



Office of the City Manager

ACTION CALENDAR
June 11, 2013

To: Honorable Mayor and Members of the City Council
From:  Christine Daniel, City Manager
Submitted by: Robert Hicks, Director, Finance Department
Subject: Borrowing of Funds and the Sale and Issuance of FY 2014 Tax and Revenue Anticipation Notes

RECOMMENDATION

Adopt a Resolution approving the borrowing of \$25,000,000 and the sale and issuance of Fiscal Year 2014 Tax and Revenue Anticipation Notes.

FISCAL IMPACTS OF RECOMMENDATION

Each year, the City (as do many local agencies) issues Tax and Revenue Anticipation Notes (TRANS) to help the City with its working capital needs during the first six months of the fiscal year. The reason for this issuance is that the City does not receive property tax revenues until December, thereby creating a negative cash flow in the General Fund. This annual issuance also enables the General Fund to recoup some of the interest earnings lost in advancing money to grant funds pending grant reimbursements, since the interest rate earned on any note proceeds invested will exceed the cost of borrowing.

The City's General Fund cash flow has become more volatile due to (1) the redirection of a portion of the City's sales tax by the State, which was received monthly, for the repayment of "State Budget Deficit Bonds" and backfilled with property tax which the City now receives in December and April; and (2) the payment of Vehicle In Lieu fees in December and May with the property taxes, instead of monthly.

The money will be deposited in the General Fund and used by the City for any purpose for which it is authorized to expend General Fund monies. The interest earned on these monies will be allocated to the General Fund. The repayment of principal and interest on the notes are to be made from General Fund taxes and other revenues.

CURRENT SITUATION AND ITS EFFECTS

The General Fund advances grant funds in the amounts needed to pay for their expenditures, until these funds receive reimbursement from the granting agencies. During the first six months of the fiscal year until property tax receipts are received, General Fund operating expenditures exceed revenues. Under the interpretation of

Sections 53850-53858 of the California Government Code and federal tax law by the City's Bond Counsel, Jones Hall, the City may borrow an amount not to exceed the maximum anticipated cash flow deficit plus five percent of working capital reserve if all the note proceeds, including investment earnings, are deemed spent within 6 months of the date of the issue of the notes. This method of financing involves the sale of Tax and Revenue Anticipation Notes (TRANS) and is a traditional means used by local governments to ensure a consistent cash flow during the fiscal year. This year the City will borrow monies (\$25 million) to help with working capital needs in the first six months of the fiscal year and, when expenditures exceed incoming revenues. In the last six months of the fiscal year, these notes are repaid from General Fund taxes and other revenues, mainly property taxes and business license taxes.

For Fiscal Year 2014, the City will require a note sale of an amount not to exceed twenty-five million dollars (\$25,000,000). The interest rate on the notes will depend on competitive rates at the time of the sale.

RATIONALE FOR RECOMMENDATION

The General Fund advances grant funds the amounts needed to pay for their expenditures, until these funds receive reimbursement from the granting agencies. During the first six months of the fiscal year, General Fund operating expenditures exceed revenues. As a result, the General Fund's working capital is depleted during this period, and borrowing these funds will alleviate that situation. Moreover, the interest rate earned on any note proceeds invested will exceed the cost of borrowing.

CONTACT PERSON

Robert Hicks, Director of Finance, Finance Department, 981-7301

Attachments:

- 1: Resolution
 - Exhibit A: Form of Note
- 2: Notice of Intention to Sell Notes
- 3: Bond Counsel Opinion
4. Bond Purchase Agreement

RESOLUTION NO. _____-N.S.

APPROVING THE BORROWING OF FUNDS FOR FISCAL YEAR 2013-14 AND THE
ISSUANCE AND SALE OF 2013-14 TAX AND REVENUE ANTICIPATION NOTES

WHEREAS, pursuant to Article 7.6 (commencing with section 53850) of Chapter 4 of Part 1 of Division 2 of Title 5 of the California Government Code (the "Law"), this City Council (the "Council") has found and determined that moneys are needed for the requirements of the City, a municipal corporation and charter city duly organized and existing under the laws of the State of California, to satisfy obligations payable from the General Fund of the City (the "General Fund"), and that it is necessary that said sum be borrowed for such purpose at this time by the issuance of temporary notes therefor in anticipation of the receipt of taxes, income, revenue, cash receipts and other moneys to be received by the City for the General Fund during or allocable to the fiscal year of the City beginning July 1, 2013 and ending June 30, 2014 ("Fiscal Year 2013-14"); and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the following is approved:

Section 1. Limitation on Maximum Amount. The principal amount of notes issued pursuant hereto, when added to the interest payable thereon, shall not exceed eighty-five percent (85%) of the estimated amount of the uncollected taxes, income, revenue, cash receipts and other moneys of the City for the General Fund attributable to Fiscal Year 2013-14, and available for the payment of said notes and the interest thereon (as hereinafter provided).

Section 2. Authorization and Terms of Notes. Solely for the purpose of anticipating taxes, income, revenue, cash receipts and other moneys to be received by the City for the General Fund during or allocable to Fiscal Year 2013-14, and not pursuant to any common plan of financing, the City hereby determines to and shall borrow the principal amount of not-to-exceed Twenty-Five Million Dollars (\$25,000,000) by the issuance of temporary notes under the Law, designated "City of Berkeley, California 2013-14 Tax and Revenue Anticipation Notes" (the "Notes"). The Notes shall be dated the date of initial delivery, shall mature (without option of prior redemption) no later than thirteen months after their date of issuance, and shall bear interest, payable at maturity and computed on a 30-day month/360-day year basis, at a rate not in excess of five percent per annum. Both the principal of and interest on the Notes shall be payable in lawful money of the United States of America, as described below.

Section 3. Form of Notes; Book Entry Only System. The Notes shall be issued in fully registered form, without coupons, and shall be substantially in the form and substance set forth in Exhibit A attached hereto and by reference incorporated herein, the blanks in said form to be filled in with appropriate words and figures. The Notes shall be numbered from 1 consecutively upward in order of issuance, shall be in the denomination of \$5,000 each or any integral multiple thereof.

