

**RESOLUTION 16-050**

**BEFORE THE BOARD OF EDUCATION OF THE  
BERKELEY UNIFIED SCHOOL DISTRICT**

**RESOLUTION OF THE BOARD OF EDUCATION OF THE BERKELEY UNIFIED SCHOOL DISTRICT OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA, CALLING AN ELECTION FOR APPROVAL OF AN EDUCATION PARCEL TAX, ESTABLISHING SPECIFICATIONS OF THE ELECTION ORDER, AND REQUESTING CONSOLIDATION WITH OTHER ELECTIONS OCCURRING ON NOVEMBER 8, 2016**

**RESOLVED** by the Board of Education ("Board") of the Berkeley Unified School District ("District"), a school district of the County of Alameda, State of California, that:

**WHEREAS**, the California State Legislature fails to provide adequate funding for schools, and as a result of this lack of financial support, California is ranked among the lowest in the nation for state education funding per student, and,

**WHEREAS**, the District is committed to offering a high-quality educational program to all students in the District, and due to inadequate state funding, increased local revenues are necessary to meet this goal; and,

**WHEREAS**, Berkeley voters have consistently supported necessary education parcel taxes and bonds as an investment in the future of children, as a reflection of the values of the Berkeley community, and as a significant reason that individuals, families, and organizations are attracted to live and work in Berkeley; and,

**WHEREAS**, on November 6, 2006 the voters of the District approved Measure A and authorized a parcel tax in support of Berkeley Public Schools, and that measure expires on June 30, 2017; and,

**WHEREAS**, the local revenues from Measure A of approximately \$25 million per year raise the District from the low funding provided by the State toward the national average for student funding; and,

**WHEREAS**, without a renewed and extended authorization by the voters of a parcel tax like Measure A, the District will lose 20% of its budget, with severe and negative effects on students, including layoffs of at least one-third of the teachers, increased class sizes, elimination or drastic reduction of school libraries and music programs and many essential programs and services for our students; and,

**WHEREAS**, in the recent court case of *Borikas v. Alameda Unified School District*, the California Court of Appeal ruled for the first time that school district voters lack the legal power to enact parcel tax measures with classification based tax structures like Measure A (which has different rates for residential and commercial parcels), but may continue to levy voter-approved parcel taxes which are levied at a uniform rate; and,

**WHEREAS**, in order to provide the level of programs and services currently supported by Measure A, the replacement education parcel tax rate for residential parcels must be increased to comply with the *Borikas* ruling as well as meet increased costs, including mandated expenses from the State; and,

**WHEREAS**, every dollar raised by this special tax will be used for benefit of the students of Berkeley schools, and cannot be taken away by the State; and,

**WHEREAS**, California Constitution, Article XIII A, section 4 and Government Code sections 50075 et seq. authorizes the District, upon approval of two thirds of the electorate, to levy qualified special taxes on property in the District for the purpose of providing quality educational programs in the District and other lawful purposes of the District; and

**WHEREAS**, in the judgment of this Board, following a public hearing and comment, it is advisable to request that the Alameda County Superintendent of Schools call an election and submit to the voters of the District the question of whether the District shall levy a special tax within the District, for the purpose of raising revenue for the District; and

**WHEREAS**, pursuant to the Education Code and Elections Code such election may be completely or partially consolidated with any other election held on the same day and in the same territory or territory that is in part the same.

**NOW, THEREFORE, IT IS DETERMINED AND ORDERED** as follows:

**Section 1. Recitals.** This Board hereby finds and determines that the foregoing recitals are true and correct.

**Section 2. Resolution Constitutes Order of Election.** This resolution shall constitute an order of election pursuant to the Education Code to the Alameda County Superintendent of Schools to call an election within the boundaries of the District on November 8, 2016.

**Section 3. Date and Purpose of Measure.** Pursuant to the California Constitution and Government Code, an election shall be held within the boundaries of the District on Tuesday, November 8, 2016, for the purpose of voting on a measure ("Measure") which will be presented to voters in substantially the form attached hereto as **Exhibit A**, containing the question of whether the District shall impose a special tax for the educational purposes stated therein. In addition, the full text of the Measure ("Full Ballot Text") shall appear in the ballot pamphlet in substantially the form attached hereto as **Exhibit B**. The authority for the specifications of this election order is contained in the Education Code, and the authority for ordering the election is contained in the Education Code, Elections Code, Government Code, and California Constitution.

