENDIX D - FORM OF CONTINUING DISCLOSURE CERTIFICATE," attached to this Official Statement. These covenants have been made in order to assist the Underwriter (as defined below) in complying with Securities Exchange Commission Rule 15c2-12 (the "**Rule**").

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 B – The City's Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2014." Notes to Financial Statements, Note 6"). To assist it in meeting its continuing disclosure obligations, the City has retained The Bank of New York Mellon Trust Company, N.A., as its trustee and dissemination agent (the "**Dissemination Agent**") for the past five years. The Dissemination Agent, the City and the City's affiliated governmental entities have not, on a handful of occasions during the past five years, fully complied, in all material respects, with the City's disclosure undertakings.

Specifically, during the last five years:

(i) Audited financial statements and annual reports with respect to several series of the City's bonds (or series of bonds of the City's affiliated governmental entities) were not filed on a timely basis or were not filed. In several instances, the City (or its affiliated governmental entities) submitted audited financial statements and annual reports to the dissemination agent, but they were misfiled, not filed, or filed late to the applicable information repository.

(ii) Material event notices were not filed on a timely basis or were not filed in response to changes to the underlying bond ratings of certain of the City's obligations and changes to the credit ratings of bond insurance companies that insured its bonds.

(iii) Annual reports with respect to several series of the City's bonds (or series of bonds of the City's affiliated governmental entities) were failed to include all of the required financial and operating data.

(iv) The City failed to file on a timely basis notice that certain bonds had been defeased and redeemed.

Supplemental annual reports, notices of the rating changes and filings to correct all of known filing errors made by the Dissemination Agent, the City and the City's affiliated governmental entities in their attempts to fully comply with the City's continuing disclosure have been filed and the City is currently in compliance with its continuing disclosure undertakings.

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 is engaging a third - party consultant 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.

RATING

Upon issuance of the Refunding Bonds, Standard & Poor's Ratings Services, a division of the McGraw-Hill Companies, Inc. ("**S&P**") and Moody's Investors Services, Inc. ("**Moody's**") will assign the Refunding Bonds a rating of "____" and "____," respectively. The City has furnished to S&P and Moody's information and material which has not been included in this Official Statement. Generally, rating agencies base their ratings on information and material so furnished and on investigations, studies and assumptions made by the rating agencies. The ratings reflect only the views of such organizations and an explanation of the significance of such ratings may be obtained from S&P and Moody's.

There is no assurance that the ratings will continue for any given period of time or that they will not be revised downward or withdrawn entirely by such rating agency, if, in the judgment of such rating agency, circumstances so warrant. Any such downward revision or withdrawal of such rating may have an adverse effect on the market price of the Refunding Bonds.

INDEPENDENT REGISTERED MUNICIPAL ADVISOR

The City has retained NHA Advisors LLC, San Rafael, California, as independent registered municipal advisor (the "**Municipal Advisor**") in connection with the preparation of this Official Statement and with respect to the issuance of the Refunding 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. NHA Advisors LLC is an independent registered 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 Refunding Bonds.

447

COMPETITIVE SALE OF BONDS

The Refunding Bonds were sold pursuant to competitive sale, and were awarded to _____, whose proposal represented the lowest true interest rate for the Refunding Bonds (being the rate which, when used in computing the present worth of all payments of principal to their maturity dates, produces an amount equal to the purchase price specified in such proposal). The Refunding Bonds are being purchased at a purchase price of \$_____, which represents the aggregate principal amount of the Refunding Bonds (\$_____) plus an original issue premium (\$_____), less a purchaser's discount (\$_____).

The Underwriter intends to offer the Refunding Bonds to the public at the offering prices set forth on the cover page of this Official Statement. The Underwriter 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 Underwriter.

EXECUTION

The execution and delivery of this Official Statement has been approved by the City Council.

CITY OF BERKELEY

By: _____
City Manager

APPENDIX A

CERTAIN INFORMATION CONCERNING THE CITY OF BERKELEY

Introduction

The City of Berkeley, California (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 an estimated January 1, 2014 population of 117,372, 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 approximately 12,700 full and part-time workers.

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.

Population

Population figures for the City, the County and the State for the last five years are shown in the following table.

CITY OF BERKELEY Population Estimates As of January 1

Year	City of Berkeley	County of Alameda	State of California
2010	112,363	1,509,240	37,223,900
2011	113,925	1,517,756	37,427,946
2012	114,690	1,530,206	37,668,804
2013	115,814	1,550,119	37,984,138
2014	117,372	1,573,254	38,340,074

Source: State Department of Finance estimates (as of January 1).

City Government

The City operates under a Council-Manager form of government. The City is governed by a nine-member City Council, eight of whom are elected by district, plus the Mayor, whom is elected on a city-wide basis. The Mayor and the City Council members serve four-year terms. The Council appoints a City Manager who is responsible for daily administration of City affairs, preparation and submission of the annual budget under the direction of the Mayor and the City Council for the Mayor's submission to the City Council. The City Manager appoints a Director of Finance to supervise the City's financial affairs. The Director of Finance also serves as the City's Treasurer.

The City Attorney, the City Clerk and Director of Finance are appointed by the City Manager subject to City Council approval. The City Auditor is elected at the same time as the Mayor.

<u>Member</u>	<u>District</u>	<u>Term Expires</u>
Tom Bates	Mayor	11/30/2016
Linda Maio	1	11/30/2018
Darryl Moore	2	11/30/2016
Maxwell Anderson	3	11/30/2016
Jesse Arreguin	4	11/30/2018
Laurie Capitelli	5	11/30/2016
Susan Wengraf	6	11/30/2016
Kriss Worthington	7	11/30/2018
Lori Droste	8	11/30/2018

CITY FINANCIAL INFORMATION

Accounting Policies and Financial Reporting

The accounts of the City are organized on the basis of funds and account groups, to account for different activities. The operations of each fund are accounted for with a separate set of self-balancing accounts that comprise its assets, liabilities, fund equity, revenues, and expenditures or expenses, as appropriate. Government resources are allocated to and accounted for in individual funds based upon the purposes for which they are to be spent and the means by which the spending activities are controlled. The City's general fund and other governmental fund types use the modified accrual basis of accounting. All of the City's other funds, including proprietary fund types and fiduciary fund types use the accrual basis of accounting. The basis of accounting for all funds is more fully explained in the "Notes to the Financial Statements" contained in Appendix B.

The City Council employs, at the beginning of each fiscal year, an independent certified public accountant who, at such time or times as specified by the City Council, at least annually, and at such other times as he or she shall determine, examines the combined financial statements of the City in accordance with generally accepted auditing standards, including such tests of the accounting records and such other auditing procedures as such accountant considers necessary. As soon as practicable after the end of the fiscal year, a final audit and report is submitted by such accountant to the City Council and a copy of the financial statements as of the close of the fiscal year is published.

The City, all its funds and the funds of certain other component entities of the City are audited annually by a certified public accounting firm. The firm of Badawi and Associates, Certified Public Accounts, Oakland, California, is the City's current auditor (the "**Auditor**"). The comprehensive annual financial report of the City for fiscal year 2011-12 is attached hereto as Appendix B. *The City's financial statements are public documents and are included within this Official Statement without the prior approval of the Auditor. Accordingly, the Auditor has not performed any post-audit of the financial condition of the City.*

The Governmental Accounting Standards Board ("**GASB**") published its Statement No. 34 "Basic Financial Statements – and Management's Discussion and Analysis – for State and Local Governments" on June 30, 1999. Statement No. 34 provides guidelines to auditors, state

and local governments and special purpose governments such as school districts and public utilities, on new requirements for financial reporting for all governmental agencies in the United States. Generally, the basic financial statements and required supplementary information should include (i) Management's Discussion and Analysis; (ii) government-wide financial statements prepared using the economic measurement focus and the accrual basis of accounting and fund financial statements prepared using both the current financial resources measurement focus and the modified accrual method of accounting (governmental funds) and funds using the economic measurement focus and the accrual basis of accounting (proprietary funds) and (iii) required supplementary information. The City's financial statements are prepared in conformance with the requirements of Statement No. 34.

Comparative Financial Statements

The following tables provide a four-year history of the City's Comparative Balance Sheet, General Fund revenues, expenditures, transfers, and ending fund balances.

**CITY OF BERKELEY
GENERAL FUND BALANCE SHEET
(As of June 30)**

	Actual <u>2010-11</u>	Actual <u>2011-12</u>	Actual <u>2012-13</u>	Actual <u>2013-14</u>
ASSETS				
Cash and investments in treasury*	\$28,430,832	\$80,421,748	\$59,333,686	\$67,258,745
Receivables (net of allowance where applicable):				
Accounts	6,964,852	8,221,054	12,666,242	13,471,563
Interest	1,320,269	816,560	542,104	607,962
Taxes	5,915,953	5,403,585	6,183,856	6,354,840
Due from other funds	9,165,640	6,777,054	5,327,763	2,415,424
Due from Components Units	218,555	179,629	--	--
Notes receivable	3,357,980	3,438,803	3,648,330	3,648,330
Other	1,517,817	487,519	552,577	544,121
Total assets	<u>56,891,898</u>	<u>105,745,951</u>	<u>88,254,557</u>	<u>94,300,985</u>
LIABILITIES				
Accounts payable	1,851,560	2,951,049	4,771,214	4,974,024
Accrued salaries and wages	6,245,234	2,368,020	2,455,543	2,940,866
Deposits held	458,928	603,155	901,527	943,212
Deferred revenue	4,832,951	6,392,105	--	--
Other liabilities	1,853,149	5,362,762	3,146,324	3,804,895
Tax and revenue anticipation notes*	--	50,000,000	25,000,000	24,995,000
Total liabilities	<u>15,241,822</u>	<u>67,677,092</u>	<u>36,274,607</u>	<u>37,657,997</u>
DEFERRED INFLOWS OF RESOURCES				
Unavailable revenue	--	--	11,067,821	10,951,448
Total Deferred Inflows of Resources	<u>--</u>	<u>--</u>	<u>11,067,821</u>	<u>10,954,448</u>
FUND BALANCES				
Reserved for:				
Encumbrances/Assigned to	2,271,366	2,343,500	2,002,369	3,6748,330
Notes receivable/Nonspendable/Restricted	3,357,980	3,438,803	3,648,330	2,829,511
Unreserved/Unassigned, report in:				
General fund	<u>36,020,731</u>	<u>32,286,557</u>	<u>35,261,429</u>	<u>39,213,698</u>
Total fund balances	<u>41,650,076</u>	<u>38,068,859</u>	<u>40,912,129</u>	<u>45,691,539</u>
Total liabilities and fund balances	<u>\$56,891,898</u>	<u>\$105,745,951</u>	<u>\$88,254,557</u>	<u>\$94,300,985</u>

* Balances for fiscal year 2010-11 are net of TRAN.

Source: City of Berkeley, Comprehensive Annual Financial Reports

CITY OF BERKELEY
STATEMENT OF GENERAL FUND
REVENUES, EXPENDITURES AND BALANCES
(Fiscal Year Ending June 30)
(Dollar amounts in thousands)

	Actual <u>2010-11</u>	Actual <u>2011-12</u>	Actual <u>2012-13</u>	Actual <u>2013-14</u>	Budgeted <u>2014-15</u>
REVENUES:					
Taxes	\$100,584	\$102,406	\$ 109,027	\$115,220	\$114,759
Licenses and permits	464	682	545	578	519
Intergovernmental	9,281	9,023	9,605	10,122	10,178
Charges for service	7,628	7,736	8,288	8,431	8,252
Fines and penalties	10,135	9,496	8,342	8,048	7,456
Rents and royalties	122	116	120	108	131
Franchise	1,772	1,540	1,810	1,834	1,841
Private Contributions and donations	--	--	--	12	15
Investment income	4,256	2,529	1,707	3431	2,600
Miscellaneous	883	15	522	524	100
TOTAL REVENUES	<u>135,126</u>	<u>133,893</u>	<u>139,966</u>	<u>148,308</u>	<u>145,851</u>
EXPENDITURES:					
General Government	27,108	27,234	27,038	26,345	33,665
Public Safety	80,465	81,385	80,989	83,295	84,316
Highways and Streets	1,665	2,119	1,383	1,087	1,508
Health and welfare	6,630	6,364	6,475	6,602	6,902
Culture-recreation	5,950	5,522	5,156	5,260	5,562
Community development and housing	6,475	6,487	6,230	6,631	6,796
Economic development	1,737	1,889	1,884	1,990	2,028
Debt Service	258	185	103	106	200
TOTAL EXPENDITURES	<u>130,289</u>	<u>131,185</u>	<u>129,259</u>	<u>131,315</u>	<u>140,977</u>
Excess Revenues Over (Under) Expenditures	4,837	2,708	10,707	16,992	4,874
Transfers In(out)/Other	(6,477)	(6,289)	(7,164)	(12,213)	(5,376)
Fund Balance, July 1	43,288	41,650	38,069	40,912	45,692
Prior Period Adjustment	<u>--</u>	<u>--</u>	<u>(701)</u>	<u>--</u>	<u>--</u>
Net change in fund balances	(1,638)	(3,581)	3,543	4,779	(502)
Fund Balance, June 30	<u>\$ 41,650</u>	<u>\$ 38,069</u>	<u>\$ 40,912</u>	<u>\$45,692</u>	<u>\$45,190</u>

* Totals may not add due to rounding.

Source: City of Berkeley Comprehensive Annual Financial Reports; City of Berkeley for Fiscal Year 2014-15 Budgeted

Budgetary Process and Administration

The City employs a two-year budget process. In year one of the biennial budget cycle, the City Council formally adopts authorized appropriations for the first fiscal year and approves “planned” appropriations for the second fiscal year. In year two, the City Council considers revisions and formally adopts authorized appropriations for the second fiscal year. Although the budget cycle covers a two-year period, the City Charter requires that the City Council adopt an annual appropriations ordinance for each budget year.

From about January to May of each year, the City Council meets in public to discuss policies and priorities for the upcoming budget. The City Manager prepares a proposed budget based on input from department heads, and presents this to the City Council by the first Monday in May of a budget year or as fixed by the City Council. The City also maintains additional budgetary controls to ensure compliance with the annual appropriated budget. The City Manager is authorized to transfer budgeted amounts within funds as deemed necessary to meet the City’s needs. However, revisions that alter the total budget or move amounts from one fund to another must be approved by the City Council.

See “SECURITY FOR AND SOURCES OF PAYMENT OF THE NOTES – The City’s Approach to Budgeting and Current Budget Status” in the body of this Official Statement.

Revenues and expenditures relating to the City’s general governmental operations are budgeted and accounted for in the City’s general fund, including public safety, highways and streets, health and welfare, culture and recreation, community development, housing and economic development. General taxes and fees support most of these activities. The “business” or proprietary activities of the City are accounted for in each of eight enterprise funds, which include those established for Refuse Collection, Marina Operations, Sanitary Sewers, Clean Storm Water, Permit Service Center, Off-Street Parking, Parking Meter, and Building Purchases & Management. These activities are intended to be completely or largely self-supporting through user fees and charges.

The balance of this Appendix is concerned with the operations and performance of the City’s General Fund, unless otherwise noted.

State Budget and its Impact on the City

General. In recent years, the State of California has faced significant financial and budgetary stress, from which it began to recover in fiscal year 2012-13, experiencing budget shortfalls in the billions of dollars each of the last several years. State revenues declined significantly as a result of recent economic conditions and other factors.

2013-14 State Budget. On June 27, 2013, Governor Edmund G. Brown Jr. approved the 2013-14 Budget Act, projecting \$97.1 billion in general fund revenues and adopting a \$96.3 billion spending plan, the first balanced budget in many years. Temporary revenues provided by the passage of Proposition 30 and spending cuts in the past two years mean that the State’s budget is projected to remain balanced for the foreseeable future. The 2013-14 State Budget maintains a \$1.1 billion reserve and pays down budgetary deficit, to be reduced from \$35 billion to \$27 billion in 2013-14 and to below \$5 billion by the end of 2016-17. The 2013-14 State Budget overhauls the State’s system of K-12 education finance. The 2013-14 State Budget

adopts a new allocation formula, known as the Local Control Funding Formula, which moves from a State-controlled system to a locally-controlled system.

The execution of the 2013-14 Budget Act may be affected by numerous factors, including but not limited to: (i) shifts of costs from the federal government to the State, (ii) national, State and international economic conditions, (ii) litigation risk associated with proposed spending reductions, (iii) rising health care costs and (iv) other factors, all or any of which could cause the revenue and spending projections made in the 2013-14 Budget Act to be unattainable. While the State is not a significant source of City revenues, and the City does not anticipate that the State's financial condition will materially adversely affect the financial condition of the City, there can be no assurances that any of the State's current financial pressures, the 2013-14 Budget Act, or future State budgets will not adversely affect the City. Additionally, the City cannot predict the accuracy of any projections made in the 2013-14 Budget Act. To the extent that the 2013-14 Budget Act or future State budget processes results in reduced revenues to the City, the City will be required to make adjustments to the General Fund budget. Decrease in State revenues may have an adverse impact on the City's ability to repay the Notes.

