

RESOLUTION NO. 24-77

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
SUBMITTING A BALLOT MEASURE TO VOTERS TO APPROVE AN ORDINANCE
OF THE CITY COUNCIL OF THE CITY OF BENICIA ESTABLISHING THE CITY OF
BENICIA AS A CHARTER CITY AND ADDING A NEW CHAPTER 1A (CITY OF
BENICIA CHARTER) TO THE BENICIA MUNICIPAL CODE SOLELY WITH
RESPECT TO THE POWERS OVER MUNICIPAL AFFAIRS IN RELATION TO
MUNICIPAL REVENUES INCLUDING TAXATION AND ASSESSMENT, AND A
SYSTEM FOR THE IMPOSITION, LEVY AND COLLECTION OF A TAX ON THE
CONVEYANCE OF REAL PROPERTY BASED ON THE VALUE OF THE REAL
PROPERTY IN ADDITION TO THE AMOUNT AUTHORIZED BY CALIFORNIA
REVENUE AND TAXATION CODE SECTION 11911**

WHEREAS, the City of Benicia ("City") is a full-service city equipped with its own City-run police, fire, park, library and water and wastewater services that prides itself on providing quality services to its residents, businesses and visitors; and

WHEREAS, the City continues to combat a long-term structural budget deficit, caused by a declining population and limited economic growth, that it is working to solve; and

WHEREAS, the structural deficit threatens the City's capacity to continue to provide vital services to its citizens; and

WHEREAS, financial forecasts projected large deficits necessitating the preparation to reduce Police and Fire services, limiting library and recreation programs and cutting resources to maintain its neighborhood parks and roads; and

WHEREAS, in summer of 2023, the City and its citizens began a months-long planning process to solve the deficit problem which produced Benicia's Resiliency Plan: The Bridge to Prosperity; and

WHEREAS, the Resiliency Plan has three pillars:

1. Cutting Costs
2. Local Investment
3. Smart Growth

WHEREAS, the City has implemented many cost-saving measures, having made significant changes to its personnel structure, compensation guidelines and operating strategies to make the City more financially stable; and

WHEREAS, protecting and maintaining public safety, emergency services, fixing streets, and making critical infrastructure repairs are priorities and essential to City residents; and

WHEREAS, Measures F (Special Transaction and Use Tax), G (Charter Authorizing Adoption of Real Property Transfer Tax) and H (Real Property Transfer Tax) are part of the Resiliency Plan; and

WHEREAS, The City of Benicia has a demonstrated need for road repair infrastructure improvements in the range of \$100 million over the next 15 years and proposed three funding mechanisms for further consideration; and

WHEREAS, the adoption of a City Charter (“City Charter”) is legally necessary to allow the City to enact a Real Property Transfer Tax (RPTT), which ballot measure is also being presented to the voters on November 5, 2024 as Measure H, revenue from which will be used for unrestricted general governmental purposes, including infrastructure such as roads, repairing potholes, storm drains, sidewalks, and public facilities such as the City Pool, Community Center, Library, Marina, parks, and essential services such as police, fire, library, youth and senior programs, engineering and community development (planning and building) and other uses; and

WHEREAS, if the Real Property Transfer Tax (Measure H), as authorized by the City Charter is approved by the voters, the revenue from the RPTT will be subject to transparency and accountability provisions such as financial audits and oversight by an independent Citizens Oversight Committee, public disclosure of all spending, and public budgeting processes to ensure that all funds will remain in the City of Benicia for the local general services on which residents and businesses rely and that the Federal or State governments can take none of the new funding; and

WHEREAS, pursuant to authority provided by Article XI of the California Constitution, and Title 4, Division 2, Chapter 3 of the Government Code and Division 9, Chapter 3, Article 3 (commencing at Section 9255) of the Elections Code of the State of California, the City Council desires to submit a measure to the qualified electors of the City of Benicia regarding whether the City of Benicia shall become a Charter City for the limited and sole purpose of levying a RPTT; and

WHEREAS, in accordance with Government Code Section 34458, on June 11, 2024, the City Council held the first duly noticed public hearing whereby it received public comment on and considered the matter of the proposal of a charter for the City of Benicia for the limited purpose of granting the City the powers over municipal affairs in relation to municipal revenues including taxation and assessment, and a system for the imposition, levy and collection of a tax on the conveyance of real property based on the value of the real property and the content of the proposed charter; and

