



**BERKELEY CITY COUNCIL BUDGET & FINANCE COMMITTEE
REGULAR MEETING**

**Thursday, February 23, 2023
10:00 AM**

Committee Members:

Mayor Jesse Arreguín, Councilmembers Rashi Kesarwani and Kate Harrison
Alternate: Councilmember Sophie Hahn

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH
VIDEOCONFERENCE AND TELECONFERENCE**

Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting of the City Council Budget & Finance Committee will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be available.

To access the meeting remotely using the internet: Join from a PC, Mac, iPad, iPhone, or Android device: Use URL - <https://cityofberkeley-info.zoomgov.com/j/1612304851>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon on the screen.

To join by phone: Dial **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and Enter Meeting ID: **161 230 4851**. If you wish to comment during the public comment portion of the agenda, press *9 and wait to be recognized by the Chair.

Written communications submitted by mail or e-mail to the Budget & Finance Committee by 5:00 p.m. the Friday before the Committee meeting will be distributed to the members of the Committee in advance of the meeting and retained as part of the official record.

AGENDA

Roll Call

Public Comment on Non-Agenda Matters

Minutes for Approval

Draft minutes for the Committee's consideration and approval.

1. Minutes - February 9, 2023

Committee Action Items

The public may comment on each item listed on the agenda for action as the item is taken up. The Chair will determine the number of persons interested in speaking on each item. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Chair may limit the public comment for all speakers to one minute per speaker.

Following review and discussion of the items listed below, the Committee may continue an item to a future committee meeting, or refer the item to the City Council.

Committee Action Items

2a. Allocation of \$3 Million Over Two Years, FY 2024 and FY 2025, to Reduce Consumption and Health Impacts of Sugar-Sweetened Beverages (SSBs). From: Sugar Sweetened Beverage Product Panel of Experts

Referred: January 4, 2023

Due: June 5, 2023

Recommendation: Adopt a Resolution allocating \$3 million from the General Fund in FY24 (July 1, 2023 through June 30, 2024) and FY25 (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 \$3 million will be distributed in two installments of \$1.5 million per year for FY24 and FY25. In each of these years, the funds will be distributed as follows:

a. Direct the City Manager to award 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. 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.

b. Direct the City Manager to award at least 42.5% of the allocated funds 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.

c. Direct the City Manager to utilize up to 15% of the allocated funds to support HHCS/PHD to coordinate and monitor the grant process, coordinate the overall program evaluation, and produce an annual report that disseminates process and outcome data from the epidemiologist resulting from the SSBPPE Commission funding program as well as pay certain City of Berkeley Finance Department costs related to the sugary drink tax.

Financial Implications: See report

Contact: Roberto Terrones, Commission Secretary, (510) 981-5400

Committee Action Items

2b. Companion Report: Allocation of \$3 Million Over Two Years, FY24 and FY25, to Reduce Consumption and Health Impacts of Sugar-Sweetened Beverages (SSBs).

From: City Manager

Referred: January 4, 2023

Due: June 5, 2023

Recommendation: Adopt a Resolution allocating \$2 million from the General Fund in FY24 (July 1, 2023 through June 30, 2024) and FY25 (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 FY24 and FY25. The funds will be distributed as follows:

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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 FY24 and FY25 to be awarded for related services in FY25 – FY27.

Financial Implications: See report

Contact: Henry Oyekanmi, Finance, (510) 981-7300, Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

Committee Action Items

- 3. Receive a Report on the Fiscal Year 2023 Mid-Year Budget Update**
From: City Manager
Contact: Sharon Friedrichsen, Budget Manager, (510) 981-7000
- 4. Unfunded Liability Obligations and Unfunded Infrastructure Needs**
From: City Manager
Recommendation: Receive a report on the City's Unfunded Liability Obligations and Unfunded Infrastructure Needs, including pension and other post-employment benefits; discuss strategies to address unfunded liabilities, including funding recommendations for the Section 115 Pension Trust; and provide direction to staff.
Financial Implications: See report
Contact: Sharon Friedrichsen, Budget Manager, (510) 981-7000
- 5. Approval of the Public Bank East Bay Viability Study**
From: Councilmember Robinson (Author), Mayor Arreguín (Author)
Referred: February 14, 2023
Due: July 5, 2023
Recommendation: Refer to the Budget & Finance Policy Subcommittee to review and discuss the Public Bank East Bay Viability Study and consider the following recommendations for the full Council:
(1) Adopt a resolution formally adopting the viability study
(2) Adopt a resolution of intention to form the Public Bank East Bay alongside Oakland & Richmond
(3) Refer to the City Manager to coordinate with the Friends of the Public Bank of the East Bay and the staff of the cities of Oakland and Richmond on the development of a business plan for the Public Bank of the East Bay, or designate the appropriate staff to do so
(4) Refer to the City Manager to engage an independent consultant with expertise in banking operations and financing to advise city staff as they coordinate with the Friends of the Public Bank East Bay in the production of a business plan for a public bank
Financial Implications: See report
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