2014-15 State Budget. On June 20, 2014, Governor Brown approved the 2014-15 Budget Act (the "**2014-15 Budget**"), projecting \$108 billion in general fund revenues, which is \$7.3 million more in general fund revenues than in fiscal year 2013-14. The 2014-15 Budget is balanced and projects paying down more than \$10 billion in unprecedented amounts of budgetary debt from past years, including paying down deferral of payments to schools by \$5 billion, paying off Economic Recovery Bonds, repaying various special fund loans, and funding \$100 million in mandate claims that have been owed to local governments since 2004. The budgetary deficit is projected to be reduced to below \$5 billion by the end of 2016-17. The fiscal year begins with a 2014-15 State Budget reserve of \$2 billion dollars, including \$1.6 billion in the State's Budget Stabilization Account, also known as the State's rainy day fund. Temporary revenues provided by the passage of Proposition 30 (Sales and Income Tax Revenue Increase approved by State voters at an election held on November 8, 2011) and spending cuts have allowed for continued economic growth in the State. The 2014-15 State Budget also contains triggers allowing for additional spending, if various revenue benchmarks are exceeded. If revenues surpass certain estimates, then the Budget calls for more funds to be applied to higher education and to pay down debt. Certain highlights of the 2014-15 Budget are described below.

Constitutional Amendment: Rainy Day Fund. The 2014-15 State Budget included a proposed constitutional amendment which was approved by State voters in November 2014. The measure alters the State's existing requirements for the Budget Stabilization Account, the State's existing rainy day account, as follows:

- Requires deposits into the Rainy Day Fund whenever capital gains revenues rise to more than 8 percent of General Fund tax revenues, and sets the maximum size of the Rainy Day Fund at 10 percent of the General Fund revenues.
- Requires half of each year's deposit for the next 15 years be used for supplemental payments of debt or other long-term liabilities.
- Allows for withdrawal of funds only for a disaster or if spending remains at or below the highest level of spending from the past three years. The maximum amount that may be withdrawn in the first year of a recession is limited to half of the Rainy Day Fund's balance.

- Requires that the state provide a multiyear budget forecast to better manage the state's long-term finances.
- Creates a Proposition 98 reserve, known as the Public School System Stabilization Account, so that spikes in funding are saved for future years. This is intended to smooth school spending and minimize future cuts to education funding. Additional legislation requires that in future years, school districts may not adopt budgets containing reserves in excess of twice the applicable minimum reserve amount.

Higher Education and Healthcare. The 2014-15 State Budget includes total funding of \$26.2 billion (\$14.7 billion General Fund and local property tax and \$11.5 billion other funds). It also provides for up to a 20 percent increase in General Fund appropriations over a four-year period. The 2014-15 Budget includes a 5 percent increase in 2014-15 for each university system, which equals \$284 million total. Regarding healthcare, the state's adoption of the optional expansion of Medi-Cal under federal law known as the Affordable Care Act created major new spending commitments. The 2014-15 Budget assumes an additional Medi-Cal caseload of 2.5 million individuals and a rise in costs of \$2.4 billion over fiscal year 2012-13.

Emergency Drought Response. On January 17, 2014, Governor Brown proclaimed a state of emergency due to the severe drought conditions faced by the state. Legislation was enacted in February which provided \$687.4 million to support drought relief. The 2014-15 Budget includes additional one-time resources to continue immediate drought-related efforts started in 2014, such as an increase of \$53.8 million General Fund and \$12.2 million other funds for firefighting efforts, and an increase of \$18.1 million General Fund to aid in assessing water conditions and provide public outreach regarding water conservation.

Numerous Factors Affecting Budget and Projections. The execution of the 2014-15 State Budget may be affected by numerous factors, including but not limited to: (i) shifts of costs from the federal government to the State, (ii) national, State and international economic conditions, (iii) litigation risk associated with spending reductions, including the elimination of redevelopment agencies, (iv) rising health care costs (v) large unfunded liabilities for retired State employee's pensions and healthcare, (vi) deferred maintenance of State's critical infrastructure and (vii) other factors, all or any of which could cause the revenue and spending projections made in 2014-15 State Budget to be unattainable. The City cannot predict the impact that the 2014-15 State Budget, or subsequent budgets, will have on its own finances and operations. Additionally, the City cannot predict the accuracy of any projections made in the State's 2014-15 State Budget.

The complete 2014-15 State Budget is available from the California Department of Finance website at www.dof.ca.gov. The City can take no responsibility for the continued accuracy of this internet address or for the accuracy, completeness or timeliness of information posted there, and such information is not incorporated in this Official Statement by such reference. The information referred to above should not be relied upon in making an investment decision with respect to the Notes.

2015-16 Proposed State Budget. On January 9, 2015, Governor Brown presented his proposed budget for the 2015-16 Fiscal Year (the "**2015-16 Proposed State Budget**"). The 2015-16 Proposed State Budget proposes a multiyear plan that is balanced, maintains a \$3.4 billion reserve, and pays down budgetary debt from past years. Under the 2015-16 Proposed

State Budget, funding levels for K-12 education will increase by \$4 billion and funding levels for workforce education and training will increase by \$876 million. Funding is also increased for the University of California and California State University higher education systems. The 2015-16 Proposed State Budget includes a \$115 million allocation from the State's General Fund to address the drought, and addresses deferred maintenance issues with \$500 million from the State's General Fund.

The complete 2015-16 Proposed State Budget is available from the California Department of Finance website at www.dof.ca.gov. The City can take no responsibility for the continued accuracy of this internet address or for the accuracy, completeness or timeliness of information posted there, and such information is not incorporated in this Official Statement by such reference. The information referred to above should not be relied upon in making an investment decision with respect to the Refunding Bonds.

The execution of 2015-16 Proposed State Budget may be affected by numerous factors, including but not limited to: (i) shifts of costs from the federal government to the State, (ii) national, State and international economic conditions, (iii) litigation risk associated with proposed spending reductions, (iv) rising health care costs and (v) other factors, all or any of which could cause the revenue and spending projections made in the 2015-16 Proposed State Budget to be unattainable. The City cannot predict the impact that the 2015-16 Proposed State Budget, or subsequent budgets, will have on its own finances and operations. Additionally, the City cannot predict the accuracy of any projections made in the 2015-16 Proposed State Budget.

Dissolution of Redevelopment Agencies. State legislation enacted as part of the 2011 Budget Act, and upheld by the California Supreme Court (as amended, the “**Dissolution Act**”), resulted in the formal dissolution of redevelopment agencies, including the Berkeley Redevelopment Agency (the “**Redevelopment Agency**”), effective as of February 1, 2012. The impact on the City's General Fund of the dissolution of the Redevelopment Agency is minimal because the City is in the process of winding down its redevelopment program, and the funding the City received from the Redevelopment Agency prior to its dissolution only supported 1.5 full-time employees.

Other General Fund Revenues

In addition to property taxes, the City has several other major tax and fee revenue sources, as described below. The following table summarizes the City's actual or budgeted general fund revenues from fiscal year 2010-11 through fiscal year 2013-14 (actuals) and fiscal year 2014-15 (budgeted).

CITY OF BERKELEY GENERAL FUND REVENUES

	Actual FY 2011	Actual FY 2012	Actual FY 2013	Actual FY 2014	Adopted Budget FY 2015
Real Property	\$37,638,086	\$38,820,291	\$40,210,337	\$42,220,854	\$44,352,255
Property Transfer Tax	9,126,631	8,422,912	11,663,871	13,000,000	11,000,000
Unsecured Property	2,341,601	2,447,266	2,298,522	2,298,523	2,498,523
Sales Tax	14,218,084	14,910,245	15,708,700	16,022,873	16,365,826
Business License	13,955,148	15,645,924	15,386,878	15,449,787	16,253,126
Hotel Tax	4,164,608	4,918,033	5,562,168	5,840,276	5,957,082
Utility Users Tax	14,396,426	14,231,620	14,350,002	14,637,002	14,929,742
Vehicle In-Lieu	8,819,730	8,477,452	8,738,075	9,228,609	9,671,582
Parking Fines	9,074,431	9,483,199	8,484,032	7,000,000	7,000,000
Moving Violations	289,864	228,447	248,798	230,000	200,000
Interest	5,447,352	4,761,231	3,320,372	2,800,000	2,600,000
Service Fees	<u>7,689,367</u>	<u>7,702,479</u>	<u>8,170,473</u>	<u>8,348,882</u>	<u>8,246,837</u>
SUB-TOTAL	\$127,161,328	\$130,049,099	\$134,142,228	\$137,076,806	\$139,074,973
Other Revenues	<u>17,252,780</u>	<u>17,776,142</u>	<u>16,023,652</u>	<u>15,979,025</u>	<u>15,306,528</u>
TOTAL	<u>\$144,438,108</u>	<u>\$147,825,241</u>	<u>\$150,165,880</u>	<u>\$153,055,831</u>	<u>\$154,381,501</u>

Source: City of Berkeley FY 2013 Adopted Mid-Biennial Budget Update and FY 2014 Adopted Budget; City of Berkeley Finance Department.

Fiscal Year 2014-15 Mid-Year Budget Update. In the fiscal year 2014-15 Mid-Year Budget Update, the City projects that total General Fund revenues will increase by approximately \$500,000 over the adopted budget for fiscal year 2014-15, for total projected revenues of approximately \$154.4 million, due primarily to increased secured property taxes and property transfer taxes as a result of changes in assessed valuation and higher dollar value of property sales in the City. These increases are offset by reductions in parking fine and interest income revenues.

Sales and Use Tax. The sales tax is an excise tax imposed on retailers for the privilege of selling or leasing tangible personal property. The use tax is an excise tax imposed for the storage, use, or other consumption of tangible personal property purchased from any retailer. The total sales tax rate within the City is currently 9.00%. The proceeds of sales and uses taxes imposed within the City are distributed by the State to various agencies, with the City receiving 1.0% of the amount collected less 0.25% shifted to the State pursuant to a mechanism commonly known as "Triple Flip." The 0.25% reduction in local sales tax is used to pay State economic recovery bonds, but cities and counties are then provided with *ad valorem* property tax revenues in lieu of these revenues. See "RISK FACTORS – Impact of State Sales and Use Tax Redirection."

Collection of the sales and use tax is administered by the California State Board of Equalization. Under its procedures, the State Board of Equalization projects receipts of the sales and use tax on a quarterly basis and remits an advance of the receipts of the sales and use tax to the City on a monthly basis. The amount of each monthly advance is based upon the State Board of Equalization's quarterly projection. During the last month of each quarter, the State Board of Equalization adjusts the amount remitted to reflect the actual receipts of the sales and use tax for the previous quarter. The Board of Equalization receives an administrative fee based on the cost of services provided by the Board to the City in administering the City's sales tax, which is deducted from revenue generated by the sales and use tax before it is distributed to the City.

Factors that have historically affected sales tax revenues include the overall economic growth of the Bay Area, competition from neighboring cities, the growth of specific industries within the City, the City's business attraction and retention efforts, and catalog and Internet sales. In fiscal year 2013-14, revenues from sales and use taxes increased by 2% from fiscal year 2012-13.

In 2009, the State Board of Equalization converted the business codes of sales and use tax permit holders to North American Industry Classification System codes. As a result of the coding change, retail stores data for 2009 is not comparable to that of prior years. A summary of historic taxable sales within the City during the past five calendar years is shown in the following table.

**CITY OF BERKELEY
TAXABLE TRANSACTIONS
(Figures in Thousands)**

	2008	2009 ⁽¹⁾	2010 ⁽¹⁾	2011 ⁽¹⁾	2012 ⁽¹⁾
Retail and Food Services:					
Apparel Stores	\$56,735	\$54,648	\$54,930	\$58,189	\$58,945
Gen. Merchandise Stores	56,729	9,020	9,119	9,796	10,984
Food Stores	63,315	82,004	89,959	99,355	102,640
Eating and Drinking Places	236,391	226,592	233,765	247,864	274,112
Home Furnishings and Appliances	54,595	61,908	64,135	60,559	63,544
Bldg. Materials, Farm Implements	82,177	80,987	80,430	79,168	83,947
Auto Dealers, Auto Supplies	109,791	105,991	112,777	111,874	129,075
Gas/Service Stations	86,391	69,433	81,167	96,585	104,802
Other Retail Stores	<u>269,252</u>	<u>258,281</u>	<u>243,838</u>	<u>252,917</u>	<u>241,548</u>
Total Retail and Food Services	\$1,015,377	\$948,865	\$970,121	\$1,016,307	\$1,069,598
All Other Outlets	<u>324,421</u>	<u>281,337</u>	<u>299,939</u>	<u>306,720</u>	<u>353,778</u>
TOTAL ALL OUTLETS	<u>\$1,339,797</u>	<u>\$1,230,203</u>	<u>\$1,270,060</u>	<u>\$1,323,027</u>	<u>\$1,423,376</u>

(1) Retail Stores data not comparable to years prior to 2009.
Source: State Board of Equalization

Utility Users Tax. The City imposes a 7.5% tax on users of gas, electricity and telephone, as well as cellular telephone services for billing addresses within the City. The tax is not applicable to State, County, or City agencies, or to insurance companies and banks. Some of the factors affecting this revenue stream include consumer demand for these utilities, legislative and regulatory action, rate changes, and the evolution of technology. Telecommunications and cable generated approximately 43% of this revenue in fiscal year 2013-14, with revenue from gas and electricity usage generating approximately 57%. Electricity and gas rates are expected to be higher, but reductions in usage should partially offset the effect of the rate increases. In fiscal year 2013-14, revenues from utility users taxes increased by 2% from fiscal year 2012-13.

Business License Tax. The City requires all businesses within the City to be licensed and imposes a business license tax on all business locations and a new license registration fee on applicants for a new license. The annual tax is generally determined based on the type of business and the business's gross receipts. The tax rate varies between \$0.60 per \$1,000 gross receipts for grocers, on the low end, and \$25.00 per \$1,000 gross receipts for cannabis clubs on the high end. Most types of businesses are required to pay a minimum tax of at least \$51 per year. The overall revenue from this tax is dependent on the number of license renewals each year and the growth of businesses and industries within the City and the Bay Area more

generally. In fiscal year 2013-14, revenues from the business license tax increased by 0.4% from fiscal year 2012-13.

Property Transfer Tax. The City collects a 1.5% tax on the value of any documented sale or transfer of real property within the City. The tax is due when the transfer is recorded with the County. Title companies collect the tax as part of the sale closing process and remit the funds to the County when sales or transfers are finalized. The County remits the amounts due monthly, and the amounts are credited to the general fund. A buyer of residential housing built before 1989 may voluntarily choose to reserve up to one-third of the transfer tax to perform seismic upgrades. Buyers typically have up to one year to complete the work and file for a rebate. Previously the title companies held the reserved amount in escrow until the work was completed, but since May 2007, the City has held the money in escrow accounts, with the interest going to the City. In fiscal year 2013-14, revenues from property transfer taxes increased by 11.5% from fiscal year 2012-13. As of the fiscal year 2014-15 Mid-Year Budget Update, the City projected an increase of \$1,000,000 in property transfer taxes over the adopted budget due to the increased dollar value of property sales in the City.

Parking Fines. The City issues and adjudicates citations and civil penalties for parking violations through its own administrative structure. It has a great degree of control over the administration of parking fines, although issuing agencies within the County try to standardize parking penalties to the extent possible. Revenue from parking fines is affected by the penalties imposed for violations, the number of employees issuing tickets, how many tickets employees are able to issue, and the number of working parking meters, among other factors. Currently, the City must remit an additional \$12.50 per citation to the State/County for State and County construction funds, Maddy emergency medical fund, and DNA identification fund. In fiscal year 2013-14, revenues from parking fines decreased by 17.5% from fiscal year 2012-13.

Vehicle In Lieu Fees. Vehicle license fees (“VLF”) imposed for the operation of vehicles on state highways are collected by the State Department of Motor Vehicles in lieu of personal property taxes on vehicles. In connection with the offset of the VLF, the State Legislature authorized appropriations from the State General Fund to “backfill” the offset so that local governments, which receive all of the vehicle license fee revenues, would not experience any loss of revenues. The legislation that established the VLF offset program also provided that if there were insufficient State General Fund moneys to fully “backfill” the VLF offset, the percentage offset would be reduced proportionately (i.e., the license fee payable by drivers would be increased) to assure that local governments would not be underfunded.

As part of the 2004 Budget Act negotiations, an agreement was made between the State and local government officials under which the VLF rate was permanently reduced from 2% to 0.65%. In order to protect local governments, the reduction in VLF revenue to cities and counties from this rate change was replaced by an increase in the amount of property tax they receive. Commencing in fiscal year 2004-05, local governments began to receive their full share of replacement property taxes, and those replacement property taxes now enjoy constitutional protection against certain transfers by the State because of the approval of Proposition 1A at the November 2004 election.