**Section 4. Very Low-Income Senior Exemption from the Special Tax.** Pursuant to provisions of the Full Ballot Text, an exemption from the tax will be made available for any single-family residential parcel or multi-family dwelling unit owned and occupied by one or more very low-income senior citizens.

**Section 5. Collection of the Tax.** Pursuant to provisions of the Full Ballot Text, beginning July 1, 2017, if adopted by voters, the special tax shall be collected by the County Treasurer-Tax Collector, at the same time, in the same manner, and subject to the same penalties as *ad valorem* property taxes collected by the County Treasurer-Tax Collector. Unpaid special taxes shall bear interest at the same rate as the rate for unpaid *ad valorem* property taxes until paid.

With respect to all general property tax matters within their respective jurisdictions, the Alameda County Assessor 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. With respect to matters specific to the levy of the special tax authorized by the Full Ballot Text, a District administrative review panel or the City of Berkeley, as the designated agency, shall make all

necessary final determinations, 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 the special tax authorized by the Full Ballot Text. Whether any particular claim is to be resolved by the District, City of Berkeley, or County of Alameda shall be determined by the District.

**Section 6. Authority for Ordering Election.** The authority for ordering the election is contained in the Education Code, Elections Code, Government Code, and California Constitution.

**Section 7. Authority for Specifications.** The authority for the specification of this election order is contained in the Education Code.

**Section 8. Resolution to County Officials.** The Secretary to the Board is hereby directed to cause certified copies of this Resolution and order to be delivered not later than August 10, 2016, to the County Superintendent, the Alameda County Registrar of Voters ("Registrar"), and the Clerk of the Board of Supervisors of Alameda County ("Board of Supervisors").

**Section 9. Formal Notice.** The County Superintendent is hereby requested to prepare and execute a Formal Notice of Parcel Tax Election and consolidation order in substantially the form attached hereto as **Exhibit C** (the "Formal Notice"), and to call the election by causing the Formal Notice to be posted in accordance with the applicable law no later than August 10, 2016, or to otherwise cause the notice to be published as permitted by law. The Secretary to the Board, on behalf of and as may be requested by the County Superintendent, is authorized to cause all notices required by law in connection herewith to be published and posted, as the case may be.

**Section 10. Conduct of Election.**

- (a) *Request to Registrar.* Pursuant to State law, the Registrar is requested to take all steps to hold the election on November 8, 2016, in accordance with law and these specifications. The election may be consolidated with another election as specified below, if such consolidation is feasible and appropriate.
- (b) *Voter Pamphlet.* The Registrar is hereby requested to reprint the Full Ballot Text in substantially the form attached hereto as **Exhibit B** in the voter information pamphlet to be distributed to voters pursuant to the Elections Code. In the event the Full Ballot Text will not be reprinted in the voter information pamphlet in its entirety, the Registrar is hereby requested to print, immediately below the impartial analysis of the Measure, in no less than 10-point boldface type, a legend substantially as follows:

*"The above statement is an impartial analysis of Measure \_\_\_. If you desire a copy of the Measure, please call the Alameda County Registrar of Voters at 510-267-8683 and a copy will be mailed at no cost to you."*

- (c) *Consolidation.* The County Superintendent and the Board of Supervisors are hereby requested to consolidate the election ordered hereby with any and all other elections as may be held on the same day in the same territory or in territory that is in part the same.

- (d) *Canvass and Declaration of Results.* The Board of Supervisors is authorized to canvass the returns of the election and declare the result pursuant to the Elections Code.
- (e) *Cost of Election.* The District will reimburse the Registrar and the County for costs associated with the election as required by law.

**Section 11. Appropriations Limit.** The Board shall provide in each year for an increase in the District’s appropriations limit as shall be necessary to ensure that the proceeds of the special tax may be spent for its authorized purposes.

