



Office of the City Manager

CONSENT CALENDAR
April 11, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director of Finance
Lisa Warhuus, Director of Health, Housing and Community Services

Subject: Companion Report: Allocation of \$3 Million Over Two Years, FY2024 and FY2025, to Reduce Consumption and Health Impacts of Sugar-Sweetened Beverages (SSBs).

RECOMMENDATIONS

Adopt a Resolution allocating \$2 million from the General Fund in FY2024 (July 1, 2023 through June 30, 2024) and FY2025 (July 1, 2024 through June 30, 2025) that shall be invested in a grant program administered and coordinated by the Department of Health, Housing, and Community Services' (HHCS) Public Health Division (HHCS/PHD) consistent with the Sugar-Sweetened Beverage Product Panel of Experts (SSBPPE) Commission's goals to reduce the consumption of sugar sweetened beverages (SSB) in Berkeley and to address the health effects of SSB consumption. The total of \$2 million will be distributed in two installments of \$1 million per year for FY2024 and FY2025. The funds will be distributed as follows:

- a. Direct the City Manager to award up to \$712,000 of the allocated funds to Berkeley Unified School District (BUSD) for the period, July 1, 2023 to June 30, 2025 through a grant proposal to reduce the consumption of sugar-sweetened beverages (SSBs) through the implementation and enhancement of the BUSD cooking and gardening programs. The BUSD funding process is separate from the RFP process for the general community-based organization funding process and shall be guided by the SSBPPE Commission's Criteria for BUSD Funding (Attachment 1).
- b. Direct the City Manager to award at least \$712,000 of the allocated funds for the period, July 1, 2023 to June 30, 2025 through an RFP process managed by HHCS/PHD for grants to community-based organizations consistent with the SSBPPE Commission's goals to reduce the consumption of SSBs and to address the effects of SSB consumption. The community-based organization funding RFP process is separate from the BUSD funding process and shall be guided by the SSBPPE Commission's Criteria for Community Agency Grants (Attachment 2).

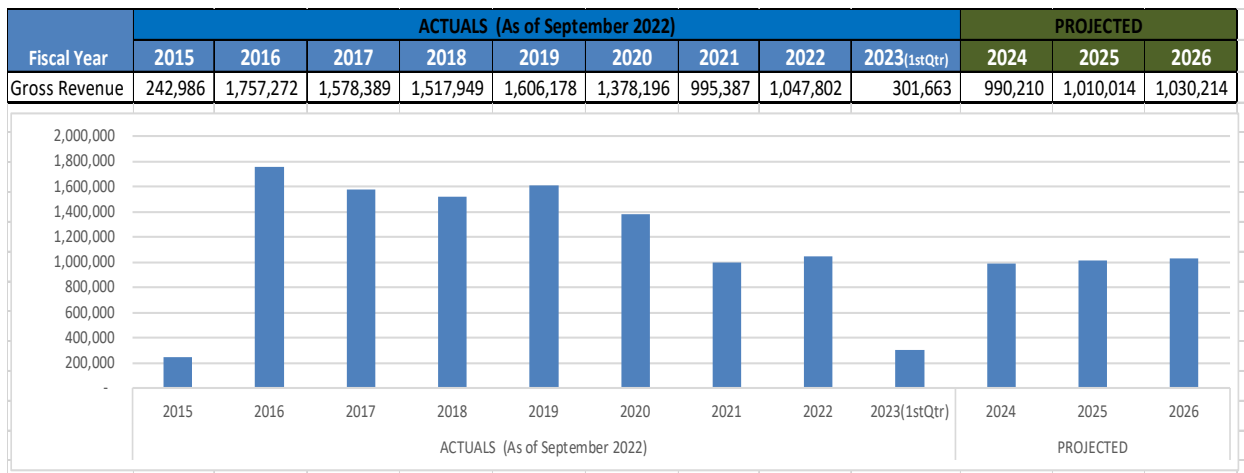
- c. For the period, July 1, 2023 to June 30, 2025, direct the City Manager to allocate \$125,000 to fund Finance Department costs for staffing and MuniServices fees and \$451,000 to HHCS/PHD for staffing, operating and consulting costs to coordinate and monitor the grant process, manage resulting contracts awarded, support activities aligned with the goal of the sugary beverage tax, including the Healthy Retail Checkout ordinance, and provide an annual presentation to the SSBPPE Commission that includes process and outcome data and updates on Finance Department fees related to the sugary drink tax for the SSBPPE Commission to inform the development of the Commission’s annual report.
- d. Carryover any sugary drink tax revenue received in excess of \$2 million during FY2024 and FY2025 to be awarded for related services in FY2025 – FY2027.