As a part of its fiscal year 2009-10 budget, California increased the vehicle license fee from 0.65% to 1.15% for registration fees due on or after the May 19, 2009 special election. This provision expired on July 1, 2011. On July 1, 2011, vehicle license fees returned to 0.65%, and the City is unaware of any current State legislative efforts likely to increase these in fees in the future.

In fiscal year 2013-14, the VLF revenues increased by 5.6% from fiscal year 2012-13.

Other Revenues. The City also collects additional general fund revenues from franchise fees, transient occupancy taxes, ambulance fees, and other more minor sources. Under the City's cable and electric and gas franchise fee arrangements, the local cable provider pays an annual franchise fee of 5% of gross revenues, and the electricity and gas providers pay the greater of 2% of gross receipts attributable to miles of line operated or 0.5% of gross receipts. The transient occupancy tax, also known as the hotel tax, is a 12% tax on the room charge for rental of transient lodging; it is paid by the hotel guest. The City also has an agreement with the County to be the exclusive provider of all emergency ground ambulance services within the City; the specific ambulance fee depends on the type of service delivered and is billed to clients or their insurance companies. Finally, other more minor revenue sources include payments for moving violations, interest on existing funds, and other service fees. As of the fiscal year 2014-15 Mid-Year Budget Update, the City projects increases of \$618,000 in transient occupancy taxes and \$128,000 for ambulance fees over the adopted budget for fiscal year 2014-15.

Retirement Programs

PERS Plan Description. The City contributes to three plans in California Public Employees' Retirement System ("PERS"). The first plan covers all of the City's full-time and part-time benefited sworn uniformed fire employees and all chiefs (and is referred to as the Safety Fire Plan in this Official Statement). The second covers all of the City's full-time and part-time benefited sworn uniformed police employees and all chiefs (and is referred to as the Safety Police Plan in this Official Statement). The third plan covers all remaining eligible City employees (and is referred to as the Miscellaneous Plan in this Official Statement). These plans are agent multiple-employer defined benefit pension plans administered by PERS, which acts as a common investment and administrative agent for participating public employers within the State of California.

PERS Plan Eligibility. For a more detailed discussion of the eligibility requirements for the City's PERS retirement plans, see Appendix B, Note IV(D).

PERS Plan Contributions. The City is required to contribute the actuarially determined remaining amounts necessary to fund the benefits for its members. The actuarial methods and assumptions used are those adopted by the PERS Board of Administration. The required employer contribution rate for fiscal year 2011-12 was 19.047%, 28.602%, and 40.379% for Miscellaneous Plan, Safety Fire Plan and Safety Police Plan employees annual covered payroll, respectively; the rates for fiscal year 2012-13 were 19.180%, 29.109%, and 42.017%, respectively; for fiscal year 2013-14, the rates were 20.945%, 31.462% and 45.710%, respectively. The contribution requirements of the plan members are established by State statute, and the employer contribution rates are established and may be amended by PERS.

For a more detailed discussion of the eligibility requirements for the City's retirement plans, see Appendix B, Note IV(D) for detailed information about the actuarial assumptions underlying the contributions.

A three-year history of the City's contributions is set forth below:

Fiscal Year Ended	Annual Pension Cost (APC)	Percentage of APC Contributed	Net Pension Obligation
Miscellaneous Plan			
6/30/2012	\$15,713,788	111%	(1,703,489)
6/30/2013	15,953,488	101	(1,907,910)
6/30/2014	17,398,532	101	(2,127,319)
Public Safety – Fire Plan			
6/30/2012	\$4,394,363	104%	(168,914)
6/30/2013	4,280,867	100	(189,184)
6/30/2014	4,680,210	100	(210,940)
Public Safety – Police Plan			
6/30/2012	\$8,708,429	104%	(308,011)
6/30/2013	9,112,579	100	(344,972)
6/30/2014	9,966,272	100	(384,644)

PERS Plans Funding Status. The funded status of the pension plans as of June 30, 2013, the most recent actuarial date, is set forth below:

Actuarial Valuation Date	Actuarial Asset Value*	Actuarial Accrued Liability-Entry Age	Unfunded Actuarial Accrued Liability- UAAL	Funded Ratio	Covered Payroll	UAAL as Percentage of covered Payroll
CalPERS – Miscellaneous Plan						
6/30/2013	\$565,378,863	\$780,655,146	\$215,276,283	72.4%	\$85,062,851	253.1%
CalPERS – Public Safety Fire Plan						
6/30/2013	\$203,826,722	\$224,303,131	\$59,521,354	73.5%	\$14,473,175	411.3%
CalPERS – Public Safety Police Plan						
6/30/2013	\$203,826,722	\$326,232,323	\$122,405,601	62.5%	\$21,816,706	561.1%

* Beginning with the 6/30/2013 valuation Actuarial Value of Assets equal Market Value of Assets per CalPERS Direct Rate Smoothing Policy.

For a more detailed discussion of the City's PERS retirement plans, see Appendix B, Note IV(D).

Recent Actions by PERS. On March 14, 2012, the PERS Board voted to reduce its discount rate, which rate is attributable to its expected price inflation and investment rate of return (net of administrative expenses), from 7.75% to 7.5%. As a result of such discount rate decrease, among other things, (i) the amounts of PERS member state and schools employer contributions will increase by 1.2 to 1.6% for Miscellaneous plans and 2.2 to 2.4% for Safety plans beginning fiscal year 2012-13 and (ii) the amounts of PERS member public agency contributions will increase by 1 to 2% for Miscellaneous plans and 2 to 3% for Safety plans beginning fiscal year 2013-14. More information about the PERS discount rate adjustment can be accessed through PERS's web site at www.calpers.ca.gov/index.jsp?bc=/about/press/pr-2012/mar/discount-rate.xml. *The reference to this internet website is shown for reference and convenience only, the information contained within the website may not be current and has not been reviewed by the City and is not incorporated herein by reference.*

The PERS Board adjustment has been undertaken in order to address underfunding of the PERS funds, which arose from significant losses incurred as a result of the economic crisis arising in 2008 and persists due to a slower than anticipated, subsequent economic recovery. The City is unable to predict what the amount of PERS liabilities will be in the future, or the amount of the PERS contributions which the City may be required to make.

At its April 17, 2013 meeting, the PERS Board of Administration approved a recommendation to change the PERS amortization and smoothing policies. Prior to this change, PERS employed an amortization and smoothing policy which spread investment returns over a 15-year period with experience gains and losses paid for over a rolling 30-year period. After this change, PERS will employ an amortization and smoothing policy that will pay for all gains and losses over a fixed 30-year period with the increases or decreases in the rate spread directly over a 5-year period.

The new amortization and smoothing policy will be used for the first time in the June 30, 2013 actuarial valuations. These valuations will be performed in the fall of 2014 and will set employer contribution rates for the fiscal year 2015-16. The City cannot predict how this change in amortization and smoothing policies will affect its contribution levels.

According to PERS, the current amortization and smoothing policy was designed to reduce volatility in employer contribution rates, and, although the policy accomplished this goal fairly well since its adoption, a number of concerns have developed:

- The use of an actuarial value of assets corridor can lead to significant single year increases to rates in years when there are large investment losses.
- The use of long asset smoothing periods and long rolling amortization periods result in slow progress toward full funding.
- The use of an actuarial value of assets requires the disclosure of two different funded statuses and unfunded liability numbers in actuarial valuation reports. This adds confusion and inhibits transparency.
- The use of rolling amortization and long asset smoothing periods makes it difficult for employers to predict when contribution rates will peak and how high that peak will be.
- The use of rolling amortization and asset smoothing periods may result in additional calculations for the new accounting standards. These calculations would be avoided with a quicker funded status recovery.

According to PERS, the adoption of the new smoothing and amortization policies will change future employer contribution rates, as follows:

- Funding levels will improve, which will reduce the funding level risk.
- Local agencies' plans will experience more rate volatility in normal years, but a much reduced chance of very large rate increases in years when there are large investment losses.
- Contribution rates in the near term will increase.
- Long-term contribution rates will be lower.
- There will be greater transparency about the timing and impact of future employer contribution rate changes.
- The new policy eliminates the need for an actuarial value of assets. As a result, there will be only one funded status and unfunded liability in actuarial reports.

- There will be less confusion when the new accounting standards are implemented since there will be no need for extra liability calculations.

Dollar Contribution Based on Projected PERS Rate Increases. The City's projected annual financial contributions as a result of the PERS rate changes for the next six years are shown in the table below:

	2014-15 Budgeted	2015-16 Projected	2016-17 Projected	2017-18 Projected	2018-19 Projected	2019-20 Projected
Miscellaneous	\$27,100,000	\$28,600,000	\$29,900,000	\$31,200,000	\$32,500,000	\$33,800,000
Police	10,500,000	10,800,000	11,300,000	11,800,000	12,200,000	12,700,000
Fire	<u>5,200,000</u>	<u>5,600,000</u>	<u>5,900,000</u>	<u>6,300,000</u>	<u>6,700,000</u>	<u>7,000,000</u>
Total	\$42,800,000	45,000,000	\$47,100,000	\$49,300,000	\$51,400,000	53,500,000

Pension Reform Act of 2013 (Assembly Bill 340). On September 12, 2012, Governor Brown signed AB 340, a bill that will enact the California Public Employees' Pension Reform Act of 2013 ("PEPRA") and that will also amend various sections of the California Education and Government Codes, including the County Employees Retirement Law of 1937. AB 340 (i) increases the retirement age for new State, school, and city and local agency employees depending on job function, (ii) caps the annual PERS pension benefit payout, (iii) addresses numerous abuses of the system, and (iv) requires State, school, and certain city and local agency employees to pay at least half of the costs of their PERS pension benefits. PEPRA will apply to all public employers *except* the University of California, charter cities and charter counties (except to the extent they contract with PERS).

The provisions of AB 340 went into effect on January 1, 2013 with respect to State employees hired on that date and after; local government employee associations, including employee associations of the City, will have a five-year window to negotiate compliance with AB 340 through collective bargaining. If no deal is reached by January 1, 2018, a city, public agency or school district could force employees to pay their half of the costs of PERS pension benefits, up to 8 percent of pay for civil workers and 11 percent or 12 percent for public safety workers.

PERS predicts that the impact of AB 340 on employers, including the City, and employees will vary, based on each employer's current level of benefits. To the extent that the new formulas lower retirement benefits, employer contribution rates could decrease over time as current employees retire and employees subject to the new formulas make up a larger percentage of the workforce. This change would, in some circumstances, result in a lower retirement benefit for employees than they currently earn. Additionally, PERS notes that changes arising from AB 340 could ultimately have an adverse impact on public sector recruitment in areas that have historically experienced recruitment challenges due to higher pay for similar jobs in the private sector.

More information about AB 340 can be accessed through PERS's website at www.calpers.ca.gov/index.jsp?bc=/member/retirement/pension-reform-impacts. *The reference to this internet website is shown for reference and convenience only; the information contained within the website may not be current and has not been reviewed by the City and is not incorporated in this Official Statement by reference.*

Berkeley Police Retirement Income Benefit Plan. Up to December 22, 2012, the City maintained the Berkeley Police Retirement Income Benefit Plan ("BPRIBP"), a single-employer

defined benefit income plan, for its police retirees and surviving spouses. Effective September 19, 2012, police retired on or after this date are no longer covered by BPRIBP. The City replaced this plan with the "Retiree Health Premium Assistance Coverage Plan."

A three-year history of the City's contributions is set forth below:

Fiscal Year Ended	Annual Required Contribution	Percentage Contributed
6/30/2012	\$4,176,504	28.9%
6/30/2013	1,829,234	64.3
6/30/2014	2,766,188	58.7

The funded status of the BPRIP as of July 1, 2013, the most recent actuarial valuation date, is set forth below:

Actuarial Valuation Date	Actuarial Asset Value	Actuarial Accrued Liability-Entry Age	Unfunded Actuarial Accrued Liability-UAAL	Funded Ratio	Covered Payroll	UAAL as Percentage of covered Payroll
Berkeley Police Retirement Income Benefit Plan						
7/1/2013	\$6,403,422	\$46,605,771	\$40,202,349	13.74%	\$19,920,000	201.8%

The actuarial value of the assets in the BPRIBP as of July 1, 2012 was equal to their market value.

For a more detailed discussion of the BPRIP, see Appendix B, Note IV(D).

Peace Officers Research Association of California. Effective December 23, 2012, the City established a new sick leave program called Peace Officers Research Association of California ("PORAC"). If a sworn member of the Berkeley Police department has an accrued sick leave balance on December 23, 2012 that exceeds 200 hours, one half of all those hours in excess of 200 shall be maintained in a separate account. The financial value of those hours shall be converted and deposited into the employee's PORAC medical trust account over five successive years in equal installments commencing on January 1, 2013. The conversion was at the employee's rate of pay on December 23, 2012. The City may accelerate the payment of hours to be converted. The remaining fifty percent of the sick leave balance in excess of 200 hours was credited into the employee's separate "catastrophic/service time" bank no later than February 1, 2013, up to a maximum of 500 hours.

The City's contribution to BPRIBP/PORAC for fiscal year ending June 30, 2014 was \$1,207,424.

Safety Member Pension Fund. In addition, the City maintains the Safety Member Pension Fund ("SMPF"), a defined benefit plan for fire and police officers who retired prior to March 1973. In March 1973, all active fire and police officers were transferred from SMPF to PERS. The City pays the benefits to SMPF members on a pay-as-you-go basis, primarily through a Funding Agreement, purchased by the Berkeley Civic Improvement Corporation on behalf of the City in 1989. For the fiscal year ended June 30, 2014, the City's annual required contribution was \$929,434, of which \$360,814 was paid through the Funding Agreement and \$568,620 was paid from the City's general fund.

A three-year history of the City's contributions to the SMPF is set forth below:

Fiscal Year Ended	Annual Pension Cost (APC)	Percentage of APC Contributed	Net Pension Obligation
6/30/2012	\$1,338,800	100%	N/A
6/30/2013	1,167,401	100	N/A
6/30/2014	929,434	100	N/A

The funded status of the SMPF as of June 30, 2014, the most recent actuarial date, is set forth below:

Actuarial Valuation Date	Actuarial Asset Value	Actuarial Accrued Liability-Entry Age	Unfunded Actuarial Accrued Liability-UAAL	Funded Ratio	Covered Payroll	UAAL as Percentage of covered Payroll
Berkeley Safety Members Pension Fund						
6/30/2014	\$1,254,005	\$4,828,175	\$3,574,170	25.97%	N/A	N/A

For a more detailed discussion of the SMPF, see Appendix B, Note IV(D).

Post-Employment Health Benefits

The City offers certain post-employment health benefits to retirees. There are three plans: (i) the City of Berkeley Fire Employees Retiree Health Plan ("**FRHF**"), (ii) the City of Berkeley Miscellaneous Employees Retiree Health Plan ("**RHPAP**") and (iii) the Police Retiree Premium Assistance Plan ("**PRPAP**").

The City has adopted Government Accounting Standards Board Statement 45 which requires governmental agencies to change their accounting for Other Post-Employment Benefits ("**OPEB**") from pay-as-you-go to an accrual basis.

See Appendix B, Note IV(E) for information about the City's OPEB liabilities.

City of Berkeley Fire Employees Retiree Health Plan. The FRFH is a single-employer defined benefit medical plan. To be eligible for benefits, sworn Fire employees must retire from the City on or after July 1, 1997, be vested in a PERS pension, and retire from the City on or after age 50. Benefits commence immediately upon retirement. Benefits are payable for the retiree's lifetime and continue for his or her covered spouse's/domestic partner's lifetime. The amount the City contributes toward the Fire Employees Retiree Health Plan is 4.5% per year regardless of the amount of increase in the underlying premium rate. The establishment and amendments of benefit provisions are negotiated between the employee bargaining units and the City Labor Negotiating Team, and are approved by the City Manager and City Council. As of July 1, 2014, there were 117 active employees, 23 retirees deferred and 59 retirees receiving benefits and zero terminated employees entitled to receive benefits in the future.

The City's targeted funding policy is equal to the service cost for active employees plus an amount to amortize unfunded liabilities over 30 years (rolling 30 year amortization) as a level percentage of payroll. The City strives to contribute the annual required contribution of the

employer (ARC), an amount actuarially determined in accordance with the parameters of GASB Statement 45.

For the FRFH, the City's annual OPEB cost, the percentage of annual OPEB cost contributed to the plan, and the net OPEB asset for fiscal year 2013-14 and the two preceding years were as follows:

Fiscal Year Ended	Annual OPEB Cost	Percentage of Annual OPEB Contributed	Net OPEB Asset
6/30/2012	\$757,341	97%	\$74,807
6/30/2013	729,963	95	38,397
6/30/2014	829,699	96	4,947

The funded status of the FRFH as of July 1, 2013, the date of the most recent actuarial report, is set forth below:

Actuarial Valuation Date	Actuarial Value of Assets	Actuarial Accrued Liability (AAL)-Unit Credit	Unfunded Actuarial Accrued Liability-UAAL	Funded Ratio	Covered Payroll	UAAL as Percentage of covered Payroll
Berkeley Fire Employees Retiree Health Plan (FRHF)						
7/1/2013	\$7,140,525	\$13,118,828	\$5,978,303	54.4%	\$12,897,000	46.4%

The actuarial value of the assets in the FRFH as of July 1, 2013 was equal to their market value.