“CUSIP” identification numbers shall be imprinted on the Notes, but such numbers shall not constitute a part of the contract evidenced by the Notes and any error or omission with respect thereto shall not constitute cause for refusal of any purchaser to accept delivery of and pay for the Notes. In addition, failure on the part of the City to use such CUSIP numbers in any notice to the registered owners of the Notes shall not constitute an event of default or any violation of the City’s contract with such owners and shall not impair the effectiveness of any such notice.

Except as provided below, the owner of all of the Notes shall be The Depository Trust Company, New York, New York (“DTC”), and the Notes shall be registered in the name of Cede & Co., as nominee for DTC. The Notes shall be initially executed and delivered in the form of a single fully registered Note in the full aggregate principal amount of the Notes. The City may treat DTC (or its nominee) as the sole and exclusive owner of the Notes registered in its name for all purposes of this Resolution, and the City shall not be affected by any notice to the contrary. The City shall not have any responsibility or obligation to any participant of DTC (a “Participant”), any person claiming a beneficial ownership interest in the Notes under or through DTC or a Participant (a “Beneficial Owner”), or any other person 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 Participant or the payment by DTC or any Participant by DTC or any Participant of any amount in respect of the principal or interest with respect to the Notes. The City shall pay all principal and interest with respect to the Notes only to DTC or its nominee, 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 Notes to the extent of the sum or sums so paid. Except under the conditions noted below, no person other than DTC shall receive a Note. 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 Notes and delivers a written certificate to DTC to that effect, DTC shall notify the Participants of the availability through DTC of Notes. In such event, the City shall issue, transfer and exchange Notes as requested by DTC and any other owners in appropriate amounts. DTC may determine to discontinue providing its services with respect to the Notes 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 Notes to the Beneficial Owners 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 Notes evidencing the Notes to any DTC Participant having Notes credited to its DTC account or (b) arrange for another securities depository to maintain custody of Certificates evidencing the Notes.

Notwithstanding any other provision of this Resolution to the contrary, so long as any Note 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 Note and all notices with respect to such Note shall be made and given, respectively, to DTC as provided as in the representation letter delivered on the date of issuance of the Notes.

Section 4. Use of Proceeds. The proceeds of the sale of the Notes shall be deposited in a segregated account in the General Fund and used and expended by the City for any purpose for which it is authorized to expend funds from the General Fund.

Section 5. Security. The principal amount of the Notes, together with the interest thereon, shall be payable from taxes, income, revenue, cash receipts and other moneys which are received by the City for the General Fund for Fiscal Year 2013-14. As security for the payment of the principal of and interest on the Notes the City hereby pledges the first “unrestricted moneys” (as hereinafter defined) to be received by the City as follows: (a) an amount equal to fifty percent (50%) of the principal amount of the Notes in the month of January, 2014; (b) an amount equal to fifty percent (50%) of the principal amount of the Notes in the month of May, 2014; and (c) an amount sufficient to pay interest as due on the Notes at their maturity, in the month of June, 2014 (such pledged amounts being hereinafter called the “Pledged Revenues”). The principal of the Notes and the interest thereon shall constitute a first lien and charge thereon and shall be payable from the Pledged Revenues. To the extent not so paid from the Pledged Revenues, the Notes shall be paid from any other moneys of the City lawfully available therefor. In the event that there are insufficient “unrestricted moneys” received by the City to permit the deposit into the Special Account (as hereinafter defined) of the full amount of the Pledged Revenues to be deposited in any month by the last business day of such month, then the amount of any deficiency shall be satisfied and made up from any other moneys of the City lawfully available for the repayment of the Notes and interest thereon. The term “unrestricted moneys” shall mean taxes, income, revenue, cash receipts, and other moneys intended as receipts for the General Fund for Fiscal Year 2013-14 and which are generally available for the payment of current expenses and other obligations of the City.

Section 6. Special Account. There is hereby created, within the General Fund, a special account to be designated the “2013-14 Tax and Revenue Anticipation Note Special Account” (the “Special Account”) and applied as directed in this Resolution. Any money placed in the Special Account shall be for the benefit of the owners of the Notes and, until the Notes and all interest thereon are paid or until provision has been made for the payment of the Notes at maturity with interest to maturity, the moneys in the Special Account shall be applied solely for the purposes for which the Special Account is created.

During the months of January, May, and June, 2014, the City shall deposit all Pledged Revenues in the Special Account. On the maturity date of the Notes, the City shall transfer to DTC the moneys in the Special Account necessary to pay the principal of and interest on the Notes at maturity and to the extent said moneys are insufficient

therefor an amount of moneys from the General Fund which will enable payment of the full principal of and interest on the Notes at maturity. DTC will thereupon make payments of principal of and interest on the Notes to the DTC Participants who will thereupon make payments to the Beneficial Owners of the Notes. Any moneys remaining in the Special Account after the Notes and the interest thereon have been paid, or provision for such payment has been made, shall be transferred to the General Fund.

Section 7. Deposit and Investment of Special Account. All moneys held by the City in the Special Account, if not invested, shall be held in time or demand deposits as public funds and shall be secured at all times by bonds or other obligations which are authorized by law as security for public deposits, of a market value at least equal to the amount required by law.

Moneys in the Special Account shall, to the greatest extent possible, be invested by the City directly, or through an investment agreement, in investments as permitted by the laws of the State of California as now in effect and as hereafter amended, and the proceeds of any such investments shall be deposited in the Special Account.

Section 8. Execution of Notes. The Mayor of the City, the City Manager, or the Director of Finance (each an "Authorized Officer") is hereby authorized to execute the Notes by manual or facsimile signature, and the City Clerk of the City is hereby authorized to countersign the same by manual or facsimile signature (although at least one of such signatures shall be manual) and to affix the seal of the City thereto by facsimile impression thereof, and said officers are hereby authorized to cause the blank spaces thereof to be filled in as may be appropriate.