WHEREAS, in accordance with Government Code Section 34458, on July 16, 2024, the City Council held the second duly noticed public hearing whereby it received public comment on and considered the matter of the proposal of a charter for the City of Benicia and the content of the proposed charter; and

WHEREAS, the proposed Ordinance adopting the “City of Benicia Charter”, attached hereto and incorporated herein by reference as Exhibit “A”, would provide the City with all

constitutional powers conferred on cities under Article XI sections 7 and 5 of the California Constitution solely with respect to the powers over municipal affairs in relation to municipal revenues including taxation and assessment, and a system for the imposition, levy and collection of a tax on the conveyance of real property based on the value of the real property; and

WHEREAS, the City Council of the City of Benicia has determined that enactment of the proposed Charter would be beneficial for the City of Benicia and its residents by establishing the authority for the qualified electors of the City of Benicia to decide whether to enact a Real Property Transfer Tax Ordinance which revenues would be locally controlled and help to ensure that essential city services are provided and maintained; and

WHEREAS, Government Code Section 34458.5 requires that a proposal to adopt or amend a charter include in a ballot description an enumeration of new city powers as a result of adoption of the charter, in this instance that the City Council will have the power to enact a Real Property Transfer Tax; and

WHEREAS, Elections Code Section 9255(b) provides that a charter proposed by the local governing body shall be submitted to the voters at an established statewide general election pursuant to Section 1200, provided there are at least 88 days before the election at a statewide general election pursuant to Elections Code Section 1200; and

WHEREAS, the City Council desires to submit the proposed Ordinance to the voters of the City at a General Municipal Election to be held on Tuesday, November 5, 2024, and to be consolidated with the general municipal election and the statewide election to be held on that date.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE CITY COUNCIL OF THE CITY OF BENICIA:

Section 1. Recitals. The City Council hereby finds and determines that the foregoing recitals are true and correct and are hereby fully incorporated by this reference.

Section 2. Election. The City Council of the City of Benicia hereby orders the proposed Ordinance be submitted to the voters at the General Municipal Election to be held on Tuesday, November 5, 2024 and requests the Solano County Elections Department to conduct the election and consolidate it with the statewide election to be held on November 5, 2024.

THE BENICIA CITY CHARTER MEASURE
Measure G - City Charter to Invest in Benicia's Future, Part 1

<p>To ensure proper investments in essential City services including roads, infrastructure, Benicia's Police and Fire Departments, shall the City of Benicia adopt a Charter, that can only be amended with voter approval, for the limited and sole purpose of allowing voters to consider enacting a real property transfer tax (Measure H), the proceeds of which shall provide necessary funding for critical City infrastructure and services, monitored with audits and citizen oversight?</p>	YES
	NO

Section 3. Proposed Ordinance. The text of the proposed Ordinance to be submitted to the voters is attached to this Resolution as Exhibit A and incorporated by reference. The full text of the proposed Ordinance shall be printed in the Sample Ballot and Voters Pamphlet and shall be made available to the public and to any voter at the Solano County Elections Department and the Benicia City Clerk.

Section 4. Publication of Measure. The City Clerk is directed to publish a synopsis of the measure at least one time not later than one week before the election.

Section 5. Approval. The vote requirement for this measure to pass shall be a majority of those casting ballots on the measure (50% plus 1).

Section 6. Filing with County. The City Clerk shall file a certified copy of this Resolution with the Solano County Elections Department.

Section 7. Analysis and Argument. Pursuant to Elections Code Section 9280, the City Attorney shall prepare an impartial analysis of the measure that shall not exceed 500 words no later than 12:00 p.m. on August 14, 2024. Pursuant to Elections Code Section 9282, the deadline to submit to the City Clerk primary arguments which shall not exceed 300 words for and against the ballot measure is 12:00 p.m. on August 16, 2024. Pursuant to Elections Code Section 9285, the deadline to submit to the City Clerk rebuttal arguments which shall not exceed 250 words is 12:00 p.m. on August 20, 2024. Pursuant to Elections Code Section 9287, if more than one argument is submitted against the measure, the City Clerk shall select the argument to be included with the ballot materials.

Section 8. Implementation. The City Clerk and City Manager are authorized to take all actions as necessary to effectuate the purposes of this resolution and the election. The City Manager is authorized to execute all documents and to perform all other necessary City acts to enter into a service agreement for the provision of election services with the Solano County Registrar of Voters. The City Clerk and City Attorney are authorized to make any typographical, clerical, and non-substantive corrections to this resolution as may be deemed necessary by the Solano County Elections Department.