City of Berkeley Miscellaneous Employees Retiree Health Premium Assistance Plan. The RHPAP is a single-employer defined benefit medical plan. It provides retiree health benefits to eligible retirees and his/her spouse or domestic partner. The establishment and amendments of benefit provisions are negotiated between the employee bargaining units and the City, and are approved by the City Council.

Retirees who are at least age 50, with at least 8 years service with the City at the time of separation from service are eligible to receive retiree health benefits commencing at age 55. Benefits are payable for the retiree's lifetime and continue for his or her covered spouse's/domestic partner's lifetime. The City pays the monthly cost of the monthly premiums up to a participant's applicable percentage of the base dollar amount and subject to annual 4.5% increases regardless of the amount of increase in the underlying premium rate. As of July 1, 2014, there were 997 active employees, 225* terminated participants and 217 retirees.

The City's targeted funding policy is equal to the normal cost for active employees plus an amount to amortize unfunded liabilities over 30 years as a level percentage of payrolls. The City is required to contribute the annual required contribution of the employer (ARC), an amount actuarially determined in accordance with the parameters of GASB Statement 45. Any changes to the contribution requirements of the plan are negotiated by the bargaining units and City negotiating staff, and approved by the City Council.

* Excluded 86 terminated participants who are age 70 or older at valuation date.

For the RHPAP, the City's annual OPEB cost, the percentage of annual OPEB cost contributed to the plan, and the net OPEB obligation for fiscal year 2012-13 and the two preceding years were as follows:

Fiscal Year Ended	Annual OPEB Cost	Percentage of Annual OPEB Contributed	Net OPEB Obligation
6/30/2012	\$2,510,611	81.0%	\$2,207,726
6/30/2013	3,122,564	62.9	3,375,598
6/30/2014	3,574,421	51.0	5,126,082

The funded status of the RHPAP as of July 1, 2013, the most recent actuarial report, is set forth below:

Actuarial Valuation Date	Actuarial Accrued Liability (AAL)	Actuarial Value of Assets	Unfunded Actuarial Accrued Liability-UAAL	Funded Ratio	Covered Payroll	UAAL as Percentage of covered Payroll
Berkeley Miscellaneous Employees Retiree Health Plan (RHPAP)						
7/1/2013	\$40,517,569	\$14,295,711	\$26,221,858	35.3%	\$84,745,000	30.9%

The actuarial value of the assets in the RHPAP as of July 1, 2013 was equal to their market value.

Police Retiree Premium Assistance Plan. Effective September 19, 2012, the City replaced the "Berkeley Police Retirement Income Benefit Plan" with the "Retiree Health Premium Assistance Coverage Plan" for any police employees hired on or after that date, as well as any current employees who retire on or after such date. Under the newly established retiree health premium assistance plan, benefits will be the paid by the City directly to the provider who is providing retiree health coverage to the retiree or his or her surviving spouse. The maximum amount will be equal in value to the City sponsored health plan.

In order to be eligible for the Retiree Health Premium Assistance Coverage a "Retiree" must meet all of the following criteria:

- I. A person who is vested in CalPERS, and
- II. Has reached the age of 50, and
- III. Has retired from the City at age 50 or thereafter, and
- IV. Has applied for and is receiving a pension from CalPERS at the time of retirement.

The maximum amount the City will contribute toward the payment of medical insurance premiums is based on the employee's years of service as a sworn member of the Berkeley Police Department at time of retirement. The retiree must have at least 10 years of service as a sworn member of the Berkeley Police Department to qualify for this benefit.

<u>Years of Service</u>	<u>City Percentage</u>	
10 to 14	25%	Either the single party or two party amount
15 to 19	50	Either the single party or two party amount
20 or more	100	Either the single party or two party amount

Beginning September 19, 2012, each month after the employee retires, the City will pay the health care service provider an appropriate percentage based on years of service above an amount equal to \$1,200 per month for two-party coverage for the retiree and a qualifying spouse/domestic partner or \$600 per month for single party coverage. Upon death of either the retiree or the retiree's spouse, the City will only pay the appropriate percentage of the single party rate to the provider on behalf of the surviving retiree or spouse/domestic partner. If there is no spouse/domestic partner at the time of retirement, the City shall only pay the single party rate. The retiree and/or surviving spouse/domestic partner will be responsible for payment of the difference between the amount the City contributes toward payment of the premium and the actual premium cost. The funds for this difference will come from the retirees CalPERS retirement account and the retiree must authorize such withdrawal of funds.

Beginning July 1, 2013 and effective each July 1 thereafter, the base rates the City contributes toward payment of the premium amount described in the preceding paragraph shall be increased by either the amount Kaiser increases the retiree medical premium for that year, or 6%, whichever is less. The retiree and/or surviving spouse/domestic partner shall pay the difference between the amount the City contributes toward payment of the premium and the actual premium cost.

The following shows the calculation of the Annual Required Contribution for FY 2013-14:

	<u>Amount</u>
Normal Cost at Year End	\$2,094,113
Amortization of UAAL	<u>1,732,055</u>
Annual Required Contribution (ARC)	<u>\$3,826,168</u>

The actuarial cost method used for determining the benefit obligations is the Projected Unit Credit Cost Method. Under this method, the actuarial present value of projected benefits is the value of benefits expected to be paid for current actives and retirees and is calculated based on the assumptions and census data described this report. The Actuarial Accrued Liability (AAL) is the actuarial present value of benefits attributed to employee service rendered prior to the valuation date. The AAL equals the present value of benefits multiplied by a fraction equal to service to date over service at expected retirement. The Normal Cost is the actuarial present value of benefits attributed to one year of service. This equals the present value of benefits divided by service at expected retirement. Since retirees are not accruing any more service, their normal cost is zero. In determining the Annual Required Contribution, the Unfunded AAL is amortized as a level percentage of payroll over 30 years.

As of July 1, 2013, the most recent actuarial valuation date, the plan was 0% funded. The actuarial accrued liability for benefit was \$25.2 million, and the actuarial value of assets was \$0 million, resulting in an unfunded accrued liability of \$25.2 million. The fair value of the assets was determined using market values as of the date of the actuarial report. The schedule of funding progress, presented as required supplementary information following the notes to the financial statements, presents multi-year trend information about whether the actuarial value of plan assets is increasing or decreasing over time relative to the actuarial accrued liabilities for

benefits. Funded stats of the plan as of July 1, 2013, the most recent actuarial valuation date is as follows:

Actuarial Valuation Date	Actuarial Value of Assets	Actuarial Accrued Liability (AAL)-Unit Credit	Unfunded Actuarial Accrued Liability- UAAL	Funded Ratio	Covered Payroll	UAAL as Percentage of covered Payroll
Berkeley Police Employees Retiree Premium Assistance Plan						
7/1/2013	\$ -	\$25,173,242	\$25,173,242	0.0%	\$19,920,000	126.4%

Defined Contribution Plans

The City offers certain supplemental retirement and income plans to retirees. See Appendix B, Note IV(F) for information about the City's defined contribution plans.

Labor Relations

As of June 30, 2014, the City employed approximately 1,458 full-time equivalent budgeted employees. There are six employee unions as shown below. In addition, the City employs approximately 101 unrepresented Executive Management, Confidential professional or Confidential Office support positions. The City has not experienced any work stoppages or strikes by its employees.

CITY OF BERKELEY Labor Relations

<u>Labor Organization</u>	<u>Employees</u>	<u>Contract Expiration Date</u>
Berkeley Fire Fighters Association/I.A.F.F. Local 1227	119	June 30, 2015
Berkeley Police Association	166	July 5, 2014
I. B. E. W. Local 1245	15	June 20, 2015
Service Employees International Local 1021	456	July 4, 2015
Maintenance and Clerical Chapters		
Service Employees International Local 1021	303	June 20, 2015
Community Services and Part-Time Recreation Leaders Association Chapters		
Public Employees Local 1	166	June 20, 2015
Unrepresented Employees	101	None

Source: City of Berkeley

Risk Management

The City is exposed to various risks of loss related to torts; theft of, damage to, or restriction of assets; errors or omissions; injuries to employees; or acts of God.

The City is self-insured for liability claims below \$350,000. The City is a member of the Bay Cities Joint Powers Insurance Authority ("BCJPIA"). The BCJPIA consists of 20 municipal or public agency members, all located within the metropolitan San Francisco Bay Area. The

BCJPIA provides general liability, auto liability, and errors and omissions coverage between \$350,000 and \$1,000,000. The California Affiliated Risk Management Authority (“**CARMA**”) provides additional coverage to the BCJPIA and its member entities for claims in excess of \$1,000,000, up to \$29,000,000.

The City is self-insured for workers’ compensation. Payments are made to the Workers’ Compensation Self-Insurance Internal Service Fund by transfers from the City’s general fund and other funds of the City on a pay-as-you-go basis.

The City expects to pay approximately \$6.2 million, covering all workers’ compensation claims for all years, for the fiscal year ending June 30, 2014.

The City requires pre-employment physical examinations for high risk, high hazard employees as well as annual examination for all uniformed officers. As part of its workers’ compensation program, copies of all injured employee medical reports are monitored by a third party agent to insure that injured employees receive proper care.

City Debt Structure

Short-Term Debt. The City has issued Tax and Revenue Anticipation Notes (“**TRANS**”) in each recent year. The City’s TRANS are a general obligation of the City, payable from the City’s general fund and any other lawfully available moneys. For fiscal year 2014-15, the City issued TRANS in the amount of \$24,995,000. The fiscal year 2014-15 TRANS mature on July 22, 2015.

General Obligation Bonds. In January 2014, the City issued general obligation bonds in the aggregate principal amount of \$15,000,000 to finance improvements to City streets and integrated watershed improvements. The bonds bear interest at rates between 3.00%-5.00% and the final maturity date is September 1, 2043. As of March 1, 2015, the principal balance outstanding was \$14,840,000.

Debt service for the City’s outstanding general obligation bonds, following issuance of the Refunding Bonds, is shown under “DEBT SERVICE SCHEDULES – Combined General Obligation Bonds Debt Service Schedule.”

Outstanding General Fund Obligations. The City currently has outstanding long-term general fund debt and lease obligations described below. The City has never defaulted on the payment of principal of or interest on any of its indebtedness.

Certificates of Participation. In June 2010, the Authority issued certificates of participation on behalf of the City in the aggregate principal amount of \$5,750,000. The City’s underlying rental obligation is a general obligation payable from any available funds of the City. The certificates bear interest at rates between 3.00%-5.75% and the final maturity date is August 1, 2040. June 30, 2014, the principal balance outstanding was \$5,550,000.

Lease Revenue Bonds. In October 2012, the Authority issued lease revenue bonds on behalf of the City in the aggregate principal amount of \$27,260,000 to refund the Authority’s 1999 Lease Revenue Bonds and 2003 Certificates of Participation. The City’s underlying rental obligation is a general fund obligation of the City. The bonds bear interest at rates between 2.00%-5.00% and the final maturity date is October 1, 2031. As of June 30, 2014, the principal balance outstanding was \$26,390,000.

Pension Obligation Bonds. In May 1998, the City issued pension obligation refunding bonds in the aggregate principal amount of \$12,415,000 to refund the City's certificates of participation issued in February 1989. The certificates were sold to satisfy a portion of the City's obligations under an ordinance adopted to provide payments to the Safety Members Pension Fund. The bonds bear an interest rate of 5.00% and the final maturity date is June 1, 2018. As of June 30, 2014, the principal balance outstanding was \$1,135,000. The obligation to repay the bonds is a general fund obligation of the City.

Employment

The unemployment rate in the Oakland-Fremont-Hayward MD was 4.9% in March 2015, down from a revised 5.1% in February 2015, and below the year-ago estimate of 6.6%. This compares with an unadjusted unemployment rate of 6.7% for California and 5.6% for the nation during the same period. The unemployment rate was 4.8% in Alameda County and 5.0% in Contra Costa County. The table below shows the civilian labor force and industry employment for Alameda County.

ALAMEDA COUNTY Civilian Labor Force, Employment and Unemployment; Employment by Industry (Annual Averages)

	2009	2010	2011	2012	2013
Civilian Labor Force ⁽¹⁾	761,000	762,000	765,300	778,300	783,100
Employment	681,200	676,000	686,100	708,600	725,000
Unemployment	79,800	85,900	79,200	69,700	58,000
Unemployment Rate	10.5%	11.3%	10.4%	9.0%	7.4%
<u>Wage and Salary Employment:</u> ⁽²⁾					
Agriculture	700	700	600	700	500
Goods Producing	97,700	91,800	91,700	94,400	98,500
Wholesale Trade	35,900	34,200	34,100	35,400	36,400
Retail Trade	60,900	59,900	60,000	62,600	65,800
Transportation, Warehousing, Utilities	24,900	23,500	23,600	24,800	25,100
Information	14,900	14,000	13,700	13,600	13,000
Finance and Insurance	13,100	13,800	14,100	14,300	14,700
Real Estate and Rental and Leasing	9,300	9,000	8,700	9,100	9,500
Professional and Business Services	102,800	107,500	108,800	118,100	121,000
Educational and Health Services	89,500	88,700	88,300	104,400	112,200
Leisure and Hospitality	53,900	54,500	55,100	58,700	62,300
Other Services	22,900	23,200	23,500	23,900	24,900
Federal Government	10,200	10,500	9,700	9,600	9,300
State Government	37,900	36,900	37,200	37,300	37,600
Local Government	73,200	68,700	67,800	68,000	68,400
Total, All Industries ⁽³⁾	647,700	636,900	636,700	674,800	699,200

(1) Labor force data is by place of residence; includes self-employed individuals, unpaid family workers, household domestic workers, and workers on strike.

(2) Industry employment is by place of work; excludes self-employed individuals, unpaid family workers, household domestic workers, and workers on strike.

(3) Totals may not add due to rounding.

Source: State of California Employment Development Department.

The following tables show the major employers in the City and the County.

**CITY OF BERKELEY
Major Employers
2014**

<u>Employer</u>	<u>Number of Employees</u>	<u>% of Total Employment</u>
University of California Berkeley	14,808	22.58%
Lawrence Berkeley National Laboratory	3,443	5.25
Sutter East Bay Hospitals	2,393	3.65
Berkeley Unified School District	1,772	2.70
City of Berkeley	1,323	2.02
Bayer Corporation	1,208	1.84
Kaiser Permanente Medical Group	585	0.89
Berkeley Bowl	532	0.81
Pyramid Acquisition II Management LLC	504	0.77
Berkeley Young Mens Christian	403	0.61

Source: City of Berkeley, Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2014.

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COUNTY OF ALAMEDA
Major Employers (Listed Alphabetically)
2015

Employer Name	Location	Industry
Alameda County Law Enforcement	Oakland	Sheriff
Alameda County Sheriff's Ofc	Oakland	Sheriff
Alta Bates Summit Medical Ctr	Oakland	Hospitals
Alta Bates Summit Medical Ctr	Berkeley	Hospitals
Bayer Health Care	Berkeley	Drug Millers (Mfrs)
California State-East Bay	Hayward	Schools-Universities & Colleges Academic
Cooper Vision Inc	Pleasanton	Physicians & Surgeons Equip & Supls-Mfrs
East Bay Water	Oakland	Transit Lines
Highland Hospital	Oakland	Hospitals
Kaiser Permanente Medical Ctr	Oakland	Hospitals
Lawrence Berkeley National Lab	Berkeley	Physicians & Surgeons
Lawrence Livermore Natl Lab	Livermore	Small Arms Ammunition (Mfrs)
Life Scan Inc.	Fremont	Physicians & Surgeons equip & Supls-Mfrs
Oakland Police Patrol Div	Oakland	Police Departments
Oracle	Pleasanton	Computer Software-Manufacturers
Residential & Student Svc Prog	Berkeley	Schools-Universities & Colleges Academic
Safeway Inc	Pleasanton	Grocers-Retail
Tesla Motors	Fremont	Automobile Repairing & Service
Transportation Dept-California	Oakland	State Government-Transportation Programs
University of Ca-Berkeley	Berkeley	Schools-Universities & Colleges Academic
Washington Hospital	Fremont	Hospitals
Waste Management	Oakland	Garbage Collection
Western Digital Corp	Fremont	Electronic Equipment & Supplies-Mfrs

Source: State of California Employment Development Department, extracted from The America's Labor Market Information System (ALMIS) Employer Database, 2015 1st Edition.

Effective Buying Income

“Effective Buying Income” is defined as personal income less personal tax and nontax payments, a number often referred to as “disposable” or “after-tax” income. Personal income is the aggregate of wages and salaries, other labor-related income (such as employer contributions to private pension funds), proprietor’s income, rental income (which includes imputed rental income of owner-occupants of non-farm dwellings), dividends paid by corporations, interest income from all sources, and transfer payments (such as pensions and welfare assistance). Deducted from this total are personal taxes (federal, state and local), nontax payments (fines, fees, penalties, etc.) and personal contributions to social insurance. According to U.S. government definitions, the resultant figure is commonly known as “disposable personal income.”