Section 9. Transfer of Notes. Any Note may, in accordance with its terms, but only if the City determines to no longer maintain the book entry only status of the Notes, DTC determines to discontinue providing such services and no successor securities depository is named or DTC requests the City to deliver Note certificates to particular DTC Participants, be transferred, upon the books required to be kept pursuant to the provisions of Section 11 hereof, by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Note for cancellation at the office of the City Clerk, accompanied by delivery of a written instrument of transfer in a form approved by the City, duly executed.

Whenever any Note or Notes shall be surrendered for transfer, the City shall execute and the Paying Agent shall authenticate and deliver a new Note or Notes, for like aggregate principal amount.

Section 10. Exchange of Notes. Any Note may, in accordance with its terms, but only if the City determines to no longer maintain the book entry only status of the Notes, DTC determines to discontinue providing such services and no successor securities depository is named or DTC requests the City to deliver Note certificates to particular

DTC Participants, be exchanged at the office of the City Clerk for a like aggregate principal amount of Notes of authorized denominations and of the same maturity.

Section 11. Note Register. The City shall keep or cause to be kept sufficient books for the registration and transfer of the Notes if the book entry only system is no longer in effect and, in such case, the City Clerk shall register or transfer or cause to be registered or transferred, on said books, Notes as herein before provided. While the book entry only system is in effect, such books need not be kept as the Notes will be represented by one Note registered in the name of Cede & Co., as nominee for DTC.

Section 12. Temporary Notes. The Notes may be initially issued in temporary form exchangeable for definitive Notes when ready for delivery. The temporary Notes may be printed, lithographed or typewritten, shall be of such denominations as may be determined by the City, and may contain such reference to any of the provisions of this Resolution as may be appropriate. Every temporary Note shall be executed by the City upon the same conditions and in substantially the same manner as the definitive Notes. If the City issues temporary Notes it will execute and furnish definitive Notes without delay, and thereupon the temporary Notes may be surrendered, for cancellation, in exchange therefor at the office of the City Clerk and the City Clerk shall deliver in exchange for such temporary Notes an equal aggregate principal amount of definitive Notes of authorized denominations. Until so exchanged, the temporary Notes shall be entitled to the same benefits pursuant to this Resolution as definitive Notes executed and delivered hereunder.

Section 13. Notes Mutilated, Lost, Destroyed or Stolen. If any Note shall become mutilated the City, at the expense of the owner of said Note, shall execute and deliver a new Note of like maturity and principal amount in exchange and substitution for the Note so mutilated, but only upon surrender to the City Clerk of the Note so mutilated. Every mutilated Note so surrendered to the City Clerk shall be canceled and delivered to, or upon the order of, the City. If any Note shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the City and, if such evidence be satisfactory to the City and indemnity satisfactory to it shall be given, the City, at the expense of the owner, shall execute and deliver a new Note of like maturity and principal amount in lieu of and in substitution for the Note so lost, destroyed or stolen. The City may require payment of a sum not exceeding the actual cost of preparing each new Note issued under this Section 13 and of the expenses which may be incurred by the City in the premises. Any Note issued under the provisions of this Section 13 in lieu of any Note alleged to be lost, destroyed or stolen shall constitute an original additional contractual obligation on the part of the City whether or not the Note so alleged to be lost, destroyed or stolen be at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Resolution with all other Notes issued pursuant to this Resolution.

Section 14. Covenants and Warranties. It is hereby covenanted and warranted by the City that all representations and recitals contained in this Resolution are true and correct, and that the City and its appropriate officials have duly taken all proceedings

necessary to be taken by them, and will take any additional proceedings necessary to be taken by them, for the prompt collection and enforcement of the taxes, income, revenue, cash receipts and other moneys pledged hereunder in accordance with law and for carrying out the provisions of this Resolution.

Section 15. Tax Covenants.

(a) *No Arbitrage.* The City shall not take, nor permit nor suffer to be taken any action with respect to the proceeds of the Notes which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of issuance of the Notes (the "Closing Date") would have caused the Notes to be "arbitrage bonds" within the meaning of section 148 of the Internal Revenue Code of 1986 (the "Code").

(b) *Rebate Requirement.* The City shall take any and all actions necessary to assure compliance with section 148(f) of the Code, relating to the rebate of excess investment earnings, if any, to the federal government.

(c) *Private Activity Note Limitation.* The City shall assure that proceeds of the Notes are not so used as to cause the Notes to satisfy the private business tests of section 141(b) of the Code.

(d) *Private Loan Financing Limitation.* The City shall assure that proceeds of the Notes are not so used as to cause the Notes to satisfy the private loan financing test of section 141(c) of the Code.

(e) *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 any of the Notes to be "federally guaranteed" within the meaning of section 149(b) of the Code.

(f) *Maintenance of Tax-Exemption.* The City shall take all actions necessary to assure the exclusion of interest on the Notes from the gross income of the owners of the Notes to the same extent as such interest is permitted to be excluded from gross income under the Code as in effect on the Closing Date.

Section 16. Official Statement. The City Council hereby approves the Official Statement describing the Notes, in substantially the form on file with the City Clerk, together with any changes therein or additions thereto deemed advisable by the Authorized Officer. The City Council authorizes and directs the Authorized Officer on behalf of the City to deem "final" pursuant to Rule 15c2-12 under the Securities Exchange Act of 1934 (the "Rule") the Official Statement prior to its distribution by the financial advisors to the City. The execution of the Official Statement, which shall include such changes and additions thereto deemed advisable by the Authorized Officer and such information permitted to be excluded from the Official Statement pursuant to the Rule, shall be conclusive evidence of the approval of the Official Statement by the City.

