

**Berkeley Public Schools
Facilities Safety and Maintenance Act of 2020**

To provide essential maintenance of buildings, classrooms, grounds, roofs, electrical, mechanical/plumbing systems, and address fire/safety hazards, shall Berkeley Unified School District adopt a measure to continue its existing special tax at 9.1¢/square foot on improvements, and \$20/parcel on unimproved parcels, for 10 years, with cost-of-living adjustments, low-income exemptions, independent citizen and auditor oversight, generating approximately \$7,330,841 annually in local funds for Berkeley public schools that cannot be taken away by the State?

1. Title and Purpose

This measure shall be known as the "Berkeley Public Schools Facilities Safety and Maintenance Act of 2020" ("Measure"). The revenues raised by the Measure are to be used to improve safety and essential building maintenance and grounds operations of all Berkeley Unified School District ("District") facilities.

2. Allocation of Funds

A. Available Revenues: For purposes of this Measure, "Available Revenues" shall mean the amount of money resulting from the levy of the special tax authorized by this Measure after deduction of authorized charges for services provided by the County of Alameda and the City of Berkeley for the preparation and collection of the tax, legal and audit fees.

B. Expenditures: Available Revenues raised by this special tax shall be used exclusively to provide grounds operations and essential maintenance of District buildings and grounds, thereby protecting the health, safety and security of children and staff and creating an environment that supports student and staff success. Available Revenues may also support all operating costs attendant to providing the programs specified in the Measure. Such operating costs shall be paid from the proceeds of this Measure at the District's Indirect Cost Rate authorized by the California Department of Education.

3. Amount and Basis of Tax

Tax Rate: This Measure shall authorize the District to levy a special tax beginning July 1, 2020, and continuing for a period of ten (10) years ("Special Tax") on Parcels of Taxable Real property in the District. The Special Tax shall be levied at the rate of 9.1 cents (\$0.0910) per square foot on the Square Footage all Improvements and \$20 per parcel on all Unimproved Parcels ("Rate"). This Special Tax is estimated to raise \$7.3 million in local funding for District programs based on the amount of the tax for the 2020-21 tax year. The amount of annual local funding raised by this Special Tax will vary from year-to-year due to a number of factors, including annual cost-of-living increases, changes in the number of parcels subject to the levy, and the costs to administer the Special Tax. If this Measure is approved by voters, the qualified special tax authorized by voters as "Measure H" in November 2010 shall be replaced with this Measure on the date the qualified special tax authorized by this Measure is first levied.

B. Cost Of Living Adjustment: Beginning with the 2021-22 tax year (the second year of assessment of the Special Tax), and each year thereafter, at the Direction of the Board, the Rate may be increased from the Rate levied in the prior tax year by a cost-of-living adjustment equal to the annual average percentage change in the Bay Area Consumer Price Index - All Urban Consumers, San Francisco-Oakland-San Jose area over the prior twelve months, as of December 1 of the prior fiscal year, as published by the U.S. Bureau of Labor Statistics. If, in any given year, that index is not available, then the Rate may be adjusted based on the changes in the Consumer Price Index - All Urban Consumers (CPI-U).

C. Definitions Applicable to Levy of the Special Tax: For purposes of this Measure and the levy of the Special Tax, the following definitions shall apply:

i. **Building:** In accordance with Berkeley Municipal Code Section 7.56.020, subdivision A, which is incorporated by reference herein, "Building" means any Structure having a roof supported by columns or by walls and designed for the shelter or housing of any person or property of any kind. The word "Building" includes the word "Structure."

ii. **Improvements:** In accordance with Berkeley Municipal Code Section 7.56.020, subdivision F, which is incorporated by reference herein, "Improvements" mean all Buildings or Structures erected or affixed to the land.

iii. **Parcel of Taxable Real Property:** "Parcel of Taxable Real Property": is defined as any unit of real property in the District that receives a separate tax bill for ad valorem property taxes from the Alameda County Treasurer-Tax Collector ("County Tax Collector"). All property that is otherwise exempt from or upon which no ad valorem property taxes are levied in any year shall also be exempt from this Special Tax in such year.

iv. **Square Footage:** In accordance with Berkeley Municipal Code Section 7.56.020, subdivision G, "Square Footage" means the total gross horizontal areas of all floors, including usable basement and cellars, below the roof and within the outer surface of the main walls of Buildings (or the center lines of party walls separating such buildings or portions thereof) or within lines drawn parallel to and two feet within the roof line of any building or portion thereof without walls (which includes, notwithstanding paragraph iii below, the square footage of all porches), and including pedestrian access walkways or corridors, but excluding the following:

a. Areas used for off-street parking spaces or loading berths and driveways and maneuvering aisles relating thereto.

b. Areas which are outdoor or semi-outdoor areas included as part of the building to provide a pleasant and healthful environment for the occupants thereof and the neighborhood in which the building is located. This exempted area is limited to stoops, balconies and to natural ground areas, terraces, pools and patios which are landscaped and developed for active or passive recreational use, and which are accessible for use by occupants of the building.

c. Arcades, porticoes, and similar open areas which are located at or near street level, which are accessible to the general public, and which are not designated or used as sales, display, storage, service or production areas.

v. **Structure:** In accordance with Berkeley Municipal Code Section 7.56.020, subdivision H, which is incorporated by reference herein, "Structure" means anything

constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

vi. **Unimproved Parcel:** "Unimproved Parcel" is defined as a Parcel of Taxable Real Property that does not contain Improvements.

vii. **Modifications:** In the event of the modification of any Berkeley Municipal Code definition or term that applies to this Measure, the definition or term as modified shall apply for the purposes of this Measure. In the event of the expiration, repeal, or invalidation of this Berkeley Municipal Code for any reason, the definitions existing at the time of the adoption of this Measure shall continue to apply for purposes of this Measure.