The following table summarizes the total effective buying income for the City of Berkeley, the County of Alameda, the State and the United States for the period 2009 through 2013. Data for 2014 is not yet available.

CITY OF BERKELEY AND COUNTY OF ALAMEDA
Effective Buying Income
As of January 1, 2009 through 2013

Year	Area	Total Effective Buying Income (000's Omitted)	Median Household Effective Buying Income
2009	Berkeley	\$ 3,058,515	\$46,114
	Alameda County	40,053,865	57,997
	California	844,823,319	49,736
	United States	6,571,536,768	43,252
2010	Berkeley	\$ 2,996,260	\$44,932
	Alameda County	38,097,873	54,732
	California	801,393,028	47,177
	United States	6,365,020,076	41,368
2011	Berkeley	\$ 3,060,805	\$43,939
	Alameda County	39,064,683	54,542
	California	814,578,458	47,062
	United States	6,438,704,664	41,253
2012	Berkeley	\$ 3,581,245	\$46,898
	Alameda County	43,677,855	55,396
	California	864,088,828	47,307
	United States	6,737,867,730	41,358
2013	Berkeley	\$ 3,513,983	\$48,301
	Alameda County	43,770,518	57,467
	California	858,676,636	48,340
	United States	6,982,757,379	43,715

Source: The Nielsen Company (US), Inc.

Construction Activity

Provided below are the building permits and valuations for the City of Berkeley for calendar years 2009 through 2013.

CITY OF BERKELEY Total Building Permit Valuations (Valuations in Thousands)					
	2009	2010	2011	2012	2013
<u>Permit Valuation</u>					
New Single-family	\$1,267.6	\$1,133.0	\$1,150.3	\$1,382.3	\$3,462.0
New Multi-family	27,787.3	2,337.0	4,500.0	12,100.0	6,261.7
Res. Alterations/Additions	<u>32,856.7</u>	<u>38,019.5</u>	<u>33,936.8</u>	<u>35,020.5</u>	<u>37,857.3</u>
Total Residential	\$61,911.6	\$41,489.5	\$39,587.1	\$48,502.8	47,581.0
New Commercial	2,996.6	0.0	693.5	\$7,744.6	\$8,689.9
New Industrial	1,200.0	0.0	0.0	110.0	0.0
New Other	3,373.0	2,478.4	65.0	0.0	1823.6
Com. Alterations/Additions	<u>18,740.3</u>	<u>34,104.3</u>	<u>43,056.9</u>	<u>30,095.7</u>	<u>37688.6</u>
Total Nonresidential	\$26,310.0	\$36,582.8	\$43,815.4	\$37,950.3	\$48,202.1
<u>New Dwelling Units</u>					
Single Family	4	2	4	4	15
Multiple Family	<u>174</u>	<u>16</u>	<u>38</u>	<u>94</u>	<u>45</u>
TOTAL	178	18	42	98	60

Source: Construction Industry Research Board, Building Permit Summary.

APPENDIX B

FISCAL YEAR 2013-14 COMPREHENSIVE ANNUAL FINANCIAL REPORT

APPENDIX C
PROPOSED FORM OF OPINION OF BOND COUNSEL

_____, 2015

City Council
City of Berkeley
2180 Milvia Street
Berkeley, California 94704

OPINION: \$_____ City of Berkeley
 2015 General Obligation Refunding Bonds

Members of the City Council:

We have acted as bond counsel in connection with the issuance by the City of Berkeley (the "City") of its City of Berkeley 2015 General Obligation Refunding Bonds issued in the aggregate principal amount of \$_____ (the "Refunding Bonds"). The Refunding Bonds have been issued by the City under the Constitution and laws of the State of California and a resolution adopted by the City Council of the City on _____, 2015 (the "Resolution"). We have examined the law and such certified proceedings and other papers as we deem necessary to render this opinion.

As to questions of fact material to our opinion, we have relied upon representations of the City contained in the Resolution and in the certified proceedings and certifications of public officials and others furnished to us, without undertaking to verify the same by independent investigation.

Based upon the foregoing, we are of the opinion, under existing law, as follows:

1. The City is duly organized and validly existing as a city and municipal corporation under the Constitution and laws of the State of California, with the power to adopt the Resolution, perform the agreements on its part contained therein and issue the Refunding Bonds.
2. The Refunding Bonds are valid and binding general obligations of the City.
3. The City has the power, is obligated and in the Resolution has covenanted to levy ad valorem taxes upon all property within the City which is subject to taxation by the City, without limitation of rate or amount, for the payment of the Refunding Bonds and the interest thereon.

4. Interest on the Refunding Bonds is excluded from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations provided, however, that, for the purpose of computing the alternative minimum tax imposed on corporations (as defined for federal income tax purposes), such interest is taken into account in determining certain income and earnings. The opinions set forth in the preceding sentence are subject to the condition that the City comply with all requirements of the Internal Revenue Code of 1986 which must be satisfied subsequent to the issuance of the Refunding Bonds in order that interest thereon be, or continue to be, excluded from gross income for federal income tax purposes. The City has covenanted in the Resolution and in other instruments relating to the Refunding Bonds to comply with each of such requirements; and the City has full legal authority to make and comply with such covenants. Failure to comply with certain of such requirements may cause the inclusion of interest on the Refunding Bonds in gross income for federal income tax purposes to be retroactive to the date of issuance of the Refunding Bonds. We express no opinion regarding other federal tax consequences arising with respect to the Refunding Bonds.

5. The interest on the Refunding Bonds is exempt from personal income taxation imposed by the State of California.

The rights of the owners of the Refunding Bonds and the enforceability of the Refunding Bonds 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 appropriate cases.

Respectfully submitted,

A Professional Law Corporation

APPENDIX D

FORM OF CONTINUING DISCLOSURE CERTIFICATE

\$ _____
CITY OF BERKELEY
2015 General Obligation Refunding Bonds

This Continuing Disclosure Certificate (this “Disclosure Certificate”) is executed and delivered by the City of Berkeley, California (the “City”) in connection with the execution and delivery of the Refunding Bonds captioned above (the “Bonds”). The Refunding Bonds are being issued and delivered pursuant to a resolution adopted by the City Council of the City on _____, 2015 (the “Bond Resolution”).

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 for the benefit of the holders and beneficial owners of the Refunding Bonds and in order to assist the Participating Underwriter in complying with Securities and Exchange Commission Rule 15c2-12(b)(5).

Section 2. Definitions. In addition to the definitions set forth above and in the Refunding Bond Resolution, which apply to any capitalized term used in this Disclosure Certificate unless otherwise defined in this Section 2, 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 the date not later than April 1 after the end of each fiscal year of the City (currently June 30th).

“*Dissemination Agent*” means the City, or any successor Dissemination Agent designated in writing by the City and which has filed with the City and the Paying Agent 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.

“*Official Statement*” means the final official statement executed by the City in connection with the issuance of the Refunding Bonds.

“*Paying Agent*” means The Bank of New York Mellon Trust Company, N.A. or any successor thereto.

“Participating Underwriter” means any of the original underwriters of the Refunding Bonds required to comply with the Rule in connection with offering of the Refunding 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, 2016 with the report for the 2014-15 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 certification 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) The City’s audited financial statements prepared in accordance with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board. If the City’s audited financial statements are not available by the Annual Report Date, 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) Unless otherwise provided in the audited financial statements filed on or before the Annual Report Date, the following information:

- (i) assessed valuation of taxable properties in the City for the most recently completed fiscal year;
- (ii) assessed valuation of properties of the top ten taxpayers for the most recently completed fiscal year;
- (iii) property tax collection delinquencies for the City for the most recently completed fiscal year; and
- (iv) in addition to any of the information expressly required to be provided under paragraphs (i) through (iii), of this Section, the City shall provide such further information, if any, as may be necessary to make the specifically required statements, in the light of the circumstances under which they are made, not misleading.

(c) 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 on the MSRB's internet web site or filed with the Securities and Exchange Commission. The City shall clearly identify each such other document so included by reference.

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 Refunding Bonds, if material:

- (1) Principal and interest payment delinquencies.
- (2) Non-payment related defaults.
- (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.
- (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.
- (13) The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, 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.

(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 the Refunding Bonds under the Resolution.

(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 Refunding 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.

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 Refunding Bonds. If such termination occurs prior to the final maturity of the Refunding Bonds, the City shall give notice of such termination in the same manner as for a Listed Event under Section 5(c).

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 Dissemination Agent, with or without appointing a successor Dissemination Agent. The initial Dissemination Agent shall be The City. 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 Refunding 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 Refunding 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 Refunding Bonds in the manner provided in the Refunding Bond Resolution for amendments to the Refunding Bond Resolution 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 Refunding 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 the change in the accounting principles shall be filed in the same manner as for a Listed Event under Section 5(c).

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. If the City fails to comply with any provision of this Disclosure Certificate, the Participating Underwriter or any holder or beneficial owner of the Refunding 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 Refunding Bond Resolution, 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 they 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 by the City hereunder, and shall not be deemed to be acting in any fiduciary capacity for the City, the Refunding Bond holders 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 Refunding 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. Notices. Any notice or communications to be among any of the parties to this Disclosure Certificate may be given as follows:

To the Issuer:

City of Berkeley
2180 Milvia Street
Berkeley, California 94704
Fax: (510) _____

Any person may, by written notice to the other persons listed above, designate a different address or telephone number(s) to which subsequent notices or communications should be sent.

Section 14. 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 Refunding Bonds, and shall create no rights in any other person or entity.

Section 15. 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: _____, 2015

CITY OF BERKELEY

By: _____

Name: _____

Title: _____

AGREED AND ACCEPTED:

_____,
as Dissemination Agent

By: _____

Name: _____

Title: _____

EXHIBIT A

NOTICE OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: City of Berkeley (the "City")

Name of Bond Issue: City of Berkeley 2015 General Obligation Refunding Bonds,

Date of Issuance: _____, 2015

NOTICE IS HEREBY GIVEN that the City has not provided an Annual Report with respect to the above-named Bonds as required by the Continuing Disclosure Certificate, dated as of _____, 2015. The City anticipates that the Annual Report will be filed by _____.

Dated: _____

DISSEMINATION AGENT:

By: _____
Its: _____

APPENDIX E

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 Refunding Bonds, payment of principal, interest and other payments on the Refunding Bonds to DTC Participants or Beneficial Owners, confirmation and transfer of beneficial ownership interest in the Refunding 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 nor the Paying 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 Refunding Bonds, (b) certificates representing ownership interest in or other confirmation or ownership interest in the Refunding Bonds, or (c) redemption or other notices sent to DTC or Cede & Co., its nominee, as the registered owner of the Refunding 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 set forth on such website 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 Paying 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 Paying 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 Paying 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.

NOTICE OF INTENTION TO SELL BONDS

APPROXIMATELY \$_____

CITY OF BERKELEY
(County of Alameda, California)
2015 GENERAL OBLIGATION REFUNDING BONDS

NOTICE IS HEREBY GIVEN that bids will be received by the City of Berkeley (the "City"), for the purchase of approximately \$_____ principal amount of bonds of the City designated the "City of Berkeley (County of Alameda, California) 2015 Refunding Bonds" (the "Bonds"). Bids will be received in electronic form via BiDCOMP™/Parity® on

THURSDAY, JUNE 25, 2015

or, at the option of the City, on successive days thereafter until acceptance of a bid, in either case at 10:00 a.m. Pacific Time. Further information, including copies of the preliminary Official Statement and Official Notice of Sale, may be obtained from the financial advisor to the District, NHA Advisors, 4040 Civic Center Drive, Suite 200, San Rafael, California 94903, telephone: (415) 785-2025, website: www.nhaadvisors.com. Bidders are referred to the Official Notice of Sale of the Bonds for further particulars concerning the terms and conditions of the sale.

GIVEN by order of the City Council of the City of Berkeley by resolution adopted on _____, 2015.

OFFICIAL NOTICE OF SALE

\$ _____ *

CITY OF BERKELEY
(County of Alameda, California)
2015 GENERAL OBLIGATION REFUNDING BONDS

NOTICE IS HEREBY GIVEN by the City Council of the City of Berkeley (the "City"), that bids will be received for the purchase of approximately \$_____ principal amount of bonds of the City designated the "City of Berkeley (County of Alameda, California) 2015 Refunding Bonds" (the "Bonds"). Bids will be received in electronic form via BiDCOMP™/Parity® ("Parity") on

THURSDAY, JUNE 25, 2015

or, at the option of the City, on successive days thereafter until acceptance of a bid, in either case at 10:00 a.m. Pacific Time. The City reserves the right to postpone or change the sale date upon 24 hours notice as described below. The Bonds will be issued under the provisions of a Resolution adopted by the City Council of the City on _____, 2015, and under the laws of the State of California.

DESCRIPTION OF THE BONDS

PURPOSE: The proceeds of the Bonds will be applied by the City for the purpose of refunding outstanding general obligation bond indebtedness of the City (the "Prior Bonds") and paying costs of issuance of the Bonds.

ISSUE; BOOK-ENTRY FORM: The Bonds will be issued in the aggregate principal amount of \$_____ * in the form of fully registered Bonds without coupons. The Bonds will be dated as of the date of their original delivery, and will be issued in minimum denominations of \$5,000. The Bonds will be issued in a book entry only system with no physical distribution of the Bonds made to the public. The Depository Trust Company, New York, New York ("DTC"), will act as depository for the Bonds which will be immobilized in its custody. The Bonds will be registered in the name of Cede & Co., as nominee for DTC, on behalf of the participants in the DTC system and the subsequent beneficial owners of the Bonds.

MATURITIES: The Bonds will mature, or be subject to mandatory sinking fund redemption, on September 1 in each of the years, and in the amounts, as set forth in the following table. The final principal amount of the Bonds, and the final amount of each maturity of the Bonds, is subject to increase or reduction as described below under the heading "Adjustment of Principal Amounts." *Each bidder must specify in its bid whether, for any particular year, the Bonds will mature or, alternately, be subject to mandatory sinking fund redemption in such year.*

*Preliminary, subject to change.

Maturity Date (September 1)	Principal Amount
--------------------------------	---------------------

PAYMENT PROVISIONS: Interest on the Bonds will be payable on March 1, 2016, and on succeeding March 1 and September 1 (the "Interest Payment Dates"), to the registered owners by check or draft of MUFG Union Bank, N.A., as paying agent (the "Paying Agent") or, in the case of the owner of Bonds in an aggregate principal amount of at least \$1,000,000, at the written request of such owner by wire transfer. Principal of any Bond will be paid upon presentation and surrender thereof at the office of the Paying Agent. The principal of and interest on the Bonds are payable in lawful money of the United States of America.

OPTIONAL REDEMPTION: The Bonds maturing on or before September 1, 2023, are not subject to redemption prior to their respective stated maturities. The Bonds maturing on or after September 1, 2024, are subject to redemption prior to maturity, at the option of the City, in whole or in part among maturities on such basis as designated by the City and by lot within a maturity, from any available source of funds, on September 1, 2023, 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.

SINKING FUND REDEMPTION: Any bidder may, at its option, specify that one or more maturities of the Bonds will consist of term Bonds which are subject to mandatory sinking fund redemption in consecutive years immediately preceding the maturity thereof, as designated in the bid of such bidder. If the bid of the winning bidder specifies that any maturity of Bonds will be term Bonds, such term Bonds will be subject to mandatory sinking fund redemption on September 1 in each year so designated in the bid, in the respective amounts for such years as set forth above under the heading "MATURITIES," at a redemption price equal to the principal amount thereof to be redeemed together with accrued interest to the redemption date, without premium.

SECURITY: The Bonds are general obligations of the City, and the City will direct the appropriate officials of Alameda County to levy *ad valorem* taxes for the payment of the Bonds and the interest thereon without limitation as to rate or amount for the payment of the Bonds and the interest thereon.

TAX-EXEMPT STATUS: In the opinion of Jones Hall, A Professional Law Corporation, bond counsel to the City, interest on the Bonds is excluded from gross income for federal income tax purposes and is not an item of tax preference for

purposes of the federal individual and corporate alternative minimum taxes, although it is included in certain income and earnings in computing the alternative minimum tax imposed on certain corporations. Bidders are referred to the Preliminary Official Statement for a description of the proposed opinion of Bond Counsel. In the further opinion of Bond Counsel, such interest is exempt from California personal income taxes. If prior to the delivery of the Bonds either (a) the interest on other obligations of the same type and character shall be declared to be taxable (either at the time of such declaration or at any future date) under any federal income tax laws, either by the terms of such laws or by ruling of a federal income tax authority or official which is followed by the Internal Revenue Service, or by decision of any federal court, or (b) any federal income tax law is adopted which will have a substantial adverse effect upon owners of the Bonds as such, the winning bidder for the Bonds may, at its option, prior to the tender of the Bonds, be relieved of its obligation under the contract to purchase the Bonds.