POLICY COMMITTEE RECOMMENDATION

On February 23, 2023, the Budget and Finance Committee took the following action: M/S/C (Harrison/Arreguín) To forward the item to Council with a Qualified Positive Recommendation to approve staff’s recommendation, with an additional amount of \$35,590 in FY24 and FY25, and any additional revenues beyond the projected amounts being prioritized for grants. Vote: All Ayes.

FISCAL IMPACTS OF RECOMMENDATION

Based on the recent trends of the sugar-sweetened beverage tax (shown below), the projections for the upcoming Fiscal Years 2024 and 2025 indicate that the expected revenue would be approximately \$1 Million for each year (projections will be revised after the mid-year revenue numbers are analyzed). This trend is consistent with the expected success of the sugar-sweetened beverage tax, as it encourages Berkeley residents and consumers to purchase and consume less sugar-sweetened beverages.



The \$3 million allocation recommended by the Commission would require the City to identify \$1 million in City General Funds in addition to the sugar-sweetened beverage tax revenue projected to support related programs.

CURRENT SITUATION AND ITS EFFECTS

In November of 2014, the Berkeley voters passed Measure D, which requires both the collection of a 1 cent per ounce tax on the distribution of sugary drinks in the City of Berkeley and the convening of a Panel of Experts —(SSBPPE) to recommend investments to both reduce the consumption of sugary drinks as well as to address the health consequences of the consumption of sugary drinks.

As the revenues decrease due to the success of the sugar-sweetened beverage tax, it is essential to continue strategies to further promote healthier behaviors and decrease the consumption of sugar sweetened beverages. Community based partnerships have been a positive force in health education and changes in policy, systems, and environmental changes that support the goals and mission of the SSBPPE.

The associated annual costs for the Finance Department’s administration of the Sugar Sweetened Beverage Tax as well as Public Health Division’s coordination and management of the RFP, the resulting contracts, and policies resulting from this work, such as the Healthy Checkout Ordinance (No. 7,734-N.S.) are outlined below. The SSBPPE’s proposed allocation amount would not be sufficient to provide the level of staffing for the evaluation recommended. Therefore, staff recommend a smaller evaluation scope using contracted evaluation resources.

Projected annual costs to address the minimum mandated activities (Finance and HHCS)	Amount
Finance Department Staff (.30FTE)	41,544
MuniServices Fees (@ 2%)	20,956
<i>Finance Department Subtotal</i>	<i>62,500</i>
HHCS: Administrative Staff (estimated salary including benefits)	120,166
HHCS: Nutritionist @ 20% (estimated salary including benefits)	39,388
HHCS: Contracted Program Evaluation Consulting Services	34,000
HHCS: Other Operational Expenses (i.e. software maintenance, Commission stipends, supplies, printing, etc.)	31,946
<i>HHCS costs subtotal</i>	<i>225,500</i>
Total	\$288,000

BACKGROUND

Measure D, the Sugar Sweetened Beverage tax, was passed on July 1, 2014 to support the increased consumption of water and decrease the consumption of sugar sweetened beverages. As a result, allocations from the City General Fund associated with Measure D were identified for PHD to support the development and oversight of SSBPE community agency contracts, provide secretary support for the SSBPE, conduct

program evaluation activities, and support any programmatic initiatives that were aligned with the purpose of Measure D.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no environmental impacts.

RATIONALE FOR RECOMMENDATION

This recommendation would allow the City to continue its ongoing commitment to public health, specifically reducing the consumption of sugar-sweetened beverages in Berkeley, while aligning program investment with the level of funding projected to be available. Modifying the City’s scope of work, and calculating the level of funding for City services based on the actual cost to provide those services rather than an assumed percentage of tax revenue will allow the City to implement and sustain this program.

ALTERNATIVE ACTIONS CONSIDERED

Staff appreciate the SSBPPE’s commitment to supporting programming at BUSD and the important work of community-based organizations to provide needed services. Staff did not identify an alternative recommendation which is consistent with both the projected amount of sugary beverage tax revenue and the current City costs to implement this program.

CONTACT PERSON

Henry Oyekanmi, Director of Finance (510) 981-7200

Lisa Warhuus, Director, Health Housing and Community Services (510) 981-5404

Attachments:

1. Resolution
2. SSBPPE Commission’s Criteria for BUSD Funding
3. SSBPPE Commission’s Criteria for Community Agencies Funding
4. Healthy Checkout Ordinance No. 7,734-N.S.
5. Resolution NO. 66,969-NS

RESOLUTION NO. ##,###-N.S.