The Authorized Officer is authorized and directed to execute the Official Statement and a statement that the facts contained in the Official Statement, and any supplement or amendment thereto (which shall be deemed an original part thereof for the purpose of such statement) were, at the time of sale of the Notes, true and correct in all material respects and that the Official Statement did not, on the date of sale of the Notes, and does not, as of the date of delivery of the Notes, contain any untrue statement of a material fact with respect to the City or omit to state material facts with respect to the City required to be stated where necessary to make any statement made therein not misleading in the light of the circumstances under which it was made. The Authorized Officer shall take such further actions prior to the signing of the Official Statement as are deemed necessary or appropriate to verify the accuracy thereof. The Official Statement is approved for distribution in the offering and sale of the Notes.

Section 17. Sale of Notes. An underwriter (the “Underwriter”) to be designated by an Authorized Officer will purchase the Notes. The Authorized Officer is hereby authorized to designate the Underwriter, in consultation with the City’s financial advisor, NHA Advisors (the “Financial Advisor”) in one of the following ways:

(a) *Limited Negotiated.* The Authorized Officer may direct the Financial Advisor to contact a limited number of Underwriters and negotiate the sale of the Notes. A form of Note Purchase Agreement (the “Note Purchase Agreement”) has been submitted for the Council’s review. The form of Note Purchase Agreement is hereby approved and the Authorized Officer is hereby authorized to execute and deliver a Note Purchase Agreement in connection with a negotiated sale of the notes, substantially in the form submitted to and on file with the City Clerk, but with such changes therein, deletions therefrom, and modifications thereto (including designation of the Underwriter) as the Authorized Officer shall approve, such approval to be conclusively evidenced by his or her execution and delivery thereof.

(b) *Public Sale.* The Authorized Officer, in consultation with the Financial Advisor, may determine to sell the Notes by competitive bid and award the sale of the Notes as set forth in an Official Notice of Sale (the “Official Notice of Sale”), the form of which is attached to this Resolution and is hereby approved, and which Jones Hall, as bond counsel to the City (“Bond Counsel”), is hereby authorized to finalize, consistent with this Resolution. If the Authorized Officer determines to proceed with a competitive bid, (a) Bond Counsel is hereby directed to arrange for the publication of a notice of intention of the sale of the Notes in The Bond Buyer, in accordance with Section 53692 of the Government Code and (b) the Authorized Officer is hereby directed to execute the Official Notice of Sale; to open the bids at the time and place specified in the Official Notice of Sale; to receive and record the receipt of all bids made pursuant to the Official Notice of Sale; to cause said bids to be examined for compliance with the Official Notice of Sale; to cause computations to be made as to which bidder has bid the lowest true interest cost, as provided in the Official Notice of Sale; to announce the bidder of the lowest true interest cost; and to award the sale to

said bidder. The form of Contract of Purchase to be executed in connection with the competitive sale of the Notes is attached to the Official Notice of Sale and is hereby approved, and the Authorized Officer is hereby authorized to execute and deliver a Contract of Purchase, substantially in the form submitted to and on file with the City Clerk, but with such changes therein, deletions therefrom, and modifications thereto (including designation of the Underwriter) as the Authorized Officer shall approve, such approval to be conclusively evidenced by his or her execution and delivery thereof.

The Authorized Officer is further authorized to determine the maximum principal amount of Notes not to exceed \$25,000,000 and the maximum interest rate on the Notes not to exceed six percent per annum.

Section 18. Engagement of Professional Services. The City hereby approves the engagement of Jones Hall, A Professional Law Corporation as Bond Counsel and Disclosure Counsel and NHA Advisors as Financial Advisor to the City in connection with the issuance and sale of the Notes.

Section 19. Preparation of Notes; Official Action. Jones Hall, A Professional Law Corporation, as bond counsel, is directed to cause suitable Notes to be prepared showing on their face that the same bear interest at the rate specified in the offer submitted by the successful bidder or bidders, and to cause the blank spaces therein to be filled in to comply with the provisions of this Resolution, and to procure their execution by the proper officers, and to cause the Notes to be delivered when so executed to DTC on behalf of the successful bidder or bidders therefor upon the receipt of the purchase price by the City Treasurer in accordance with such successful bid or bids.

The Mayor of the City, the City Manager, or the Director of Finance and the City Clerk, or any of them, are further authorized and directed to make, execute and deliver such certificates, agreements and other closing documents as are necessary to consummate the transactions contemplated by this Resolution.

Section 20. Effective Date. This Resolution shall take effect upon its adoption.

Exhibits:

- A. Form of Note

EXHIBIT A
FORM OF NOTE

No. 1

*****\$_____****

CITY OF BERKELEY, CALIFORNIA
2013-14 TAX AND REVENUE ANTICIPATION NOTE

INTEREST RATE:	MATURITY DATE:	ISSUE DATE:	CUSIP:
%	____, 2014	____, 2013	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL SUM: **** _____ DOLLARS****

The CITY OF BERKELEY, a municipal corporation, duly organized and existing under and by virtue of the Constitution and laws of the State of California (the "City"), for value received hereby promises to pay to the Registered Owner stated above, or registered assigns (the "Owner"), on the Maturity Date stated above, the Principal Sum stated above, in lawful money of the United States of America, and to pay interest thereon in like lawful money at the rate per annum stated above, payable on the Maturity Date stated above, calculated on the basis of 360-day year composed of twelve 30-day months. Both the principal of and interest on this Note shall be payable at maturity to the Owner.

It is hereby certified, recited and declared that this Note is one of an authorized issue of Notes in the aggregate principal amount of _____ Dollars (\$_____), all of like tenor, issued pursuant to the provisions of Resolution No. _____ of the City Council of the City duly passed and adopted on _____, 2012 (the "Resolution"), and pursuant to Article 7.6 (commencing with section 53850) of Chapter 4, Part 1, Division 2, Title 5, of the California Government Code, and that all things, conditions and acts required to exist, happen and be performed precedent to and in the issuance of the Notes exist, have happened and have been performed in regular and due time, form and manner as required by law, and that this Note, together with all other indebtedness and obligations of the City, does not exceed any limit prescribed by the Constitution or statutes of the State of California.