4. Exemptions

Pursuant to any procedures adopted by the District, upon application, an exemption from payment of the Special Tax may be granted on any single-family residential parcel owned and occupied by an individual who qualifies under one or more of the following conditions:

A. Very Low-Income Senior Citizen Exemption: Persons who will attain 65 years of age prior to July 1 of the tax year, occupying said parcel as his or her principal residence and meeting the very low-income qualifications of Berkeley Municipal Code Section 7.56.035, which is incorporated by reference herein. In the event of expiration of Municipal Code Section 7.56.035 for any reason, the same qualification criteria that exist at the time of adoption of this Measure shall continue to apply to this exemption.

B. SSI Exemption: Persons receiving Supplemental Security Income for a disability, regardless of age, and occupying said parcel as his or her the principal residence; or,

C. SSDI Exemption: Persons receiving Social Security Disability Insurance benefits, regardless of age, whose yearly income does not exceed 250 percent of the tax year's federal poverty guidelines issued by the United States Department of Health and Human Services and occupying said parcel as his or her principal residence.

5. Claims / Exemption Procedures

With respect to all matters within their respective jurisdictions, the District, County Tax Collector, appropriate County official, or the City of Berkeley shall make all final determinations of tax exemption or relief for any reason, and that decision shall be final and binding. The procedures described herein, and any additional procedures established by the District shall be the exclusive claims procedure for claimants seeking an exemption, refund, reduction, or re-computation of this Special Tax. Whether any particular claim is to be resolved by the District, City of Berkeley, or County of Alameda shall be determined by the District.

6. Appropriations Limit

Pursuant to California Constitution Article XIII B and applicable laws, the appropriations limit for the District will be adjusted periodically by the aggregate sum collected by levy of this Special Tax.

7. Accountability Protections

A. Specific Purposes: The proceeds of this Special Tax shall be applied only to the specific purposes identified in the Measure. The proceeds of this Special Tax shall be deposited into a fund, which shall be kept separate and apart from other funds of the District. Any proceeds from this Special Tax may be spent on all authorized purposes until exhausted.

B. Participation in Planning and Oversight of Special Tax Funds

i. Facilities Safety and Maintenance Oversight Committee: The Board shall create a Facilities Safety and Maintenance Oversight Committee ("Committee") or empower an existing committee to serve as the Committee. The implementation of the Measure will be overseen by the Committee. The Committee is further charged with providing input into the long term Strategic Plan for the maintenance and security of the District's facilities and the Annual Plan for expenditures on maintenance and safety. District staff plans to inform the Committee before authorizing individual planned expenditures of Measure proceeds greater than \$25,000, except in the case of an emergency.

ii. Annual Plan: An expenditure plan (the "Annual Plan") shall be developed annually by District staff with input from the Committee. The Annual Plan will recommend expenditures of the tax proceeds that are consistent with the intent of the Measure. The assumptions associated with the recommended expenditures shall be included in the Annual Plan. The Annual Plan shall be presented for Board action each year in conjunction with the District's annual budget adoption process. To facilitate public discussion, the recommended Annual Plan shall be distributed to the Committee and made available for public review two weeks prior to Board action.

iii. Public Comment: Pursuant to law, members of the public may comment on the plans, reports and conditions of the Measure during the public comment period of any Committee meeting and any Board Meeting.

C. Financial Oversight: The District shall make available to the Committee and the general public, updated revenue and expenditure reports of the proceeds of this Special Tax at least four times annually: before adoption of the District's annual budget, concurrently with the two State-required interim reports, and with the annual report on the Measure ("Annual Report"). The Annual Report shall display the revenues generated by the Measure and the expenditures of the revenues as of the closing of the fiscal year, and shall include a report on the status of projects funded by the revenues. This report shall be organized to display how the expenditures correspond to each of the purposes of the Measure.

D. Independent Auditor's Report and Audit Committee: Each year, an independent auditor retained by the District shall review District records to determine that funds generated by this Measure have been allocated and expended in compliance with the provisions of this Measure, including that the funds raised by this Measure have been spent for purposes specified in the Measure and that other provisions of this Measure have been satisfied. The audit shall be conducted in accordance with generally accepted accounting principles, the Standards and Procedures for Audits of California K-12 Local Educational Agencies, and this Measure. Subsequent to issuance of this report ("Auditor's Report"), the District's Audit Committee, as established by the Board, shall review the Auditor's Report.

8. Protection of Funding

Current law forbids any decrease in State or federal funding to the District resulting from the levy of this Special Tax. However, if any such funding is reduced or affected because of the adoption of this local funding measure, then the Board may reduce the amount of the Special Tax levied as necessary in order to restore such State or federal funding and/or maximize the District's fiscal position for the benefit of the educational program. As a result, whether directly or indirectly, no funding from this measure may be taken away by the State or federal governments.

9. Savings Clause

The Board hereby declares, and the voters by approving this Measure concur, that every sentence, clause, section, and part of this Measure has independent value and the Board and the voters would have adopted each provision hereof regardless of every other provision hereof. If any sentence, clause, section, or part of this Measure or any tax against any individual or any of the several groups specified herein is found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, or part of this Measure and shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or other parts of this Measure. It is hereby declared to be the intention of the Board and of the electorate that this Measure would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof, not been included.