ALLOCATION: \$2 MILLION TOTAL FOR SUGAR-SWEETENED BEVERAGE CONSUMPTION AND REDUCTION GRANT PROGRAM IN FY2024 AND FY2025

WHEREAS, the consumption of sugar-sweetened beverages (“SSB”) in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, in FY2022 and FY2023, the City Council awarded a total of \$2,662,506 by Resolution #66,969-NS upon the recommendation of the SSBPPE Commission to demonstrate the City’s long-term commitment to decreasing the consumption of SSB and mitigate the harmful impacts of SSB on the population of Berkeley; and

WHEREAS, many studies demonstrate that high intake of SSB is associated with risk of Type 2 Diabetes, obesity, tooth decay, and coronary heart disease; and

WHEREAS, the above conditions are all demonstrated to increase both the severity of COVID19 related illness and risk of death; and

WHEREAS Latinx and Black communities are disproportionately affected by COVID-19; and

WHEREAS, hundreds of millions of dollars have been spent in an ongoing massive marketing campaign, which particularly targets children and people of color; and

WHEREAS, an African American resident of Berkeley is 14 times more likely than a White resident to be hospitalized for diabetes; and

WHEREAS, 40% of 9th graders in Berkeley High School are either overweight or obese; and

WHEREAS, tooth decay is the most common childhood disease, experienced by over 70% of California’s 3rd graders; and

WHEREAS, in 2012, a U.S. national research team estimated levying a penny-per-ounce tax on sweetened beverages would prevent nearly 100,000 cases of heart disease, 8,000 strokes, and 26,000 deaths over the next decade and 240,000 cases of diabetes per year nationwide.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to allocate \$2 million from the General Fund to be disbursed in two (2) installments of \$1 million in FY24 and \$1 million in FY25 and invested as follows:

1. Allocate up to \$712,000 to Berkeley Unified School District (BUSD) through a grant proposal to reduce the consumption of sugar-sweetened beverages (SSBs)

through the implementation and enhancement of the BUSD cooking and gardening programs for the period, July 1, 2023 to June 30, 2025; and

2. Allocate at least \$712,000 through a RFP process managed by the Public Health Division for grants to community-based organizations consistent with the SSBPPE Commission's goals to reduce the consumption of SSB and to address the effects of SSB consumption for the period, July 1, 2023 to June 30, 2025; and
3. For the period, July 1, 2023 to June 30, 2025, direct the City Manager to allocate \$125,000 to fund Finance Department costs and \$451,000 to HHCS/PHD for staffing, operating and consulting costs to coordinate and monitor the grant process, manage resulting contracts awarded, support activities aligned with the goal of the sugary beverage tax, including the Healthy Retail Checkout ordinance, and provide an annual presentation to the SSBPPE Commission that includes process and outcome data and updates on Finance Department fees related to the sugary drink tax for the SSBPPE Commission to inform the development of the Commission's annual report.
4. Carryover any sugary drink tax revenue received in excess of \$2 million during FY2024 and FY2025 to be awarded for related services in FY2025 – FY2027.

A records signature copy of the said agreement and any amendments to be on file in the Office of the City Clerk.

SSBPPE Commission's Criteria for BUSD Funding

The Berkeley Unified School District will be required to provide the following information and comply with the requirements listed in order to receive funding.

- A. Describe how you will reach the following priority populations:
- a. Children and their families; preschool through high school;
 - b. Children and young adults living in households with limited resources;
 - c. Groups exhibiting higher than average population levels of type 2 diabetes, obesity, and tooth decay;
 - d. Groups that are disproportionately targeted by the beverage industry marketing.
- B. Include how the proposal meets the following requirements:
- a. Proposal reflects approval from the BUSD School Board.
 - b. BUSD will not sell or serve sugar-sweetened beverages (as defined by the SSB tax) at any BUSD schools or campuses.
 - c. Awarded funding will not supplant BUSD FY2022 and FY2023 General Fund allocations.
 - d. Funded projects will publicly reflect support from Healthy Berkeley Program.
 - e. Funded projects and programs will include evaluation of their process and outcomes.
 - f. The proposal timelines and budgets will be specific, measurable, achievable, realistic, and time bound (SMART).
- C. Include specific goals for how the BUSD proposal meets the following scoring criteria:
- a. Decrease access to SSBs and/or improve access to drinking water. (15%)
 - b. Increase or strengthen SSB policies in school and outside of school. (15%)
 - c. Support the annual administration of the Berkeley adapted Youth Risk Behavior Survey to evaluate student's SSB knowledge, consumption, access, and policy perceptions. (20%)
 - d. To document how students at all grade levels and in priority populations are included. (10%)
 - e. To document policy elements that will last beyond the grant period. (15%)
 - f. Proposal budget matches the work plan and is appropriate. (10%)
 - g. To document how BUSD will be able to communicate SSB educational and policy efforts to parents and/or the Berkeley community (15%)

SSBPPE Commission's Criteria for Community Agencies Funding

Community-based organizations will be required to provide the following information in order to be considered for funding.