The principal amount of the Notes, together with the interest thereon, shall be payable from taxes, income, revenue, cash receipts and other moneys which are received by the City for the General Fund of the City for Fiscal Year 2013-14. As security for the

payment of the principal of and interest on the Notes the City has pledged the first “unrestricted moneys” (as hereinafter defined) to be received by the City as follows: (a) an amount equal to fifty percent (50%) of the principal amount of the Notes in the month of January, 2014; (b) an amount equal to fifty percent (50%) of the principal amount of the Notes in the month of May, 2014; and (c) an amount sufficient to pay interest as due on the Notes at their maturity, in the month of June, 2014 (such pledged amounts being hereinafter called the “Pledged Revenues”). The principal of the Notes and the interest thereon shall constitute a first lien and charge thereon and shall be payable from the Pledged Revenues. To the extent not so paid from the Pledged Revenues, the Notes shall be paid from any other moneys of the City lawfully available therefor. In the event that there are insufficient “unrestricted moneys” received by the City to permit the deposit into the Special Account (as hereinafter defined) of the full amount of the Pledged Revenues to be deposited in any month by the last business day of such month, then the amount of any deficiency shall be satisfied and made up from any other moneys of the City lawfully available for the repayment of the Notes and interest thereon. The term “unrestricted moneys” shall mean taxes, income, revenue, cash receipts, and other moneys intended as receipts for the General Fund of the City for Fiscal Year 2013-14 and which are generally available for the payment of current expenses and other obligations of the City.

The Notes are issuable as fully registered Notes, without coupons, in denominations of \$5,000 and any integral multiple thereof. Subject to the limitations and conditions as provided in the Resolution, Notes may be exchanged for a like aggregate principal amount of Notes of other authorized denominations and of the same maturity.

The Notes are not subject to redemption prior to maturity.

This Note is transferable by the Owner hereof, but only under the circumstances, in the manner and subject to the limitations provided in the Resolution. Upon registration of such transfer a new Note or Notes, of authorized denomination or denominations, for the same aggregate principal amount and of the same maturity will be issued to the transferee in exchange herefor.

The City may treat the Owner hereof as the absolute owner hereof for all purposes, and the City shall not be affected by any notice to the contrary.

Unless this Note is presented by an authorized representative of The Depository Trust Company to the issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of The Depository Trust Company and any payment is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.

IN WITNESS WHEREOF, the City of Berkeley has caused this Note to be executed by the City Manager and countersigned by the City Clerk of the City, all as of the Issue Date stated above.

CITY OF BERKELEY

By _____
City Manager

Countersigned:

By _____
City Clerk

OFFICIAL NOTICE OF SALE

2013-14 TAX AND REVENUE ANTICIPATION NOTES

\$25,000,000*
City of Berkeley
(Alameda County, California)

NOTICE IS HEREBY GIVEN that electronic bid proposals (see "FORM OF BID" below) for the purchase of the captioned notes (the "Notes") will be received by the City Berkeley, California (the "City"), through BiDCOMP™/Parity® ("Parity") on:

TUESDAY, JUNE 25, 2013

between 8:00 a.m. and 8:30 a.m. California Time.

Further information may be obtained from the financial advisor to the City, NHA Advisors, 4040 Civic Center Drive, Suite 200, San Rafael, California 94903, telephone: (415) 785-2025.

POSTPONEMENT: The City reserves the right to postpone or change the time or sale date upon 20 hours notice delivered via Bloomberg News Service or Thomson Municipal Market Monitor (www.tm3.com).

ISSUE AND DENOMINATION; BOOK ENTRY ONLY SYSTEM: The Notes consist of fully registered notes, without coupons. The Notes will be issued in minimum denominations of \$5,000. The Notes will be issued in a book entry only system with no physical distribution of the Notes made to the public. The Depository Trust Company, New York, New York ("DTC"), will act as depository for the Notes, which will be immobilized in its custody. The Notes 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 Notes.

DATE AND MATURITY: The Notes will be dated the date of delivery (expected to be July 11, 2013), and will mature on July 10, 2014 (the "Maturity Date").

INTEREST RATE: The maximum interest rate bid for the Notes may not exceed five percent (5%) per annum, payable upon maturity of the Notes. Bidders must specify the rate of interest which the Notes shall bear, provided that: (i) bids must be for all Notes; and (ii) the Notes shall bear interest from its date to its stated maturity at the interest rate specified in the bid.

REDEMPTION: The Notes are not subject to call and redemption prior to maturity.

PAYMENT: Both principal of and interest on the Notes will be payable on the Maturity Date, in lawful money of the United States of America, to DTC which will immediately credit the account of the successful bidder or bidders as participants in the DTC system.

* Preliminary; subject to change

PURPOSE OF ISSUE: The Notes are to be issued by the City and are authorized pursuant to the provisions of Article 7.6 (commencing with Section 53850) of Chapter 4 of Part 1 of Division 2 of Title 5 of the California Government Code and the provisions of resolutions of the City for any purpose for which the City is authorized to expend moneys.

SECURITY: The Notes are an obligation of the City and are secured by a pledge of and first lien and charge against the first “unrestricted moneys,” as hereinafter defined, to be received by the City, (a) in an amount equal to 50% of the principal amount of the Notes to be received by the City in January 2014, (b) in an amount equal to 50% of the principal amount of the Notes to be received by the City in May 2014, and (c) in an amount equal to all interest due on the Notes at maturity to be received by the City in June 2014. The term “unrestricted moneys” mean taxes, income, revenue and other moneys intended as receipts for the general fund of the City and which are generally available for the payment of current expenses and other obligations of the City.

Said pledged moneys shall be deposited by the City in a special fund established, created and maintained by the City. Moneys shall be withdrawn from said fund for the sole purpose of paying the principal of and the interest on the Notes at their maturity.