Section 9. Declaration. The City Council shall meet to declare the results of the election called for by this Resolution at their regular meeting following certification of election results or at a special meeting called for that purpose.

Section 10. Effective Date. This Resolution shall take immediate effect upon its adoption by the City Council and the City Clerk shall certify the vote adopting the resolution.

Section 11. Environmental Compliance. The proposed City Charter ballot measure is exempt from further review under the California Environmental Quality Act (CEQA) because the Charter enabling the adoption of a Real Property Transfer Tax involves the creation of a government funding mechanism which does not involve any commitment to any specific project and thus is not a project subject to the requirements of CEQA as provided by Guidelines Section 15378(b)(4), and further pursuant to Guidelines Section 15061(b)(3) which exempts projects where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.


On motion of Council Member Birdseye, seconded by Council Member Scott, the above Resolution was adopted by the City Council of the City of Benicia at a special meeting of said Council held on 6th day of August, 2024 by the following vote:

Ayes: Council Members Birdseye, Campbell, Macenski, Scott and Mayor Young

Noes: None

Absent: None

Abstain: None



Steve Young, Mayor

Attest:



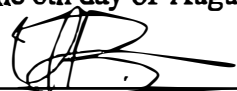
Ashley Bussart, Deputy City Clerk

8/7/24

Date



I, Ashley Bussart, Deputy City Clerk of the City of Benicia, County of Solano, State of California, hereby certify that the foregoing Resolution was adopted by the City Council of the City of Benicia at a special meeting held the 6th day of August 2024.



Ashley Bussart, Deputy City Clerk

Exhibit A
City of Benicia Charter
[see next page]

ORDINANCE NO. 24-___

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA ESTABLISHING THE CITY OF BENICIA AS A CHARTER CITY AND ADDING A NEW CHAPTER 1A (CITY OF BENICIA CHARTER) TO THE BENICIA MUNICIPAL CODE SOLELY WITH RESPECT TO THE POWERS OVER MUNICIPAL AFFAIRS IN RELATION TO MUNICIPAL REVENUES INCLUDING TAXATION AND ASSESSMENT, AND A SYSTEM FOR THE IMPOSITION, LEVY AND COLLECTION OF A TAX ON THE CONVEYANCE OF REAL PROPERTY BASED ON THE VALUE OF THE REAL PROPERTY IN ADDITION TO THE AMOUNT AUTHORIZED BY CALIFORNIA REVENUE AND TAXATION CODE SECTION 11911

WHEREAS, the City of Benicia was incorporated as a general law city in 1851 by residents seeking to manage local affairs and today serves a population of approximately 26,200, providing a host of general governmental services through the exercise of its Constitutional Police Powers to the community including police, fire, parks and recreation, library, public works engineering and maintenance, water and wastewater, community development (planning and building), and various administrative support services in a fiscally sustainable manner; and

WHEREAS, current revenues are insufficient for the City of Benicia to continue to provide those services in fiscally sustainable manner; and

WHEREAS, to address this challenge, the City of Benicia has pursued cost saving measures and the City's voters have approved multiple revenue measures in recent past including a Cannabis Excise Tax, Sales Tax increase and Transient Occupancy Tax increase; and

WHEREAS, the anticipated revenue generation from those measures still leaves the City well short of what is required to fund services and maintain important infrastructure needs such as roads, repairing potholes, storm drains, sidewalks, and public facilities such as the City Pool, Community Center, Library, Marina, parks, and essential services such as police, fire, library, youth and senior programs, engineering and community development (planning and building) and other unrestricted general government purposes; and

WHEREAS, for this reason, it is necessary for the City of Benicia to seek additional sources of revenue generation, such as levying a Real Property Transfer Tax on the sale of properties within its boundaries; and

WHEREAS, becoming a charter city would grant Benicia the power to institute a Real Property Transfer Tax, a power it does not have as a general law city; and

WHEREAS, to address this matter, in April 2024, the City Council, pursuant to the authority granted by Government Code Section 34458, provided direction to staff to draft a city charter focused exclusively on granting the power to levy a Real Property Transfer Tax that, if approved by a simple majority of voters, would establish Benicia as a charter city under