- A. Describe your strategies that address the goals and objectives of this funding including:
- a. Transforming the systems, policies, environments, structures, and norms that underlie sugary drink consumption.
 - b. Developing community capacity to improve health by transforming systems, policies, environments, structures, and norms through increasing leadership potential of community members and young people, especially those serving priority populations.
 - c. Supporting community programming designed to change norms to support consumption of healthy food and beverages.
 - d. Providing health screenings and chronic disease prevention with a focus on dental health.
 - e. Impacting sugary drink marketing and retail environments (i.e., availability, promotion, price, placement in convenient stores, and advertising), especially those that disproportionately target priority populations.
- B. Include specific goals for how your project will meet the following scoring criteria
- a. The proposal aims to decrease consumption of sugary drinks, increase access to drinking water, and/or address health effects from consumption of sugary drinks (25%).
 - b. The proposal reaches people and communities in the priority populations. (25%).
 - c. Project provides lasting impact beyond the grant period: i.e. builds organizational and community capacity and/or changes systems and policies, and environments related to SSBs. (25%).
 - d. The proposal includes a plan for communicating efforts, activities, and/or successes to the larger Berkeley community. (15%).
 - e. Proposal budget matches the work plan and is appropriate. (10%)

ORDINANCE NO. 7,734-N.S.

|
ADDING CHAPTER 9.82 TO THE BERKELEY MUNICIPAL CODE "HEALTHY
CHECKOUT"

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That the Berkeley Municipal Code is amended to read as follows:

9.82.010. Findings and Purpose.

The City of Berkeley hereby finds and declares as follows:

- A. Diets with an excess of added sugars and sodium are correlated to chronic health issues including diabetes, high blood pressure, and stroke.
- B. Food choices are strongly affected by the environments in which they are made. The placement of unhealthy snacks near a register increases the likelihood that consumers will purchase those foods and drinks, thus undermining consumer health choices and public health initiatives.
- C. It is in the interest of the health, safety, and welfare of all who live, work, and do business in the City that large stores offer healthy options and do not actively encourage the purchase of unhealthy foods.
- D. This Chapter is consistent with the General Provisions of Environmental Health of the City (Berkeley Municipal Code 11.04).

9.82.020. Definitions.

- A. "Added Sugars" means sugars added during the processing of food and beverages, or are packaged as such, and include sugars (free, mono and disaccharides), sugars from syrups and honey, and sugars from concentrated fruit or vegetable juices that are in excess of what would be expected from the same volume of 100 percent fruit or vegetable juice of the same type, as defined in Section 101.9 of Title 21 of the Code of Federal Regulations.
- B. "Artificial Sweetener" means sweeteners with few to no calories that have a higher intensity of sweetness per gram than sucrose.
- C. "Category List" means the list of foods and beverages which meet the standards of BMC 9.82.030.
- D. "Checkout Area" means any area that is accessible to a customer of the Large Retail Store that is either:
 - i. within a 3-foot distance of any Register; or
 - ii. designated primarily for or utilized primarily by customers to wait in line to make a purchase at a Register, up to and including the Checkout Endcap.
- E. "Checkout Endcap" means product displays placed at endpoints of areas designated primarily for or utilized primarily by customers to wait in line to make a purchase.
- F. "Register" means a device used for monetary transactions that calculates the sales of goods and displays the amount of sales for the customer.
- G. "Large Retail Store" means a commercial establishment selling goods to the public with a total floor area over 2,500 square feet and selling 25 linear feet or

more of food.

9.82.030. Healthy Checkout Areas.

Each Large Retail Store shall, at all hours during which the Large Retail Store is open to the public, ensure that all foods and beverages sold in all Checkout Areas meet the standards in Sec 9.82.030 A-C and comply with the list of qualifying food and beverage categories:

- A. Beverages with no added sugars and no artificial sweeteners.
- B. Food items with no more than 5 grams of added sugars, and 200 milligrams of sodium per labeled serving.
- C. Food items must be in the following categories: chewing gum and mints with no added sugars, fruit, vegetables, nuts, seeds, legumes, yogurt or cheese and whole grains.