**Section 12. Ballot Arguments.** The Board President and/or her designees are hereby authorized to prepare and file with the Registrar any ballot argument prepared in connection with the election, including a rebuttal argument, each within the time established by the Registrar, which shall be considered the official ballot arguments of the Board as sponsor of the Measure and to take all necessary action to prevent inclusion of false and/or misleading information in ballot materials related to the Measure.

**Section 13. Official Actions.** The District Superintendent, Board President, or their designees are hereby authorized to execute any other document and to perform all acts necessary to place the Measure on the ballot, including making alterations to the Measure and Full Ballot Text stated in **Exhibits A and B** hereto, and to this Resolution to comply with requirements of law and election officials or which are, in the judgment of the Superintendent and/or Board President, in the best interests of the District.

**Section 14. Effective Date.** This Resolution shall take effect from and after its adoption.

The foregoing resolution was introduced by \_\_\_\_\_,  
 who moved its adoption, seconded by \_\_\_\_\_, and adopted on  
 May 18, 2016 by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

**WHEREUPON,** the President declared the foregoing resolution adopted, and

**SO ORDERED.**

\_\_\_\_\_  
 Board President

## **EXHIBIT A**

### **Summary of Measure**

The Measure shall be summarized in the following form, and the County of Alameda Registrar of Voters is requested to cause this summary of the Measure to appear on the ballot:

#### **Berkeley Public Schools Educational Excellence Act of 2016**

To support high quality public education and fund class size reduction, school libraries, teacher training, student support, music programs, instructional technology, and other designated purposes, shall the Berkeley Unified School District replace its expiring special tax with an annual tax at 37¢ / square foot for taxable buildings, for eight years, with annual cost-of-living adjustments and a low-income senior exemption? An oversight committee and independent auditors will monitor this fund.

**EXHIBIT B**

**FULL BALLOT TEXT**

**Measure \_\_**

*[letter designation to be assigned by Alameda County]*

**BERKELEY UNIFIED SCHOOL DISTRICT**

**BERKELEY PUBLIC SCHOOLS EDUCATIONAL EXCELLENCE ACT OF 2016**

To support high quality public education and fund class size reduction, school libraries, teacher training, student support, music programs, instructional technology, and other designated purposes, shall the Berkeley Unified School District replace its expiring special tax with an annual tax at 37¢ / square foot for taxable buildings, for eight years, with annual cost-of-living adjustments and a low-income senior exemption? An oversight committee and independent auditors will monitor this fund.

**1. Title and Purpose**

This measure shall be known as the "Berkeley Public Schools Educational Excellence Act of 2016" ("Measure"). The revenues raised by the Measure are to be used to improve the educational achievement of Berkeley Unified School District's ("District") public school students by providing high quality educational programs.

**2. Allocation of Funds**

Available Revenues raised by the levy of the tax authorized by the Measure are to be allocated to the following purposes and shall be deposited in restricted accounts for these purposes:

**High Quality Instruction:** Small Class Sizes; Professional Development; Classroom Support; Program Evaluation; Expanded Course Offerings..... 66%

**Essentials for Excellence:** School Libraries; Music, Visual and Performing Arts; School Site Programs; Instructional Technology..... 27%

**Effective Student Support:** Counseling and Behavioral Health; Family Engagement and Access; Student Achievement Strategies..... 7%

**3. Definition of Purposes**

**A. High Quality Instruction:** Small Class Sizes; Professional Development; Classroom Support; Program Evaluation; and Expanded Course Offerings

Sixty-six percent (66%) of the Available Revenues shall be dedicated annually to reducing class sizes at all District-operated K-12 schools, and may also be allocated to provide funding for professional development, classroom support, program evaluation, and expanded course offerings.

- i. It is the intent of this Measure to reduce Average Class Sizes in K-5 to a goal of 23:1 as a school-wide average. Beginning in 2017-18, the District-operated elementary school Average Class Sizes shall be gradually adjusted toward achieving the goal of school-wide averages of 23:1 by the sixth year of the measure.