By statute, the Notes are declared to be general obligations of the City, and to the extent not paid from said pledged moneys shall be paid, with the interest thereon, from any other moneys of the City lawfully available therefor. Under provisions of the California Constitution, the City is generally prohibited from incurring any indebtedness or liability exceeding in any year the income and revenue provided for such year, without the assent of two-thirds of its qualified electors voting at an election called for such purpose.

RATING: Moody’s Investors Service has given the Notes a rating of “_____”.

TERMS OF SALE

BEST BID: *Bids must be for all of the Notes.* The Notes will be awarded on the basis of the lowest net interest cost including premium offered in the proposals. No bid for less than par will be entertained. In the event two or more bids setting forth identical interest rates and premium per dollar principal amount, if any, and aggregating a principal amount in excess of the principal amount of unawarded Notes are received, the City's Finance Director, pursuant to delegation by the Council, reserves the right to exercise his discretion and judgment in making the award and may award the Notes on a pro rata basis in such denominations as he shall determine.

ELECTRONIC BIDS: Solely as an accommodation to bidders, the City will accept bids in electronic form solely from Ipreo, a KKR portfolio company, through its BiDCOMP Competitive Bid Calculation System and Parity Electronic Bid Submission System ("Ipreo"). For information about Ipreo, bidders may contact Ipreo at 395 Hudson Street, New York, New York 10014, telephone (212) 849-5023. If any provision of this Notice of Sale conflicts with information provided by Ipreo, this Notice of Sale shall control. Each bidder submitting an electronic bid understands and agrees by doing so that it is solely responsible for all arrangements with Ipreo, that the City does not encourage the use of Ipreo, and that Ipreo is not acting as an agent of the City. Instructions for submitting electronic bids must be obtained from Ipreo, and the City does not assume any responsibility for ensuring or verifying bidder compliance with Ipreo procedures. Ipreo has advised the City that bidders must subscribe to Ipreo if such bidders intend to use Ipreo to submit bids. The City shall be entitled to assume that any bid received via Ipreo has been made by a duly authorized agent of the bidder.

Neither the City, the Financial Advisor nor Bond Counsel has any responsibility for proper functioning of the Ipreo 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.

PROMPT AWARD: The City Representative, pursuant to delegation by the City, will take action awarding the sale of the Notes or reject all bids not later than forty-eight (48) hours after the expiration of time herein prescribed for the receipt of bids and until such expiration of time all bids received shall be irrevocable. Unless such time of award is waived by the successful bidder, the award may be made after the expiration of the specified time if the bidder shall not have given to the City representative notice in writing of the withdrawal of such proposal. Notice of the award will be given promptly to the successful bidder.

DELIVERY AND PAYMENT: It is estimated that the delivery of the Notes will be made to DTC for the account of the successful bidders on or about July 11, 2013. Payment of the purchase price must be made in funds immediately available to the City by wire transfer or other means acceptable to the City.

RIGHT OF REJECTION: The City reserves the right, in its sole discretion, to reject any and all bids for the Notes and to waive any irregularity or informality in any bid.

CHANGE IN TAX EXEMPT STATUS: At any time before the Notes are tendered for delivery, any successful bidder may disaffirm and withdraw its proposal if the interest received by private holders from notes of the same type and character shall be declared to be taxable income under present federal income tax laws, either by ruling of the Internal Revenue Service or by a decision of any federal court, or shall be declared taxable or be required to be taken into

account in computing any federal income taxes by the terms of any federal income tax law enacted subsequent to the date of this notice.

CERTIFICATION OF REOFFERING PRICE: The successful bidder shall be required, as a condition to the delivery of the Notes by the City, to certify to the City and the City in writing that, as of the date of award, (i) the Notes were expected to be reoffered in a bona fide public offering, and (ii) the price at which the Notes were expected to be sold to the public, in the form and substance satisfactory to the City, the City and Bond Counsel.

CONTINUING DISCLOSURE: In order to assist bidders in complying with S.E.C. Rule 15c2-12(b)(5), the City will undertake, pursuant to separate Continuing Disclosure Certificates, to provide notices of the occurrence of certain events, if material. A description of these undertakings is set forth in the preliminary official statement relating to the Notes (the "POS") and will also be set forth in a final official statement relating to the Notes (the "OS").

ACKNOWLEDGMENT OF NO FIDUCIARY DUTY: The City acknowledges and agrees that (i) the purchase and sale of the Notes pursuant to this Agreement is an arm's-length commercial transaction between the City and the Underwriter, (ii) in connection with such transaction, the Underwriter is acting solely as a principal and not as an advisor, (including, without limitation, a Municipal Advisor (as such term is defined in Section 975(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act)), agent or a fiduciary of the City, (iii) the Underwriter has not assumed (individually or collectively) a fiduciary responsibility in favor of the City with respect to the offering of the Notes or the process leading thereto (whether or not the Underwriter, or any affiliate of an Underwriter, has advised or is currently advising the City on other matters) or any other obligation to the City except the obligations expressly set forth in this Agreement, (iv) the Underwriter has financial and other interests that differ from those of the City and (v) the City has consulted with its own legal and financial advisors to the extent it deemed appropriate in connection with the offering of the Notes.

CLOSING PAPERS; LEGAL OPINION: Each proposal will be conditioned upon the City furnishing to each successful bidder, without charge, concurrently with payment for and delivery of the Notes, the following closing papers, each dated the date of such delivery:

(a) The opinion of Bond Counsel, approving the validity of the Notes and stating that, subject to certain qualifications, under existing law, the interest on the Notes 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, although 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, and is exempt from State of California personal income taxes, a copy of which opinion (certified by the official in whose office the original is filed) will be delivered with the Notes without cost to the purchaser.