City staff will provide technical assistance for implementation. Bi-annual review of qualifying food and beverage categories will be done by the Public Health Division. There will be a 120 day phase-in period if any changes are made.

9.82.040. Enforcement.

- A. The City is hereby authorized to issue all rules and regulations consistent with this ordinance, including, but not limited to, fees for re-inspection.
- B. Compliance with this Chapter shall be administered by the City during regular inspections of qualifying Large Retail Stores. The City may require a Large Retail Store to provide such information as may be necessary to determine the Large Retail Store's compliance with this Chapter.

9.82.050. Violation--Penalty.

- A. A Large Retail Store that violates any provision of this chapter may be subject to administrative citations pursuant to Chapter 1.28 of this Code.
- B. This section shall not limit the City from recovering all costs associated with implementing this chapter or investigating complaints pursuant to fee resolution.
- C. Remedies and penalties under this chapter are cumulative and not exclusive.

9.82.060. Effective Date.

This ordinance and the legal requirements set forth herein shall take effect and be in force March 1, 2021. Enforcement pursuant to 9.82.040 shall commence no sooner than January 1, 2022.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on September 22, 2020, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, and Arreguin.

Noes: None.

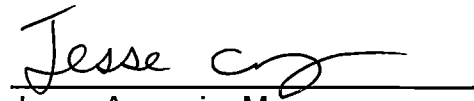
Absent: None.

At a regular meeting of the Council of the City of Berkeley held on October 13, 2020, this Ordinance was adopted by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, and Arreguin.

Noes: None.

Absent: None.



Jesse Arreguin, Mayor

ATTEST: 

Mark Numainville, City Clerk

Date signed: October 20, 2020

RESOLUTION NO. 69,669-N.S.

ALLOCATION: \$2,662,506 MILLION TOTAL FOR SUGAR-SWEETENED BEVERAGE CONSUMPTION AND REDUCTION GRANT PROGRAM IN FY22 AND FY23

WHEREAS, the consumption of sugar-sweetened beverages ("SSB") in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, in FY22 and FY23, the City Council awarded a total of \$3 million upon the recommendation of the SSBPPE Commission to demonstrate the City's long-term commitment to decreasing the consumption of SSB and mitigate the harmful impacts of SSB on the population of Berkeley; and

WHEREAS, many studies demonstrate that high intake of SSB is associated with risk of Type 2 Diabetes, obesity, tooth decay, and coronary heart disease; and

WHEREAS, the above conditions are all demonstrated to increase both the severity of COVID19 related illness and risk of death; and

WHEREAS Latinx and Black communities are disproportionately affected by COVID-19; and

WHEREAS, hundreds of millions of dollars have been spent in an ongoing massive marketing campaign, which particularly targets children and people of color; and

WHEREAS, an African American resident of Berkeley is 14 times more likely than a White resident to be hospitalized for diabetes; and

WHEREAS, 40% of 9th graders in Berkeley High School are either overweight or obese; and

WHEREAS, tooth decay is the most common childhood disease, experienced by over 70% of California's 3rd graders; and

WHEREAS, in 2012, a U.S. national research team estimated levying a penny-per-ounce tax on sweetened beverages would prevent nearly 100,000 cases of heart disease, 8,000 strokes, and 26,000 deaths over the next decade and 240,000 cases of diabetes per year nationwide.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to allocate \$2,662,506 million from the General Fund to be disbursed in two (2) installments of \$1,331,253 million in FY22 and \$1,331,253 million in FY23 and invested as follows:

1. Allocate up to 42.5% of the allocated funds to Berkeley Unified School District (BUSD) through a grant proposal to reduce the consumption of sugar-

sweetened beverages (SSBs) through the implementation and enhancement of the BUSD cooking and gardening programs for the period, July 1, 2021 to June 30, 2023; and

- 2. Allocate at least 42.5% of the allocated funds through a RFP process managed by the Public Health Division for grants to community-based organizations consistent with the SSBPPE's goals to reduce the consumption of SSB and to address the effects of SSB consumption for the period, July 1, 2021 to June 30, 2023; and
- 3. Allocate 15% of the allocated funds to support the Berkeley Public Health Division (BPHD) to coordinate and monitor the grant process, coordinate the overall program evaluation, and produce an annual report that disseminates process and outcome data resulting from the SSBPPE funding program.

A records signature copy of the said agreement and any amendments to be on file in the Office of the City Clerk.

The foregoing Resolution was adopted by the Berkeley City Council on December 15, 2020 by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.



 Jesse Arreguin, Mayor

Attest: 

 Mark Numainville, City Clerk