LEGAL OPINION: The legal opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, approving the validity of the Bonds, will be furnished to the purchaser of the Bonds without cost. A copy of the legal opinion, certified by the official in whose office the original is filed, will be printed on each Bond at the expense of the City.

FURTHER INFORMATION: A copy of the Preliminary Official Statement describing the Bonds, and any other information concerning the proposed financing, will be furnished upon request to the financial advisor to the City (the "Financial Advisor") as follows: NHA Advisors, 4040 Civic Center Drive, Suite 200, San Rafael, California 94903, telephone: (415) 785-2025, website: www.nhaadvisors.com. The Preliminary Official Statement is available from the Financial Advisor and may also be viewed on the website of Parity.

TERMS OF SALE

RIGHT TO CANCEL, POSTPONE OR RESCHEDULE SALE: The City reserves the right to cancel, postpone or reschedule the sale of the Bonds upon notice published on the website of the Financial Advisor and through the TM3 system, at any time before the time for receipt of bids. If the sale is postponed, bids will be received at the above place at such date and hour as set forth in the notice. Failure of any bidder to receive such notice or any other form of notice of canceled, postponed or rescheduled sale will not affect the legality or validity of any sale.

SUBMISSION OF BIDS: Bids will be received electronically as described below, provided that such electronic bid must be received no later than the date and time set for receipt of bids.

ELECTRONIC BIDS: The City will accept bids in electronic form through the Parity electronic bidding system. Each bidder submitting an electronic bid agrees by doing so that it is solely responsible for all arrangements with Parity and that Parity is not acting as an agent of the City. Instructions and forms for submitting electronic bids must be obtained from Parity, and the City assumes no responsibility for ensuring or verifying bidder compliance with Parity's procedures. The City will be entitled to assume that any bid received via Parity has been made by a duly authorized agent of the bidder.

Neither the City, Alameda County, the Financial Advisor nor Bond Counsel has any responsibility for proper functioning of the Parity system, for any error contained in any bid submitted electronically, or for failure of any bid to be transmitted, received or opened at the official time for receipt of bids. The official time for receipt of bids will be determined by the City at the place of bid opening, and the City will not be required to accept the time kept by Parity as the official time. The City assumes no responsibility for informing any bidder prior to the deadline for receiving bids that its bid is incomplete, or not received.

FORM OF BID; MINIMUM PURCHASE PRICE: Each proposal must be for not less than all of the Bonds hereby offered for sale. The purchase price to be paid for the Bonds may not be less than 98% of the par value thereof. No bid will be entertained which provides for a discount on the sale of the Bonds in excess of 2% of the par amount of the Bonds.

DESIGNATION OF INTEREST RATES: Each bidder must specify the rate or rates of interest which the Bonds will bear. A bidder will be permitted to bid different rates of interest for each maturity of Bonds, but:

- each interest rate specified must be in a multiple of 1/20% or 1/8%;
- no Bond may bear more than one rate of interest;
- interest on each Bond will be computed from the date of original delivery to its stated maturity at the interest rate specified in the proposal, payable on the Interest Payment Dates as set forth above; and
- all Bonds maturing at any one time will bear the same rate of interest.

DETERMINATION OF BEST BID: The Bonds will be awarded to the responsible bidder whose bid produces the lowest true interest cost on the Bonds. The true interest cost specified in any bid will be that rate which, when used in computing the present worth of all payments of principal and interest to be paid on all Bonds from the date of original delivery (which is assumed to be July 15, 2015) to their respective maturity dates or mandatory sinking fund redemption dates, produces an amount equal to the purchase price specified in such bid. For purposes of computing the true interest cost represented by any proposal, the purchase price specified in such proposal shall be equal to the par amount of the Bonds plus any premium specified in such proposal, and the true interest cost shall be calculated by the use of a semiannual interval of compounding interest based on the Interest Payment Dates for the Bonds.

ADJUSTMENT OF PRINCIPAL MATURITIES: The principal amounts of each maturity of Bonds set forth above reflect certain estimates of the City and its Financial Advisor with respect to the interest rates and the purchase price likely to be specified in the winning bid. Subsequent to the determination of the winning bid, the City reserves the right to increase or decrease the principal amount of each maturity of the Bonds (or, in the case of the term Bonds, the principal amount thereof which is subject to mandatory sinking fund redemption on September 1 in any year), in \$5,000 increments, in order to optimize the sizing and structure for the Bonds. Such adjustment will be made at the

sole determination of the City in consultation with its Financial Advisor and shall be made within four hours of the bid opening. The interest rates bid for each maturity will not be changed as part of the re-sizing process, but the purchase price may be adjusted in order to maintain the underwriting spread contemplated in the original bid on a per bond basis. In order to do so, the City will request that the winning bidder specify its reoffering yields shortly after their determination as best bidder. Such reoffering yields will be used to determine an aggregate reoffering price for the bonds as bid. The City will then calculate the proposed underwriting spread on a per bond basis by deducting the purchase price from the aggregate reoffering price and by making other necessary adjustments. The City will then adjust maturity amounts, or, in the case of the term Bonds, the principal amount thereof which is subject to mandatory sinking fund redemption on September 1 in any year (at its sole discretion), determine the aggregate reoffering price based on the adjusted principal amounts, and establish a new purchase price by deducting the previously determined per bond underwriting spread (and making other necessary adjustments). Although the successful bidder will be given the opportunity to review the proposed adjustments to individual principal and mandatory sinking fund amounts and purchase price prior to the official award, the successful bidder may not withdraw its bid or change the interest rate bid for any individual maturity as the result of such adjustments.

No such adjustment will have the effect of altering the basis upon which the best bid is determined.

RIGHT OF REJECTION: The City reserves the right, in its discretion, to reject any and all bids and to the extent not prohibited by law to waive any irregularity or informality in any bid.

PROMPT AWARD: An authorized representative of the City will accept the best responsible bid for the purchase of the Bonds by notice to the winning bidder. If two or more bids setting forth identical interest rates and premium, if any, are received, such officer may exercise discretion and judgment in making the award and may award the Bonds on a pro rata basis in such denominations as he or she determines. Such authorized representative of the City may also reject any and all bids and waive any irregularity or informality in any bid. Sale of the Bonds will be awarded or all bids will be rejected not later than four hours after the expiration of the time prescribed for the receipt of proposals unless such time of award is waived by the winning bidder; provided, that the award may be made after the expiration of the specified time if the bidder does not notify the City in writing of the withdrawal of its proposal.

PLACE OF DELIVERY; CANCELLATION FOR LATE DELIVERY: It is expected that the Bonds will be delivered to DTC for the account of the winning bidder on July 15, 2015. The winning bidder has the right, at the winning bidder's option, to cancel the contract of purchase if the Bonds are not tendered for delivery within 60 days from the date of the sale thereof.

PAYMENT OF PURCHASE PRICE; NO GOOD FAITH DEPOSIT: The winning bidder will be required to pay the purchase price of the Bonds in funds which are immediately available to the City. Such payment shall be made on the date of original delivery of the Bonds to DTC.

The City is not requiring the winning bidder to submit a good faith deposit.

STATEMENT OF TRUE INTEREST COST: Each bidder is requested, but not required, to state in its proposal the percentage true interest cost represented by its proposal, determined as described above, which will be considered as informative only and not binding on either the bidder or the City.

QUALIFICATION FOR SALE; BLUE SKY: Compliance with Blue Sky laws shall be the sole responsibility of the successful bidder, and the successful bidder shall indemnify and hold harmless the City and its officers and officials from any loss or damage resulting from any failure to comply with any such laws. The City will furnish such information and take such action not inconsistent with law as the successful bidder may request and the City shall deem necessary or appropriate to qualify the Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States of America as may be designated by the successful bidder; *provided, however*, that the City shall not execute a general or special consent to service of process or qualify to do business in connection with such qualification or determination in any jurisdiction. **The successful bidder will not offer to sell, or solicit any offer to buy, the Bonds in any jurisdiction where it is unlawful for such successful bidder to make such offer, solicitation or sale, and the successful bidder shall comply with the Blue Sky and other securities laws and regulations of the states and jurisdictions in which the successful bidder sells the Bonds.**

CERTIFICATION OF REOFFERING PRICE: The winning bidder will be required, as a condition to the delivery of the Bonds by the City, to deliver to the City a certificate identifying the prices at which it reasonably expects to initially offer each maturity of the Bonds to the general public (the "Initial Offering Prices") as of the date of purchase of the Bonds (the "Sale Date"). The winning bidder will also be required, on or prior to the date of issue of the Bonds, to actually offer 100% of each maturity of the Bonds to the general public in a bona fide public offering for prices equal to or less than the Initial Offering Prices. As of the date of issue of the Bonds, the winning bidder will be required execute a certificate to be prepared by Bond Counsel which states: (a) the reoffering prices of the Bonds, (b) that, as of the Sale Date, taking into account market conditions, the winning bidder had no reason to believe any of the Bonds would be initially sold to the general public at prices greater than the Initial Offering Prices, (c) that, as of the Sale Date, at least 10% of each maturity of the Bonds was initially sold to the general public for the respective Initial Offering Prices, other than specifically identified maturities of the Bonds, and (d) that, in the opinion of the winning bidder, the Initial Offering Prices do not exceed the fair market value of said maturities of the Bonds to the general public as of the Sale Date.

NO LITIGATION: There is no litigation pending concerning the validity of the Bonds, the corporate existence of the City or the entitlement of the officers thereof to their respective offices, and the purchaser will be furnished a no-litigation certificate certifying to the foregoing as of and at the delivery of the Bonds.

CUSIP NUMBERS: It is anticipated that CUSIP numbers will be printed on the Bonds, but neither the failure to print such numbers on any Bonds nor any error with respect thereto will constitute cause for a failure or refusal by the purchaser to accept delivery of and pay for the Bonds in accordance with the terms hereof. All expenses in relation to the printing of CUSIP numbers on the Bonds will be paid for by the City,

except that the CUSIP Service Bureau charge for the assignment of said numbers will be the responsibility of and shall be paid for by the purchaser.

CALIFORNIA DEBT AND INVESTMENT ADVISORY COMMISSION FEES: All fees payable to the California Debt and Investment Advisory Commission in connection with the issuance of the Bonds are the sole responsibility of the purchaser of the Bonds.

OFFICIAL STATEMENT: A Preliminary Official Statement has been prepared, copies of which may be obtained upon request made to the Financial Advisor as described above. The Preliminary Official Statement is also available at www.i-dealprospectus.com. The Preliminary Official Statement shall be "deemed final" by the City prior to or on the date of sale of the Bonds for purposes of Securities and Exchange Commission Rule 15c2-12(b)(1), but the Preliminary Official Statement is subject to revision, amendment and completion in a final Official Statement. A copy of the certificate executed by the City indicating that the Preliminary Official Statement has been deemed final as of its date will be provided to potential bidders upon request to the Financial Advisor at the address provided above. The City will furnish to the successful bidder, at no expense to the successful bidder, up to 25 copies of the Official Statement no later than the business day prior to the date of delivery of the Bonds or, if later, within seven business days of the award date. Additional copies will be made available upon request, submitted to the Financial Advisor no later than 24 hours after the time of receipt of bids, at the purchaser's expense, for use in connection with any resale of the Bonds.

CERTIFICATE AND OPINION REGARDING OFFICIAL STATEMENT: A responsible officer of the City will certify to the original purchaser of the Bonds, as a condition of closing, that based on such officer's participation in the preparation of the Official Statement, nothing has come to his or her attention to lead him or her to believe that the Official Statement (except for certain financial statements, statistical data and other information) contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

In addition to such certificate which will be provided by the City, the firm of Jones Hall, A Professional Law Corporation, as Disclosure Counsel to the City, will provide a letter to the original purchaser of the Bonds regarding the Official Statement. Such letter will be to the effect that during the course of Disclosure Counsel's work with regard to the Bonds, no facts have come to their attention that cause them to believe that the Official Statement (except for any financial and statistical data and forecasts, numbers, estimates, assumptions and expressions of opinion, and information concerning the Depository Trust Company and the book-entry system) contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

CONTINUING DISCLOSURE: In order to assist bidders in complying with Securities and Exchange Commission Rule 15c2-12(b)(5), the City will undertake, pursuant to a Continuing Disclosure Certificate, to provide certain annual financial information relating to the City and notices of the occurrence of certain events, if material. A description of this undertaking is set forth in the Preliminary Official Statement and will also be set forth

in the Official Statement. See "Continuing Disclosure" in the Preliminary Official Statement.

GIVEN by order of the City Council of the City of Berkeley by resolution adopted _____, 2015.

\$ _____
CITY OF BERKELEY
2015 GENERAL OBLIGATION REFUNDING BONDS

COSTS OF ISSUANCE CUSTODY AGREEMENT

This Costs of Issuance Custody Agreement (the “Agreement”) dated as of July __, 2015, has been entered into by and between the City of Berkeley (the “City”) and The Bank of New York Mellon Trust Company, N.A. (the “Custodian”). The City has appointed the Custodian to act as custodian for its Costs of Issuance Fund for the 2015 General Obligation Refunding Bonds which have been issued by the City in the aggregate principal amount of \$_____ (the “Bonds”). This Agreement sets out the terms and conditions of said appointment.

The City and the Custodian agree as follows:

1. The City shall deposit or cause to be deposited the amount of \$_____ with the Custodian on July __, 2015, and Custodian shall deposit the funds in a custody account (the “Costs of Issuance Fund”) established with the Custodian in the name of the Bonds.
2. The Custodian will pay costs of issuance of the Bonds as directed by the City from time to time via a written order of the City. The Custodian shall not be responsible or liable in any respect on account of the identity, authority or rights of the persons executing or delivering or purporting to execute or deliver any such written order on behalf of the City or responsible for whether or not any payment so directed to be paid is an authorized cost of issuance. All payments shall be made by check or wire transfer in accordance with the payment instructions set forth in the direction from the City, or in invoices submitted in accordance therewith, and the Custodian may rely on such payment instructions with no duty to investigate or inquire as to the authenticity of the invoice or the payment instructions contained therein.
3. Funds held hereunder shall be the property of the City, subject only to the claims for payment of authorized Costs of Issuance of the Bonds as provided in paragraph 2 hereof. Upon the City’s execution of the Custodian’s mutual fund disclosure, the Custodian shall hold and invest the funds in Blackrock T-Fund Cash Management shares and the City acknowledges that the Custodian may receive compensation from such mutual fund or its distributor. In the absence of an executed mutual fund disclosure, the Custodian shall hold all funds uninvested. Any balances remaining in the Costs of Issuance Fund (including any earnings) on the earlier of October 1, 2015, or as set forth in Section 4 below, will be disbursed to the City for deposit into the Debt Service Fund which has been established for the Bonds.

4. The Custodian shall furnish the City periodic cash transaction statements which include detail for all investment transactions effected by the Custodian. The statements described will serve as the sole written notification to the City of any securities transaction effected by Custodian unless the City requests that Custodian provide written notification of such transactions pursuant to 12 CFR 12.4(a) or 12 CFR 12.4(b) at no additional cost to the City.

5. This Agreement will terminate on October 1, 2015, or earlier, as the City shall direct the Custodian in writing that the City has satisfied its obligation to pay all costs due relating to the Bonds.

6. The liability of the Custodian is limited to the duties as specifically set forth in this Agreement, and no implied covenants or obligations shall be read into this Agreement against the Custodian. The Custodian will not be liable for any action taken or omitted to be taken by it under this Agreement or in connection herewith except to the extent caused by the Custodian's negligence or willful misconduct. Anything in this Agreement to the contrary notwithstanding, in no event shall the Custodian be liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Custodian has been advised of the likelihood of such loss or damage and regardless of the form of action.

None of the provisions of this Agreement shall require the Custodian to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder. The Custodian may conclusively rely and shall be fully protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. The Custodian may consult with counsel and the advice or any opinion of counsel shall be full and complete authorization and protection in respect of any action taken or omitted by it hereunder in good faith and in accordance with such advice or opinion of counsel. The Custodian may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, attorneys, custodians or nominees appointed with due care.

The Custodian agrees to accept and act upon instructions or directions pursuant to this Agreement sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that, the Custodian shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the City elects to give the Custodian e-mail or facsimile instructions (or instructions by a similar electronic method) and the Custodian in its discretion elects to act upon such instructions, the Custodian's understanding of such instructions shall be deemed controlling. The Custodian shall not be liable for any losses, costs or expenses arising directly or indirectly from the Custodian's reliance upon and compliance with such instructions notwithstanding such instructions' conflict or inconsistency with a subsequent written instruction. The City agrees: (i) to assume all risks arising out of the use of such

electronic methods to submit instructions and directions to the Custodian, including without limitation the risk of the Custodian acting on unauthorized instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting instructions to the Custodian and that there may be more secure methods of transmitting instructions than the method(s) selected by the City; and (iii) that the security procedures (if any) to be followed in connection with its transmission of instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances.