(b) A certificate of the Finance Director or other appropriate official of the City that on the basis of the facts, estimates and circumstances in existence on the date of issue, it is not expected that the proceeds of the Notes will be used in a manner that would cause the Notes to be "arbitrage bonds" within the meaning of the Code;

(c) A certificate on behalf of the City that there is no litigation threatened or pending affecting the validity of the Notes;

(d) A certificate of the Finance Director or other appropriate official of the City, acting on behalf of the City solely in his or her official and not in his or her personal capacity, that at the time of the sale of the Notes and at all times subsequent thereto up to and including the time of

the delivery of the Notes to the initial purchasers thereof, the OS did not, and does not, contain any untrue statement of a material fact or omit to state a material fact necessary which would make the statements misleading in the light of the circumstances under which they were made;

(e) The signature certificate of the officials of the City, showing that they have signed the Notes and impressed the seal of the City thereon, and that they were respectively duly authorized to execute the same; and

(f) The receipt of the City showing that the purchase price of the Notes has been received.

PURCHASE CONTRACT: Following the award of the Notes, the winning bidder will be required to execute a purchase contract substantially in the form of Exhibit A attached hereto.

OFFICIAL STATEMENT: The City has approved a preliminary Official Statement relating to the Notes. Copies of such preliminary Official Statement will be distributed to any bidder, upon request, prior to the sale in a form "deemed final" by the City for purposes of Rule 15c2-12 under the Securities Exchange Act of 1934 (the "Rule"). Within seven business days from the sale date, the City will deliver to the purchaser copies of the final Official Statement, executed by an authorized representative of the City and dated the date of delivery thereof to the purchaser, in sufficient number to allow the purchaser to comply with paragraph (b)(4) of the Rule and to satisfy the Municipal Securities Rulemaking Board (the "MSRB") Rule G-32 or any other applicable rules adopted by the MSRB, which shall include information permitted to be omitted by paragraph (b)(1) of the Rule and such other amendments or supplements as shall have been approved by the City (the "Final Official Statement"). The purchaser agrees that it will not confirm the sale of any Notes unless the confirmation of sale is accompanied or preceded by the delivery of a copy of the Final Official Statement. The City will furnish to the successful bidder, at no charge, an electronic copy of the Official Statement for use in connection with any resale of the Notes, and up to 15 printed copies upon request.

A letter of Jones Hall, A Professional Law Corporation, San Francisco, California, as disclosure counsel, will be addressed to the City and to the successful bidder, stating that, without passing upon or assuming any responsibility for the accuracy, completeness of fairness of the statements contained in the final Official Statement and making no representations that they have independently verified the accuracy, completeness or fairness of an such statements, based upon the information made available to them in the course of their participation in the preparation of the final Official Statement, nothing has come to such counsel's attention which would lead them to believe that the final Official Statement, including the cover page and all appendices thereto (but excluding therefrom financial statements and statistical data, and information regarding The Depository Trust Company, and its book entry system, as to which no opinion need be expressed) contains an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading

GIVEN pursuant to a resolution of the City adopted June 11, 2013.

Dated: June 11, 2013

EXHIBIT A

FORM OF PURCHASE CONTRACT

**CITY OF BERKELEY
\$25,000,000*
2013-14 Tax and Revenue Anticipation Notes**

_____, 2013

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

Members of the Council:

This contract sets forth the terms and conditions of the purchase by _____ (the "Underwriter") of 2013-14 Tax and Revenue Anticipation Notes (the "Notes") to be issued by the City of Berkeley (the "City") in conformance with Article 7.6 of the Government Code of the State of California commencing with Section 53850 and a Resolution of Issuance adopted by the City.

It is understood and agreed that the Notes will be in the principal amount of \$_____ and will be due in full plus all interest at the maturity date of July 10, 2014. Payment of interest and principal at maturity will be made at The Depository Trust Company in New York in immediately available funds. The Notes will be dated as of their date of delivery (July 11, 2013).

The Notes will be issued in registered form and will be registrable and deregistrable as to principal and interest.

The Underwriter hereby agrees to purchase and the City hereby agrees to sell the Notes at an interest rate of _____% and a purchase price of _____%, with a yield of ____%. (Underwriter's compensation will be \$_____ earned through a portion of the premium: ____% coupon priced to yield ____% produces \$_____ in premium. The premium is used to compensate underwriting and pay the costs of issuance.) Purchase price paid to City is \$_____, which is par plus premium less Underwriter's compensation.

The City agrees to pay from its own funds any fees to bond counsel and the paying agent and any charges for printing and distributing the Official Statement describing the Notes and will be responsible for paying for printing and delivery of the Notes.

The City acknowledges and agrees that (i) the purchase and sale of the Notes pursuant to this Agreement is an arm's-length commercial transaction between the City and the Underwriter, (ii) in connection with such transaction, the Underwriter is acting solely as a principal and not as an advisor, (including, without limitation, a Municipal Advisor (as such term is defined in Section 975(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act)), agent or a fiduciary of the City, (iii) the Underwriter has not assumed (individually or collectively) a fiduciary responsibility in favor of the City with respect to the offering of the Notes or the process leading thereto (whether or not the Underwriter, or any affiliate of an Underwriter,

* Preliminary; subject to change.

has advised or is currently advising the City on other matters) or any other obligation to the City except the obligations expressly set forth in this Agreement, (iv) the Underwriter has financial and other interests that differ from those of the City and (v) the City has consulted with its own legal and financial advisors to the extent it deemed appropriate in connection with the offering of the Notes.

It is agreed and understood that the Underwriter's obligation to purchase the Notes is contingent upon the following conditions as of the Closing Date:

- a) That the City is a duly constituted public agency and has the authority to issue the tax and revenue anticipation notes.
- b) That in the unqualified legal opinion of bond counsel, Jones Hall, A Professional Law Corporation, the Notes have been duly authorized and are issued in full conformity with the State constitution and laws and that all interest on the Notes is excluded from Federal and State of California income.
- c) That there is no litigation filed, pending or threatened which would effect the validity or tax exemption of the Notes.
- d) That, according to an appropriate official of the City, that the Official Statement is accurate and fairly represents applicable and appropriate information concerning the City, its organization, finances and economy and does not omit information that if included would more accurately set forth pertinent facts concerning the City, its finances or the Note sale.