- ii. The goal for reduction of K-5 Average Class Sizes detailed in Section 3.A.i. is contingent on the continuation of State funding to the District for smaller class sizes. At the time of writing of this Measure, the State provides increased funding to school districts that achieve a school-wide Average Class Size of 24:1 in K-3 classrooms, but does not provide additional funding to reduce class sizes in grades 4-5. If the State continues to provide the same or a greater amount of funding to the District to reduce class sizes in K-3 classrooms, it is the intent of this Measure that the Average Class Sizes be reduced as described in Section 3.A.i. If State class size reduction funds provided to the District are reduced from their current levels or eliminated, the goals for Average Class Sizes in K-5 may increase above 23:1, up to a district-wide average of 26:1.
- iii. The goals for Average Class Sizes to be achieved with these revenues shall be 28:1 for the secondary schools, and 18:1 for continuation school programs.
- iv. After the District meets the Average Class Size goals as described in 3.A.i., funding may be allocated to provide additional support for teaching and learning, such as professional development, classroom support, program evaluation, and expanded course offerings. Any allocations within these options shall be recommended by District staff to the Planning and Oversight Committee (as described in Section 8.B) and approved by the District's Board of Education ("Board").
- v. The reduced Average Class Sizes shall be maintained throughout the duration of the Measure except in the case of a "Severe Fiscal Emergency" as defined in Section 9 of this Measure.
- vi. The revenues dedicated to these purposes may be spent for all costs attendant to them, including operational costs, and other costs associated with the opening or maintaining of classrooms to reduce class sizes.

**B. Essentials for Excellence:** School Libraries; Music, Visual and Performing Arts; School Site Programs; Instructional Technology

Twenty-seven percent (27%) of the Available Revenues shall be dedicated annually to providing programs designed to improve the academic proficiency and educational experience of all students by providing equitable access to an enriched, challenging and engaging curriculum. Available Revenues may support all costs attendant to providing these services at district-operated schools, including operational costs. These revenues shall be allocated to district-wide programs as follows:

- i. School Libraries: Seven and a quarter percent (7.25%) of the Available Revenues shall be allocated annually to provide student access to quality school libraries, which shall be maintained by providing library staff to operate the District's K-12 school and other specialized libraries, and by allocating revenues for books, materials, services and equipment for the school libraries.

- ii. Music and Visual and Performing Arts Programs: Six and a quarter percent (6.25%) of the Available Revenues shall be allocated annually to providing quality instructional programs in music and the visual and performing arts for elementary and middle school students. Available Revenues may be used for, but are not restricted to, providing qualified teachers and staff, and professional development in the arts for elementary and secondary students. Musical instruments, instructional materials, equipment and necessary services may be provided for any K-12 school, as long as funds permit.
- iii. School Site Programs: Ten and a quarter percent (10.25%) of the Available Revenues shall be allocated annually for School Site Programs to each K-12 school on a per pupil basis. District preschools shall receive a similar allocation for each full time student. The School Site Council (as described in Section 8.C.) shall develop recommendations to allocate these revenues for the personnel, services and materials required to deliver effective and equitable opportunities for student engagement, enrichment, and achievement. Available Revenues may be used for, but are not restricted to, the personnel, materials and services required to deliver such programs as art and science instruction, academic tutoring and counseling, athletics and student activities, and before and after school programs.
- iv. Instructional Technology: Three and a quarter percent (3.25%) of the Available Revenues shall be allocated to providing instructional technology in schools, and access for students to computers and instructional technology.

**C. Effective Student Support:** Counseling and Behavioral Health; Family Engagement and Access; Student Achievement Strategies

Seven percent (7%) of the Available Revenues generated by this Measure shall be dedicated annually to providing programs designed to provide effective supports that help students reach their highest academic potential while addressing the needs of the whole child. These revenues may be allocated to programs in any district-operated school for such purposes as Counseling and Behavioral Health, Family Engagement and Access, or Student Achievement Strategies to improve academic, behavioral and social-emotional outcomes for students. Any allocations among these programs shall be recommended by district staff to the Planning and Oversight Committee and approved by the Board. Available Revenues may support all costs attendant to providing these services, including operational costs.

**D. Flexibility of Funds**

To maintain high quality programs with the revenues available for the specified purposes, up to ten percent (10%) of the allocations for any one or more of certain district-wide programs (School Libraries; Music and Visual and Performing Arts Programs; Technology; and Effective Student Supports) may, upon review by the Planning and Oversight Committee and approval by the Board, be redistributed among any one or more of these purposes in any given year. To promote the long-term sustainability of the programs funded by the Measure, the Board may allocate a portion of Available Revenues to be set aside as reserves, so long as the funds are planned for use within the term of the Measure and in a manner consistent with the allocations provided in the Measure.