To the extent permitted by law, the City hereby agrees to indemnify and hold harmless the Custodian and its officers, directors, agents, and employees from and against any and all costs, claims, liabilities, losses, or damages whatsoever (including reasonable costs and fees of counsel, auditors or other experts), asserted or arising out of or in connection with the acceptance or administration of this Agreement, except costs, claims, liabilities, losses, or damages resulting from the negligence or willful misconduct of the Custodian including the reasonable costs and expenses (including the reasonable fees and expenses of its counsel) of defending itself against any such claim or liability in connection with its exercise or performance of any of its duties hereunder and of enforcing this indemnification provision. The indemnifications set forth herein shall survive the termination of this Agreement and/or the resignation or removal of the Custodian.

Executed as of the date first above written.

CITY OF BERKELEY

By: _____
Authorized Representative

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as custodian

By: _____
Authorized Representative

ESCROW DEPOSIT AND TRUST AGREEMENT

This ESCROW DEPOSIT AND TRUST AGREEMENT, dated July __, 2015 (the “**Agreement**”), is by and between the CITY OF BERKELEY, a municipal corporation duly organized and existing under the laws of the State of California (the “**City**”), and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association organized and existing under the laws of the United States of America, acting as escrow agent for the Refunded Bonds described below and as Refunded Bonds Paying Agent as defined below (the “**Escrow Agent**”).

B A C K G R O U N D :

1. At an election held on November 3, 1992, more than two-thirds of the voters of the City approved a proposition (“**Measure G**”) authorizing the issuance by the City of general obligation bonds in the aggregate principal amount of \$55,000,000, for the purpose of providing funds for fire safety and seismic improvements.

2. Pursuant to such authorization the City issued two series of bonds:

(a) City of Berkeley 1993 General Obligation Bonds (Election of 1992, Series A), dated July 1, 1993, in the principal amount of \$8,000,000 (the “**1993 Bonds**”).

(b) City of Berkeley 1995 General Obligation Bonds (Election of 1992, Series B), dated August 1, 1995, in the principal amount of \$14,000,000 (the “**1995 Bonds**”).

3. In order to refund the 1993 Bonds and the 1995 Bonds on a current basis, the City subsequently issued its City of Berkeley (Alameda County, California) 2002 General Obligation Refunding Bonds (the “**2002 Refunding Bonds (Measure G)**,” pursuant to Resolution No. 61,792-N.S., adopted by the City Council on October 22, 2002 (the “**2002 Refunding Bonds Resolution (Measure G)**”).

4. Under the 2002 Refunding Bonds Resolution (Measure G), the City is authorized to redeem the 2002 Refunding Bonds (Measure G) in full on any date on or after September 1, 2013, at a redemption price equal to the par amount thereof, plus accrued interest to the redemption date, without premium.

5. Also pursuant to the Measure G authorization, the City issued the City of Berkeley 1997 General Obligation Bonds (Election of 1992, Series C), dated July 1, 1997 in the principal amount of \$10,500,000 (the “**1997 Bonds (Measure G)**”).

6. In order to refund the 1997 Bonds (Measure G) on a current basis, the City subsequently issued its City of Berkeley (Alameda County, California) General Obligation Refunding Bonds, 2007 Series A (the “**2007 Refunding Bonds (Measure G)**,” pursuant to Resolution No. 63,672-N.S., adopted by the City Council on May 8, 2007 (the “**2007 Refunding Bonds Resolution (Measure G)**”).

7. Under the 2007 Refunding Bonds Resolution (Measure G), the City is authorized to redeem the 2007 Refunding Bonds (Measure G) in full on any date on or after September 1, 2015, at a redemption price equal to the par amount thereof, plus accrued interest to the redemption date, plus a redemption premium of 2%.

8. At an election held on November 5, 1996, more than two-thirds of the voters of the City approved a proposition ("**Measure S**") authorizing the issuance by the City of general obligation bonds in the aggregate principal amount of \$49,000,000, for the purpose of providing funds to ensure the safety of its public and employees and to revitalize downtown.

9. Pursuant to such authorization the City issued three series of bonds:

(a) City of Berkeley 1997 General Obligation Bonds (Election of 1996, Series A), dated June 1, 1997, in the principal amount of \$10,000,000 (the "**1997 Bonds (Measure S)**").

(b) City of Berkeley 1998 General Obligation Bonds (Election of 1996, Series B), dated December 1, 1998, in the principal amount of \$25,000,000 (the "**1998 Bonds**").

(c) City of Berkeley 1999 General Obligation Bonds (Election of 1996, Series C), dated August 1, 1999, in the principal amount of \$14,000,000 (the "1999 Bonds").

10. In order to refund the 1997 Bonds (Measure S) on a current basis, the 1998 Bonds on a current basis and the 1999 Bonds on a current basis, the City subsequently issued its City of Berkeley (Alameda County, California) General Obligation Refunding Bonds, 2007 Series B (the "**2007 Refunding Bonds (Measure S)**"), pursuant to Resolution No. 63,691-N.S., adopted by the City Council on May 8, 2007 (the "**2007 Refunding Bonds Resolution (Measure S)**").

11. Under the 2007 Refunding Bonds Resolution (Measure S), the City is authorized to redeem the 2007 Refunding Bonds (Measure S) in full on any date on or after September 1, 2015, at a redemption price equal to the par amount thereof, plus accrued interest to the redemption date, plus a 2% redemption premium.

12. At an election held on November 5, 2002, more than two-thirds of the voters of the City approved a proposition ("**Measure I**") authorizing the issuance by the City of general obligation bonds in the aggregate principal amount of \$7,200,000 for the purpose of financing a new animal shelter to replace the existing shelter at the same location.

13. Pursuant to such authorization the City issued its City of Berkeley (Alameda County, California) General Obligation Bonds, Series 2008 (Measure I - Animal Shelter Project), dated January 29, 2008, in the principal amount of \$7,200,000 (the "**2008 Bonds (Measure I)**"), pursuant to Resolution No. 63,907-N.S., adopted by the City Council on December 11, 2007 (the "**2008 Bonds Resolution (Measure I)**").

14. Under the 2008 Bonds Resolution (Measure I), the City is authorized to redeem the 2008 Bonds (Measure I) in full on any date on or after September 1, 2016, at

a redemption price equal to the par amount thereof, plus accrued interest to the redemption date, without premium.

15. Collectively, in this Agreement, the 2002 Refunding Bonds (Measure G), the 2007 Refunding Bonds (Measure G), the 2007 Refunding Bonds (Measure S) and the 2008 Bonds (Measure I) are referred to as the “**Refunded Bonds**.”

16. Collectively, in this Agreement, the 2002 Refunding Bonds Resolution (Measure G), the 2007 Refunding Bonds Resolution (Measure G), the 2007 Refunding Bonds Resolution (Measure S) and the 2008 Bonds Resolution (Measure I) are referred to as the “**Refunded Bonds Resolutions**.”

17. In order to provide funds to pay and redeem the Refunded Bonds and thereby discharge the indebtedness represented by the Refunded Bonds in accordance with the Refunded Bonds Resolution, the City Council of the City has authorized the issuance of City of Berkeley 2015 General Obligation Refunding Bonds in the aggregate principal amount of \$_____ (the “**2015 Bonds**”).

18. The Bank of New York Mellon Trust Company, N.A. acts as paying agent for the Refunded Bonds (the “**Refunded Bonds Paying Agent**”) and as paying agent for the 2015 Bonds (the “**2015 Paying Agent**”).

19. The City wishes to appoint the Escrow Agent for the purpose of establishing an irrevocable escrow fund to be funded, invested, held and administered for the purpose of providing for the payment and redemption of the Refunded Bonds in full in accordance with the Refunded Bonds Resolution.

20. As a result of the deposit and investment of funds in accordance with this Agreement:

(a) The 2002 Refunding Bonds (Measure G), will be discharged and defeased in accordance with the provisions of Section 9.02 of the 2002 Refunding Bonds Resolution (Measure G).

(b) The 2007 Refunding Bonds (Measure G) will be discharged and defeased in accordance with the provisions of Section 9.02 of the 2007 Refunding Bonds Resolution (Measure G).

(c) The 2007 Refunding Bonds (Measure S) will be discharged and defeased in accordance with the provisions of Section 9.02 of the 2007 Refunding Bonds Resolution (Measure S).

(d) The 2008 Bonds (Measure I) will be discharged and defeased in accordance with the provisions of Section 9.02 of the 2008 Bonds Resolution (Measure I).

A G R E E M E N T :

In consideration of the premises and the material covenants contained herein, the City and the Escrow Agent hereby agree as follows:

SECTION 1. *Appointment of Escrow Agent; Establishment of Escrow Fund.* The City hereby appoints the Escrow Agent to act as escrow agent for purposes of administering the funds required to pay and redeem the Refunded Bonds in full in accordance with the Refunded Bonds Resolutions.

The Escrow Agent is hereby directed to establish an escrow fund (the "Escrow Fund") to be held by the Escrow Agent in trust as an irrevocable escrow securing the payment and redemption of the Refunded Bonds in accordance with the Refunded Bonds Resolutions. If at any time the Escrow Agent receives actual knowledge that the cash and securities in the Escrow Fund will not be sufficient to make any payment required by Section 5, the Escrow Agent shall notify the City of such fact and the City shall immediately cure such deficiency from any source of legally available funds. The Escrow Agent has no liability for any such insufficiency.

SECTION 2. *Deposit of Amounts in Escrow Fund.*

(a) On July __, 2015 (the "Closing Date"), the City shall cause to be transferred to the Escrow Agent for deposit into the Escrow Fund the amount of \$_____ in immediately available funds, to be derived from the proceeds of the 2015 Bonds.

(b) On the Closing Date, the City shall cause to be transferred \$_____, consisting of proceeds of prior tax levies, to the Escrow Agent for deposit into the Escrow Fund.

SECTION 3. *Investment of Amounts in Escrow Fund.* On the Closing Date, the Escrow Agent shall invest \$_____ of the amounts deposited in the Escrow Fund in the federal securities listed on Exhibit A. The Escrow Agent shall hold the remaining \$_____ in cash, uninvested. If the Escrow Agent learns that the Department of the Treasury or the Bureau of Public Debt will not, for any reason, accept a subscription of state and local government series securities ("SLGS") that is to be submitted pursuant to this Agreement, the Escrow Agent shall promptly request alternative written investment instructions from the City with respect to funds which were to be invested in SLGS. The Escrow Agent shall follow such instructions and, upon the maturity of any such alternative investment, the Escrow Agent shall hold such funds uninvested and without liability for interest until receipt of further written instructions from the City. In the absence of investment instructions from the City, the Escrow Agent shall not be responsible for the investment of such funds or interest thereon. The Escrow Agent may conclusively rely upon the City's selection of an alternative investment as a determination of the alternative investment's legality and suitability and shall not be liable for any losses related to the alternative investments or for compliance with any yield restriction applicable thereto.

SECTION 4. *Irrevocable Election to Redeem the Refunded Bonds.* The City hereby irrevocably elects to redeem the Refunded Bonds in full as follows:

(a) 2002 Refunding Bonds (Measure G): On July 26, 2015 in accordance with Section 2.03(a) of the 2002 Refunding Bonds (Measure G) Resolution.

(b) 2007 Refunding Bonds (Measure G): On September 1, 2015 in accordance with Section 2.03(a) of the 2007 Refunding Bonds (Measure G) Resolution.

(a) 2007 Refunding Bonds (Measure S): On September 1, 2015 in accordance with Section 2.03(a) of the 2007 Refunding Bonds (Measure S) Resolution.

(a) 2008 Bonds (Measure I): On September 1, 2016 in accordance with Section 2.03(a) of the 2008 Bonds (Measure I) Resolution.

At the written direction of the City, notice of redemption of the 2002 Refunded Bonds (Measure G) has previously been given by the Escrow Agent, in its capacity as Paying Agent for the 2002 Refunded Bonds (Measure G), in accordance with Section 2.03(c) of the 2002 Refunded Bonds Resolution (Measure G), at the expense of the City using a form in the form of Exhibit B.

Notice of redemption of the Refunded Bonds other than the 2002 Refunded Bonds (Measure G) shall be given by the Escrow Agent, in its capacity as Refunded Bonds Paying Agent, in accordance with Section 2.03(c) of the related Refunded Bonds Resolutions, at the expense of the City, using forms in the form of Exhibit B.

The City further hereby directs the Escrow Agent to file on the Closing Date the notices attached as Exhibit C on the Municipal Securities Rulemaking Board's EMMA system.

SECTION 5. *Application of Amounts in Escrow Fund.* The Escrow Agent shall apply an amount on deposit in the Escrow Fund to pay and redeem each of the Refunded Bonds in accordance with the following schedule:

2002 Refunded Bonds (Measure G)

<u>Payment Date</u>	<u>Interest</u>	<u>Redeemed Principal</u>	<u>Total</u>
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2007 Refunded Bonds (Measure G)

<u>Payment Date</u>	<u>Interest</u>	<u>Redeemed Principal</u>	<u>Total</u>
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2007 Refunded Bonds (Measure S)

<u>Payment Date</u>	<u>Interest</u>	<u>Redeemed Principal</u>	<u>Total</u>
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2008 Bonds (Measure I)

<u>Payment Date</u>	<u>Interest</u>	<u>Redeemed Principal</u>	<u>Total</u>
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Following the payment and redemption of the Refunded Bonds in full on their respective Redemption Date, the Escrow Agent shall transfer any amounts remaining on deposit in the Escrow Fund to the 2015 Paying Agent to be deposited in the Debt Service Fund established for the 2015 Bonds under the 2015 Bond Resolution (the “**2015 Debt Service Fund**”) and applied to pay interest next coming due and payable on the 2015 Bonds.

SECTION 6. *Transfer of Funds Related to the Refunded Bonds.* On the Closing Date, any amounts held in the funds and accounts established under the Refunded Bonds Resolutions by the Escrow Agent, in its capacity as Refunded Bonds Paying Agent, shall be withdrawn therefrom and transferred to the 2015 Paying Agent for deposit in the 2015 Debt Service Fund and applied to pay interest next coming due and payable on the 2015 Bonds.

SECTION 7. *Compensation to Escrow Agent.* The City shall pay the Escrow Agent full compensation for its services under this Agreement, including out-of-pocket costs such as publication costs, redemption expenses, legal fees and other costs and expenses relating hereto and, in addition, all fees, costs and expenses relating to the purchase, substitution or withdrawal of any securities after the date hereof. Under no circumstances shall amounts deposited in or credited to the Escrow Fund be deemed to be available for said purposes. The Escrow Agent has no lien upon or right of set off against the cash and securities at any time on deposit in the Escrow Fund.

The City shall indemnify, defend and hold harmless the Escrow Agent and its officers, directors, employees, representatives and agents, from and against and reimburse the Escrow Agent for any and all claims, obligations, liabilities, losses, damages, actions, suits, judgments, reasonable costs and expenses (including reasonable attorneys’ and agents’ fees and expenses) of whatever kind or nature regardless of their merit, demanded, asserted or claimed against the Escrow Agent directly or indirectly relating to, or arising from, claims against the Escrow Agent by reason of its participation in the transactions contemplated hereby, except to the extent caused by the Escrow Agent’s negligence or willful misconduct. The provisions of this Section shall survive the termination of this Agreement or the earlier resignation or removal of the Escrow Agent.

SECTION 8. *Immunities and Liability of Escrow Agent.* The Escrow Agent undertakes to perform only such duties as are expressly set forth in this Agreement and no implied duties, covenants or obligations shall be read into this Agreement against the Escrow Agent. The Escrow Agent shall not have any liability hereunder except to the extent of its gross negligence or willful misconduct. In no event shall the Escrow Agent be liable for any special, indirect or consequential damages. The Escrow Agent shall not be permitted to make any investments of amounts held by it in the Escrow Fund. The Escrow Agent may consult with legal counsel of its own choice and the Escrow Agent shall not be liable for any action taken or not taken by it in good faith in reliance upon the opinion or advice of such counsel. The Escrow Agent shall not be liable for the recitals or representations contained in this Agreement and shall not be responsible for the

validity of this Agreement, the sufficiency of the Escrow Fund or the moneys and securities to pay the principal and interest represented by the Refunded Bonds.

Whenever in the administration of this Agreement the Escrow Agent deems it necessary or desirable that a matter be proved or established prior to taking or not taking any action, such matter may be deemed to be conclusively proved and established by a certificate of an authorized representative of the City and shall be full protection for any action taken or not taken by the Escrow Agent in good faith reliance thereon.

The Escrow Agent may conclusively rely as to the truth and accuracy of the statements and correctness of any opinions or calculations provided to it in connection with this Agreement and shall be protected in acting, or refraining from acting, upon any notice, instruction, request, certificate, document, opinion or other writing furnished to the Escrow Agent in connection with this Agreement and believed by the Escrow Agent to be signed by the proper party, and it need not investigate any fact or matter stated therein.

None of the provisions of this Agreement shall require the Escrow Agent to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder. The Escrow Agent may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, attorneys, custodians or nominees appointed with due care. The Escrow Agent shall not be liable to the parties hereto or deemed in breach or default hereunder if and to the extent its performance hereunder is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the Escrow Agent and could not have been avoided by exercising due care. Force majeure shall include acts of God, terrorism, war, riots, strikes, fire, floods, earthquakes, epidemics or other similar occurrences.