California state law; and

WHEREAS, pursuant to Government Code Section 34458(b), the City Council held two public hearings to receive comments from the public and to consider the proposed Benicia City Charter for the limited and sole purpose of enacting a Real Property Transfer Tax; and

WHEREAS, at the conclusion of the hearing process, after considering all testimony, evidence, and comments from the public, the City Council directed the preparation of a ballot measure for the November 5, 2024 election to put before voters the decision to adopt the proposed Benicia City Charter for the limited and sole purpose of enacting a Real Property Transfer Tax; and

WHEREAS, Elections Code Section 9255(b) provides that a charter proposed by the local governing body shall be submitted to the voters at an established statewide general election pursuant to Section 1200, provided there are at least 88 days before the election at a statewide general election pursuant to Elections Code Section 1200; and

WHEREAS, pursuant to Elections Code Section 9217, if a majority of the voters voting on a proposed ordinance vote in its favor, the ordinance shall become a valid and binding ordinance of the City. The ordinance shall be considered as adopted upon the date that the vote is declared by the legislative body and shall go into effect 10 days after that date.

NOW, THEREFORE THE PEOPLE OF THE CITY OF BENICIA DO ORDAIN AS FOLLOWS:

SECTION 1. The following Charter is hereby adopted to be included as Title 1A of the City of Benicia Municipal Code:

CITY OF BENICIA CHARTER

ARTICLE I

NAME AND BOUNDARIES

100. Name and Boundaries

The municipal corporation now existing and known as the City of Benicia, hereafter referred to as “the City,” shall remain and continue to be a municipal body corporate and politic, as at present, in name, in fact, and in law.

ARTICLE II

POWERS OF CITY

200. Exercise of Constitutional Power of Taxation

The City of Benicia adopts this Charter to exercise all constitutional powers conferred on cities under Article XI sections 7 and 5 of the California Constitution solely with respect to the powers over municipal affairs in relation to municipal revenues including taxation and assessment, and a system for the imposition, levy and collection of a tax on the conveyance of real property based on the value of the real property in addition to the amount authorized by California Revenue and Taxation Code section 11911.

201. Subject to General Laws

Except as provided in this Charter with respect to the power of the City over municipal affairs in relation to municipal revenues including taxation and assessment, the powers of the City shall otherwise be constrained by, subject to, and governed by the general laws of the State as now and hereafter existing relating to cities organized under said general laws.

202. Severability

If any provision of this Charter is found by a court of competent jurisdiction to be invalid, the remaining provisions of the Charter shall remain in full force and effect.

ARTICLE III

SUCCESSION

300. Rights and Liabilities

The City shall remain vested with and continue to have, hold, and enjoy all property, rights of property, and rights of action of every nature and description now pertaining to this municipality, and is hereby declared to be the successor of same. It shall be subject to all the obligations, contracts, liabilities, debts, and duties that now exist against or with the City.

301. Ordinances, Codes, and Other Regulations

All ordinances, codes, resolutions, regulations, rules, and portions thereof, in force at the time this Charter takes effect, and not in conflict or inconsistent herewith, shall continue in force until repealed, amended, changed, or superseded in the manner provided by this Charter and any other applicable laws.

302. Pending Actions And Proceedings

No action or proceeding, civil or criminal, pending at the time this Charter takes effect, brought by or against the City or any officer, office, or department thereof, shall be affected or abated by the adoption of this Charter, or by anything herein contained.

ARTICLE IV

FORM OF GOVERNMENT

400. Form of Government

The form of government shall be that commonly known as the Council-Manager form of government. The City Council, consisting of five councilmembers elected at large for four year staggered terms, in the manner in effect when this Charter was adopted, shall establish the policy of the City and the City Manager shall carry out that policy.

SECTION 2. Effective Date. This Ordinance shall become effective as provided by California Elections Code Section 9217.

SECTION 3. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The people hereby declare that they would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or

more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

SECTION 4. Codification. Section One of this Ordinance shall be codified in the City of Benicia Municipal Code. Sections Two, Three, Four and Five shall not be codified in the City of Benicia Municipal Code.

SECTION 5. Execution. The Mayor of the City of Benicia is hereby authorized to attest to the adoption of this Ordinance by the voters of the City of Benicia by signing where indicated below.

I hereby certify that the foregoing Ordinance was PASSED, APPROVED and ADOPTED by the people of the City of Benicia voting thereon the 5th day of November, 2024.

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date