**4. Amount and Basis of Tax**

This special tax shall authorize the District to levy a special tax of thirty-seven cents (\$0.37) per square foot on all Improvements beginning July 1, 2017, and continuing for a period of eight (8) years ("Special Tax"). This Special Tax shall be levied on the Square Footage of all Improvements, including all Buildings and Structures, on Parcels of Taxable Real property in the District. The tax base shall be as described in the Berkeley Municipal Code Section 7.56.020 which defines and delimits the parameters of the square footage applications, and which is incorporated by reference herein. Current definitions of the terms "Buildings," "Improvements," "Parcels," and "Square Footage," pursuant to the Berkeley Municipal Code are provided and incorporated pursuant to Section 9 of this Measure.

To determine the rate of the Special Tax levied in the 2018-19 tax year (the second year of assessment of the Special Tax), and each year thereafter, the rate shall 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 will be adjusted based on the changes in the Consumer Price Index - All Urban Consumers (CPI-U). Any increase in Available Revenues due to the cost-of-living adjustments set forth in this Section shall be allocated proportionally among the Measure's purposes in accordance with Section 2 of this Measure.

This Special Tax is estimated to raise \$28 million in annual local funding for District schools based on the amount of the tax for the 2017-18 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, and changes in the number of parcels subject to the levy. Any proceeds from this Special Tax not spent during those fiscal years may be spent on all authorized purposes until exhausted.

**5. Exemption**

An exemption from this Special Tax may be granted annually on any single-family residential Parcel or multi-family dwelling unit owned and occupied by one or more very low-income senior citizens, upon annual application to the City of Berkeley for such exemption. To be eligible for such exemption, the senior citizen must be 65 years of age or older as of July 1 of any applicable tax year, and must meet 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.

**6. Claims / Exemption Procedures**

With respect to all general property tax matters within their respective jurisdictions, the Alameda County Treasurer-Tax Assessor 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. With respect to matters specific to the levy of this Special Tax, a district administrative review panel or the City of Berkeley, as the designated agency, shall make all necessary final determinations, 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.

**7. 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.

**8. 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.
- B. Planning and Oversight Committee. A district-wide Planning and Oversight Committee, composed of parents/guardians, staff members, students, residents, or community members representing all school sites and designated programs, shall be established to be advisory to the District, and, in accordance with bylaws adopted by the Board, shall: present recommendations to the Board about the annual expenditure plans for the revenues generated by this Measure; provide communication among school sites to enhance their effective use of the revenues provided by this Measure; and review district compliance with the terms of this Measure.
- C. School Site Councils. A School Site Council, composed of the school's Principal, teachers, staff members, parents/guardians, residents, or community members, shall be established at each pre-K-12 school site or designated program in accordance with California law, policies, and by-laws adopted by the Board.

Each School Site Council shall develop a School Site Plan which shall be focused on improving student learning and shall direct the revenues from section 3.B.iii. of the Measure to implement the Board-approved School Site Plan.

At Berkeley High School, a committee composed of students, teachers, staff members and parents/guardians, residents or community members may make recommendations for expenditures allocated from the Measure to the School Site Council.

The District shall regularly make available revenue and expenditure reports to the Principal and the School Site Councils to enable the preparations for each School Site Plan.

- D. Financial Oversight. The District shall make available to the Planning and Oversight 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.

The Annual Report shall be delivered to the Planning and Oversight Committee no later than January 15 following the closing of the fiscal year. The Planning and Oversight Committee shall review the Annual Report and report to the Board on the District's compliance with the conditions of this Measure by February 1 following the closing of the fiscal year.

- E. 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 allocated to the respective purposes in the percentages specified in Section 2.
  - that the funds raised by this Measure have been spent for purposes specified in Section 3, subdivisions A-D.
  - 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 the Auditor's Report, the District's Audit Committee, as established by the Board, shall review the Auditor's Report.