The Escrow Agent may at any time resign by giving 30 days written notice of resignation to the City. Upon receiving such notice of resignation, the City shall promptly appoint a successor and, upon the acceptance by the successor of such appointment, release the resigning Escrow Agent from its obligations hereunder by written instrument, a copy of which instrument shall be delivered to each of the City, the resigning Escrow Agent and the successor. If no successor shall have been so appointed and have accepted appointment within 30 days after the giving of such notice of resignation, the resigning Escrow Agent may petition any court of competent jurisdiction for the appointment of a successor.

Any bank, corporation or association into which the Escrow Agent may be merged or converted or with which it may be consolidated, or any bank, corporation or association resulting from any merger, conversion or consolidation to which the Escrow Agent shall be a party, or any bank, corporation or association succeeding to all or substantially all of the corporate trust business of the Escrow Agent shall be the successor of the Escrow Agent hereunder without the execution or filing of any paper with any party hereto or any further act on the part of any of the parties hereto except on the part of any of the parties hereto where an instrument of transfer or assignment is required by law to effect such succession, anything herein to the contrary notwithstanding.

SECTION 9. *Furnishing of Statements.* The Escrow Agent shall furnish the City periodic cash transaction statements which include detail for all investment transactions effected by the Escrow Agent or brokers selected by the City. Upon the City's election, such statements will be delivered via the Escrow Agent's online service and upon electing such service, paper statements will be provided only upon request. The City waives the right to receive brokerage confirmations of security transactions effected by the Escrow Agent as they occur, to the extent permitted by law. The City further understands that trade confirmations for securities transactions effected by the Escrow Agent will be available upon request and at no additional cost and other trade confirmations may be obtained from the applicable broker.

SECTION 10. *Electronic Communications.* The Escrow Agent agrees to accept and act upon instructions or directions pursuant to this Agreement sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods; *provided, however,* that (a) the Escrow Agent shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing, and (b) an e-mail does not constitute a notice, request or other communication hereunder but rather the portable document format or similar attachment attached to such e-mail shall constitute a notice, request or other communication hereunder. If the City elects to give the Escrow Agent e-mail or facsimile instructions (or instructions by a similar electronic method) and the Escrow Agent in its discretion elects to act upon such instructions, the Escrow Agent understanding of such instructions shall be deemed controlling. The Escrow Agent is not liable for any losses, costs or expenses arising directly or indirectly from the Escrow Agent's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The City agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Escrow Agent, including without limitation the risk of the Escrow Agent acting on unauthorized instructions, and the risk of interception and misuse by third parties.

SECTION 11. *Termination of Agreement.* Upon payment and redemption in full of the Refunded Bonds, and upon payment of all fees, expenses and charges of the Escrow Agent as described above, this Agreement shall terminate and the Escrow Agent shall be discharged from any further obligation or responsibility hereunder.

SECTION 12. *Execution in Counterparts.* This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 13. *Applicable Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of California.

CITY OF BERKELEY

By: _____
Authorized Officer

**THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.,**
as Escrow Agent and as Refunded
Bonds Paying Agent

By _____
Authorized Officer

EXHIBIT A

ESCROW SECURITIES

[illegible]

EXHIBIT B

FORM OF NOTICES OF REDEMPTION

2002 Refunding Bonds (Measure G)

CONDITIONAL NOTICE OF FULL REDEMPTION

\$17,865,000
City of Berkeley
(Alameda County, California)
2002 General Obligation Refunding Bonds

Original Date of Issue: November 26, 2002

NOTICE IS HEREBY GIVEN, by the City of Berkeley (the "City"), with respect to the captioned bonds (the "2002 Bonds"), that it has conditionally elected to optionally redeem all of the outstanding 2002 Bonds on July __, 2015 (the "Redemption Date"), at a redemption price equal to the par amount thereof together with accrued interest thereon to the Redemption Date, without premium. Interest on the 2002 Bonds will not accrue after the Redemption Date.

The 2002 Bonds consist of the following:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>CUSIP</u>
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Redemption of the 2002 Bonds as described in this notice shall be conditioned upon the receipt by The Bank of New York Mellon Trust Company, N.A., as paying agent for the 2002 Bonds ("Paying Agent"), of the proceeds of the sale and delivery of the City of Berkeley 2015 General Obligation Refunding Bonds (the "Refunding Bonds") in an amount sufficient for such redemption on or before the Redemption Date.

In the event such funds are not received by the Redemption Date, this notice shall be null and void and of no force and effect. The 2002 Bonds delivered for redemption shall be returned to the respective owners thereof, and said 2002 Bonds shall remain outstanding as though this notice of conditional redemption had not been given. Notice of a failure to receive funds, and cancellation of this redemption, shall be

given by Paying Agent by first class mail, postage prepaid, to the registered owners of the 2002 Bonds.

The 2002 Bonds must be surrendered by the owners thereof at the corporate trust office of the Paying Agent for payment of the redemption price.

The City and the Paying Agent shall not be responsible for the selection or use of the CUSIP numbers listed above, nor is any representation made as to the accuracy of the CUSIP numbers listed above or as printed on any 2002 Bond; the CUSIP numbers are included solely for the convenience of the owners of the 2002 Bonds.

Dated: _____, 2015

**THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.,**
as Paying Agent

2007 Refunding Bonds (Measure G)

NOTICE OF FULL REDEMPTION

\$4,340,000
City of Berkeley
(Alameda County, California)
General Obligation Refunding Bonds, 2007 Series A

Original Date of Issue: June 7, 2007

NOTICE IS HEREBY GIVEN, by the City of Berkeley (the "City"), with respect to the captioned bonds (the "2007 Bonds"), that it has irrevocably elected to optionally redeem all of the outstanding 2007 Bonds on September 1, 2015 (the "Redemption Date"), at a redemption price equal to the par amount thereof together with accrued interest thereon to the Redemption Date, plus a 2% premium. Interest on the 2007 Bonds will not accrue after the Redemption Date.

The 2007 Bonds consist of the following:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>CUSIP</u>
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Funds for the payment of the 2007 Bonds have been deposited with The Bank of New York Mellon Trust Company, N.A., as escrow agent, and the sufficiency of the funds and investments for the purpose of paying the principal of and interest and the redemption premium on the 2007 Bonds has been verified by _____, certified public accountants.

The 2007 Bonds must be surrendered by the owners thereof at the corporate trust office of the Paying Agent for payment of the redemption price.

The City and the Paying Agent shall not be responsible for the selection or use of the CUSIP numbers listed above, nor is any representation made as to the accuracy of the CUSIP numbers listed above or as printed on any 2007 Bond; the CUSIP numbers are included solely for the convenience of the owners of the 2007 Bonds.

Dated: _____, 2015

**THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.,**
as Paying Agent

2007 Refunding Bonds (Measure S)

NOTICE OF FULL REDEMPTION

**\$41,245,000
City of Berkeley
(Alameda County, California)
General Obligation Refunding Bonds, 2007 Series B**

Original Date of Issue: June 7, 2007

NOTICE IS HEREBY GIVEN, by the City of Berkeley (the "City"), with respect to the captioned bonds (the "2007 Bonds"), that it has irrevocably elected to optionally redeem all of the outstanding 2007 Bonds on September 1, 2015 (the "Redemption Date"), at a redemption price equal to the par amount thereof together with accrued interest thereon to the Redemption Date, plus a 2% premium. Interest on the 2007 Bonds will not accrue after the Redemption Date.

The 2007 Bonds consist of the following:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>CUSIP</u>
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Funds for the payment of the 2007 Bonds have been deposited with The Bank of New York Mellon Trust Company, N.A., as escrow agent, and the sufficiency of the funds and investments for the purpose of paying the principal of and interest and the redemption premium on the 2007 Bonds has been verified by _____, certified public accountants.

The 2007 Bonds must be surrendered by the owners thereof at the corporate trust office of the Paying Agent for payment of the redemption price.

The City and the Paying Agent shall not be responsible for the selection or use of the CUSIP numbers listed above, nor is any representation made as to the accuracy of the CUSIP numbers listed above or as printed on any 2007 Bond; the CUSIP numbers are included solely for the convenience of the owners of the 2007 Bonds.

Dated: _____, 2015

**THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.,**
as Paying Agent

2008 Bonds (Measure I)

NOTICE OF REDEMPTION

**\$7,200,000
City of Berkeley
(Alameda County, California)
General Obligation Bonds, Series 2008
(Measure I - Animal Shelter Project)**

Original Date of Issue: January 29, 2008

NOTICE IS HEREBY GIVEN, by the City of Berkeley (the "City"), with respect to the captioned bonds (the "2008 Bonds"), that it has irrevocably elected to optionally redeem the outstanding 2008 Bonds maturing on and after September 1, 2017 on September 1, 2016 (the "Redemption Date"), at a redemption price equal to the par amount thereof together with accrued interest thereon to the Redemption Date, without premium. Interest on the 2008 Bonds will not accrue after the Redemption Date.

The 2008 Bonds to be redeemed consist of the following:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>CUSIP</u>
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Funds for the payment of all of the outstanding 2008 Bonds have been deposited with The Bank of New York Mellon Trust Company, N.A., as escrow agent, and the sufficiency of the funds and investments for the purpose of paying the principal of and interest on the 2008 Bonds has been verified by _____, certified public accountants.

The 2008 Bonds to be redeemed must be surrendered by the owners thereof at the corporate trust office of the Paying Agent for payment of the redemption price.

The City and the Paying Agent shall not be responsible for the selection or use of the CUSIP numbers listed above, nor is any representation made as to the accuracy of the CUSIP numbers listed above or as printed on any 2008 Bond; the CUSIP numbers are included solely for the convenience of the owners of the 2008 Bonds.

Dated: _____, 2015

**THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.,**
as Paying Agent

EXHIBIT C

FORM OF NOTICES OF DEFEASANCE

2002 Refunding Bonds (Measure G)

NOTICE OF DEFEASANCE

\$17,865,000
City of Berkeley
(Alameda County, California)
2002 General Obligation Refunding Bonds

Original Date of Issue: November 26, 2002

NOTICE IS HEREBY GIVEN, by the City of Berkeley (the "City") that the captioned bonds (the "2002 Bonds") have been defeased and discharged under and within the meaning of the Resolution authorizing the issuance of the 2002 Bonds. Funds for the payment of the 2002 Bonds have been deposited with The Bank of New York Mellon Trust Company, N.A., as escrow agent, and the sufficiency of the funds and investments for the purpose of paying the principal of and interest on the 2002 Bonds has been verified by _____, certified public accountants. As a consequence of the foregoing actions and in accordance with the Resolution, the 2002 Bonds are no longer secured by a pledge of revenues under the Resolution, and the 2002 Bonds are now payable solely from the moneys set aside in escrow as described above and, if necessary, from other legally available funds of the City.

The City has elected to optionally redeem all of the outstanding 2002 Bonds on July __, 2015 (the "Redemption Date"), at a redemption price equal to the par amount thereof together with accrued interest thereon to the Redemption Date, without premium. Interest on the 2002 Bonds will not accrue after the Redemption Date.

The 2002 Bonds consist of the following:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>CUSIP</u>
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The 2002 Bonds must be surrendered by the owners thereof at the corporate trust office of the Paying Agent for payment of the redemption price.

The City and the Paying Agent shall not be responsible for the selection or use of the CUSIP numbers listed above, nor is any representation made as to the accuracy of the CUSIP numbers listed above or as printed on any 2002 Bond; the CUSIP numbers are included solely for the convenience of the owners of the 2002 Bonds.

Dated: _____, 2015

**THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.,**
as Paying Agent

2007 Refunding Bonds (Measure G)

NOTICE OF DEFEASANCE

\$4,340,000
City of Berkeley
(Alameda County, California)
General Obligation Refunding Bonds, 2007 Series A

Original Date of Issue: June 7, 2007

NOTICE IS HEREBY GIVEN, by the City of Berkeley (the "City") that the captioned bonds (the "2007 Bonds") have been defeased and discharged under and within the meaning of the Resolution authorizing the issuance of the 2007 Bonds. Funds for the payment of the 2007 Bonds have been deposited with The Bank of New York Mellon Trust Company, N.A., as escrow agent, and the sufficiency of the funds and investments for the purpose of paying the principal of and interest on the 2007 Bonds has been verified by _____, certified public accountants. As a consequence of the foregoing actions and in accordance with the Resolution, the 2007 Bonds are no longer secured by a pledge of revenues under the Resolution, and the 2007 Bonds are now payable solely from the moneys set aside in escrow as described above and, if necessary, from other legally available funds of the City.

The City has elected to optionally redeem all of the outstanding 2007 Bonds on September 1, 2015 (the "Redemption Date"), at a redemption price equal to the par amount thereof together with accrued interest thereon to the Redemption Date, plus a 2% premium. Interest on the 2007 Bonds will not accrue after the Redemption Date.

The 2007 Bonds consist of the following:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>CUSIP</u>
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The 2007 Bonds must be surrendered by the owners thereof at the corporate trust office of the Paying Agent for payment of the redemption price.

The City and the Paying Agent shall not be responsible for the selection or use of the CUSIP numbers listed above, nor is any representation made as to the accuracy of

the CUSIP numbers listed above or as printed on any 2007 Bond; the CUSIP numbers are included solely for the convenience of the owners of the 2007 Bonds.

Dated: _____, 2015

**THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.,**
as Paying Agent

2007 Refunding Bonds (Measure S)

NOTICE OF DEFEASANCE

**\$41,245,000
City of Berkeley
(Alameda County, California)
General Obligation Refunding Bonds, 2007 Series B**

Original Date of Issue: June 7, 2007

NOTICE IS HEREBY GIVEN, by the City of Berkeley (the "City") that the captioned bonds (the "2007 Bonds") have been defeased and discharged under and within the meaning of the Resolution authorizing the issuance of the 2007 Bonds. Funds for the payment of the 2007 Bonds have been deposited with The Bank of New York Mellon Trust Company, N.A., as escrow agent, and the sufficiency of the funds and investments for the purpose of paying the principal of and interest on the 2007 Bonds has been verified by _____, certified public accountants. As a consequence of the foregoing actions and in accordance with the Resolution, the 2007 Bonds are no longer secured by a pledge of revenues under the Resolution, and the 2007 Bonds are now payable solely from the moneys set aside in escrow as described above and, if necessary, from other legally available funds of the City.

The City has elected to optionally redeem all of the outstanding 2007 Bonds on September 1, 2015 (the "Redemption Date"), at a redemption price equal to the par amount thereof together with accrued interest thereon to the Redemption Date, plus a 2% premium. Interest on the 2007 Bonds will not accrue after the Redemption Date.

The 2007 Bonds consist of the following:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>CUSIP</u>
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The 2007 Bonds must be surrendered by the owners thereof at the corporate trust office of the Paying Agent for payment of the redemption price.

The City and the Paying Agent shall not be responsible for the selection or use of the CUSIP numbers listed above, nor is any representation made as to the accuracy of

the CUSIP numbers listed above or as printed on any 2007 Bond; the CUSIP numbers are included solely for the convenience of the owners of the 2007 Bonds.

Dated: _____, 2015

**THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.,**
as Paying Agent

2008 Bonds (Measure I)

NOTICE OF DEFEASANCE

\$7,200,000
City of Berkeley
(Alameda County, California)
General Obligation Bonds, Series 2008
(Measure I - Animal Shelter Project)

Original Date of Issue: January 29, 2008

NOTICE IS HEREBY GIVEN, by the City of Berkeley (the "City") that the captioned bonds (the "2008 Bonds") have been defeased and discharged under and within the meaning of the Resolution authorizing the issuance of the 2008 Bonds. Funds for the payment of the 2008 Bonds have been deposited with The Bank of New York Mellon Trust Company, N.A., as escrow agent, and the sufficiency of the funds and investments for the purpose of paying the principal of and interest on the 2008 Bonds has been verified by _____, certified public accountants. As a consequence of the foregoing actions and in accordance with the Resolution, the 2008 Bonds are no longer secured by a pledge of revenues under the Resolution, and the 2008 Bonds are now payable solely from the moneys set aside in escrow as described above and, if necessary, from other legally available funds of the City.

The City has elected to optionally redeem the outstanding 2008 Bonds maturing on and after September 1, 2017 on September 1, 2016 (the "Redemption Date"), at a redemption price equal to the par amount thereof together with accrued interest thereon to the Redemption Date, without premium. Interest on the 2008 Bonds to be refunded will not accrue after the Redemption Date.

The 2008 Bonds consist of the following:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>CUSIP</u>
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The 2008 Bonds must be surrendered by the owners thereof at the corporate trust office of the Paying Agent for payment either at maturity or on the Redemption Date.

The City and the Paying Agent shall not be responsible for the selection or use of the CUSIP numbers listed above, nor is any representation made as to the accuracy of the CUSIP numbers listed above or as printed on any 2008 Bond; the CUSIP numbers are included solely for the convenience of the owners of the 2008 Bonds.

Dated: _____, 2015

**THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.,**
as Paying Agent