Successors

This Purchase Contract is made solely for the benefit of the City and the Underwriter (including their successors or assigns) and no other person will acquire or have any right hereunder or by virtue hereof. The representations, warranties, and agreements contained herein will remain operative and in full force and effect and will survive delivery of and payment for the Notes hereunder.

Governing Law

This Purchase Contract will be governed by the laws of the State of California.

Effectiveness

This Purchase Contract will become effective upon the execution of the acceptance hereof by the City.

[Underwriter]

CITY OF BERKELEY

July 11, 2013

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

OPINION: \$25,000,000 City of Berkeley, California 2013-14 Tax and Revenue Anticipation Notes

Members of the City Council:

We have acted as bond counsel in connection with the issuance by the City of Berkeley, California (the "City"), of \$25,000,000 City of Berkeley, California 2013-14 Tax and Revenue Anticipation Notes, dated the date hereof (the "Notes"), pursuant to Article 7.6 (commencing with Section 53850) of Chapter 4, Part 1, Division 2, Title 5 of the California Government Code (the "Act"), and a resolution of the City, adopted on June 11, 2013 (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 of public officials and others furnished to us, without undertaking to verify such facts by independent investigation.

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

1. The City is a duly created and validly existing municipal corporation with the power to adopt the Resolution, to perform the agreements on its part contained therein and to issue the Notes.
2. The Resolution has been duly adopted by the City and constitutes a valid and binding obligation of the City enforceable upon the City.
3. Pursuant to the Act, the Resolution creates a first lien on funds pledged by the Resolution for the security of the Notes.
4. The Notes have been duly authorized, executed and delivered by the City and are valid and binding general obligations of the City.

5. The interest on the Notes 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; it should be noted, however, that, for the purpose of computing the alternative minimum tax imposed on such corporations (as defined for federal income tax purposes), such interest is taken into account in determining certain income and earnings. The opinion set forth in the preceding sentence is subject to the condition that the City comply with all requirements of the Internal Revenue Code of 1986 that must be satisfied subsequent to the issuance of the Notes in order that interest thereon 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 interest on the Notes in gross income for federal income tax purposes to be retroactive to the date of issuance of the Notes. We express no opinion regarding other federal tax consequences arising with respect to the Notes.

6. The interest on the Notes is exempt from personal income taxation imposed by the State of California.

The rights of the owners of the Notes and the enforceability of the Notes and the Resolution 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

CITY OF BERKELEY
\$25,000,000
2013-14 Tax and Revenue Anticipation Notes

_____, 2013

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

Members of the Council:

This contract sets forth the terms and conditions of the purchase by _____ (the "Underwriter") of 2013-14 Tax and Revenue Anticipation Notes (the "Notes") to be issued by the City of Berkeley (the "City") in conformance with Article 7.6 of the Government Code of the State of California commencing with Section 53850 and a Resolution of Issuance adopted by the City. This contract may be signed in counterpart.

It is understood and agreed that the Notes will be in the principal amount of \$25,000,000 and will be due in full plus all interest at the maturity date of July 10, 2014. Payment of interest and principal at maturity will be made at The Depository Trust Company in New York in immediately available funds. The Notes will be dated as of their date of delivery (July 11, 2013).

The Notes will be issued in registered form and will be registrable and deregistrable as to principal and interest.

The Underwriter hereby agrees to purchase and the City hereby agrees to sell the Notes at an interest rate of ____%, with a yield of ____%. Purchase price paid to City is \$_____, which is par plus premium.

The City agrees to pay from its own funds any fees to bond counsel and the paying agent and any charges for printing and distributing the Official Statement describing the Notes and will be responsible for paying for printing and delivery of the Notes.

The City acknowledges and agrees that (i) the purchase and sale of the Notes pursuant to this Agreement is an arm's-length commercial transaction between the City and the Underwriter, (ii) in connection with such transaction, the Underwriter is acting solely as a principal and not as an advisor, (including, without limitation, a Municipal Advisor (as such term is defined in Section 975(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act)), agent or a fiduciary of the City, (iii) the Underwriter has not assumed (individually or collectively) a fiduciary responsibility in favor of the City with respect to the offering of the Notes or the process leading thereto (whether or not the Underwriter, or any affiliate of an Underwriter, has advised or is currently advising the City on other matters) or any other obligation to the City except the obligations expressly set forth in this Agreement, (iv) the Underwriter has financial and other interests that differ from those of the City and (v) the City has consulted with its own legal and financial advisors to the extent it deemed appropriate in connection with the offering of the Notes.

It is agreed and understood that the Underwriter's obligation to purchase the Notes is contingent upon the following conditions as of the Closing Date:

- a) That the City is a duly constituted public agency and has the authority to issue the tax and revenue anticipation notes.
- b) That in the unqualified legal opinion of bond counsel, Jones Hall, A Professional Law Corporation, the Notes have been duly authorized and are issued in full conformity with the State constitution and laws and that all interest on the Notes is excluded from Federal and State of California income.
- c) That there is no litigation filed, pending or threatened which would effect the validity or tax exemption of the Notes.
- d) That, according to an appropriate official of the City, the Official Statement is accurate and fairly represents applicable and appropriate information concerning the City, its organization, finances and economy and does not omit information that if included would more accurately set forth pertinent facts concerning the City, its finances or the Note sale.

Successors

This Purchase Contract is made solely for the benefit of the City and the Underwriter (including their successors or assigns) and no other person will acquire or have any right hereunder or by virtue hereof. The representations, warranties, and agreements contained herein will remain operative and in full force and effect and will survive delivery of and payment for the Notes hereunder.

Governing Law

This Purchase Contract will be governed by the laws of the State of California.

Effectiveness

This Purchase Contract will become effective upon the execution of the acceptance hereof by the City.

[UNDERWRITER]

Authorized Representative

CITY OF BERKELEY

Finance Director

Time of Execution: _____