## **9. Definitions**

For purposes of this Measure, the following terms shall be defined as set forth below:

- A. "Available Revenues" shall mean the amount of money resulting from the levy of this 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, and less two percent (2%) of the remaining revenues which shall be dedicated to support of the Planning and Oversight Committee, School Site Councils and Community Engagement, and for communications and public information services.
- B. "Average Class Size" shall mean the District-wide average of the enrollment at each grade level in all K-12 classrooms, excluding physical education. After elementary class-size balancing has been fully implemented, "Average Class Size" shall mean school-wide averages for the elementary grades and district-wide averages for secondary grades, with the exception of physical education classes, which may be larger.

The formula for determining the number of full-time equivalent teachers (FTEs) in grades 6-12 necessary to meet the Average Class Size objectives shall be: student enrollment multiplied by six (6) class periods per day/per student, divided by five (5) teaching periods, divided by the Average Class Size objective, unless and until this formula is altered contractually by

agreement between the District and the Berkeley Federation of Teachers (or the union representing District teachers).

- C. 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."
- D. 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.
- E. "Operational Costs" are all costs of operating relevant District programs to accomplish this Measure's purposes and include but are not limited to personnel, materials, equipment, services, technology, facilities, maintenance and administrative costs. Administrative costs incurred in implementing this Measure shall be paid from the proceeds of this Measure at the District's Indirect Cost Rate authorized by the California Department of Education.
- F. In accordance with Berkeley Municipal Code Section 7.56.020, subdivision I, which is incorporated by reference herein, "Parcel" means a unit of real estate in one ownership as shown on the most current official assessment role of the Alameda County Assessor.
- G. "Reducing Class Sizes" shall mean that the revenues allocated under Section 3.A. of this Measure shall be allocated to reduce class sizes, below the staffing ratios supported by the District's Unrestricted General Fund.
- H. "Severe Fiscal Emergency" means that the District's Board has declared a Severe Fiscal Emergency with no less than a four-fifth (4/5) vote following:
  - i. The Board determining the District's Interim Financial Report to be "Negative" pursuant to AB 1200 and AB 2756, and the Alameda County Office of Education concurring with this determination; or
  - ii. The Alameda County Office of Education has "Disapproved" the District's annual budget, or has "Certified" the District's Interim Financial Report as "Negative."
- I. 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:
  - i. Areas used for off-street parking spaces or loading berths and driveways and maneuvering aisles relating thereto.

- ii. 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.
  - iii. 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.
- J. 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.
- K. "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. 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.
- L. 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.

**10. Protection of Funding**

Current law forbids any decrease in State or federal funding to the District resulting from the adoption 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 taxes 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.

**11. Savings Clause**

The provisions of this Measure shall not apply to any person, association, or corporation or to any property as to whom or which it is beyond the power of the District to impose the tax herein provided. 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.

**EXHIBIT C**

**FORMAL NOTICE OF SPECIAL TAX ELECTION  
[For Use by County Superintendent]**

NOTICE IS HEREBY GIVEN to the qualified electors of the Berkeley Unified School District of Alameda County, California, that in accordance with the provisions of the Education Code and the Government Code of the State of California, an election will be held on November 8, 2016, for the purpose of submitting to the qualified electors of the District this Measure summarized as follows:

To support high quality public education and fund class size reduction, school libraries, teacher training, student support, music programs, instructional technology, and other designated purposes, shall the Berkeley Unified School District replace its expiring special tax with an annual tax at 37¢ / square foot for taxable buildings, for eight years, with annual cost-of-living adjustments and a low-income senior exemption? An oversight committee and independent auditors will monitor this fund.

By execution of this formal Notice of Election the Alameda County Superintendent of Schools orders consolidation of the election with such other elections as may be held on the same day in the same territory or in territory that is in part the same.

The Alameda County Superintendent of Schools, by this Notice of Election, has called the election pursuant to a Resolution and Order of the Governing Board of the Berkeley Unified School District adopted May 18, 2016, in accordance with the provisions of Education Code Sections 5302, 5325 and 5361.

IN WITNESS WHEREOF, I have hereunto set my hand this day, \_\_\_\_\_,  
2016.

\_\_\_\_\_  
Karen Monroe  
Alameda County Superintendent of Schools  
Hayward, California