Unscheduled Items

These items are not scheduled for discussion or action at this meeting. The Committee may schedule these items to the Action Calendar of a future Committee meeting.

- 6. Investment Report Update - Investment Policies of Other Jurisdictions**
From: City Manager
Contact: Henry Oyekanmi, Finance, (510) 981-7300

Unscheduled Items

7. Accept the Risk Analysis for Long-Term Debt (Bonding Capacity) Report provided by Government Finance Officers Association

From: City Manager

Referred: April 26, 2022

Due: March 31, 2023

Recommendation: Accept the report titled 'Risk-Based Analysis and Stress Test of Long-Term Debt Affordability' as provided by the Government Finance Officers Association (GFOA). This report is based on their research and development of a risk-modeling tool to address issuing long-term debt related to City of Berkeley Vision 2050.

On April 26, 2022, the City Council referred this item to the City Manager and Budget & Finance Committee to return to Council with recommendations or analysis on as many of the following items as possible by October 2022, if feasible. 1)

Consideration of reserves policies for operational funds other than the General Fund; 2) Potential reduction of the maximum indebtedness rate from 15% of assessed property value down to 4-8% range; 3) A new policy to not incur indebtedness when interest rates go above 5% or a different specific threshold; 4) Tools for increased transparency for taxpayers; 5) Updated report and discussion of pension and healthcare costs; 6) Refer the full Report to the Budget & Finance Committee for consideration.

Financial Implications: None

Contact: Henry Oyekanmi, Finance, (510) 981-7300

**8. Additional Allocation of Measure P Funding to "Step Up Housing" Project
From: Councilmember Bartlett (Author), Councilmember Wengraf (Co-Sponsor), Councilmember Kesarwani (Co-Sponsor)**

Referred: August 3, 2022

Due: May 31, 2023

Recommendation: Adopt a resolution allocating an additional \$114,660 per year for 10 years, from Measure P transfer tax receipts to support the increased costs for the lease and operation of a new permanent supportive housing project for the unhoused at the Step-Up Housing Project at 1367 University Avenue. In addition, refer to the next meeting of the Budget and Finance Policy Committee to confirm the availability of requested funding.

On August 3, 2022, the City Council adopted Resolution No. 70,491-N.S. as amended and referred to the Budget & Finance Committee to consider future General Fund needs for this project and confirm availability of funds for the operating budget.

Financial Implications: See report

Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130

Unscheduled Items

9. Recommendation on Climate, Building Electrification, and Sustainable Transportation Budget Priorities for Fiscal Year 2023 and 2024

From: Energy Commission

Referred: November 3, 2022

Due: April 25, 2023

Recommendation: The Energy Commission recommends that the Berkeley City Council prioritize and include in the City's budget for the Fiscal Years Ending (FYE) 2023 and 2024 several staff positions, pilot projects, investments in electric vehicles and charging infrastructure, and other measures to ensure that the City's budget is aligned with and provides adequate and needed funding to implement the City's adopted Climate Action Plan, Electric Mobility Roadmap, Building Emissions Saving Ordinance, 2019 ban on gas in new construction, and the Existing Buildings Electrification Strategy.

Financial Implications: See report

Contact: Billi Romain, Commission Secretary, (510) 981-7400

Items for Future Agendas

- Discussion of items to be added to future agendas

Adjournment

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*Written communications addressed to the Budget & Finance Committee and submitted to the City Clerk Department will be distributed to the Committee prior to the meeting.*

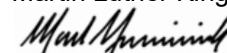
*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Members of the City Council who are not members of the standing committee may attend a standing committee meeting even if it results in a quorum being present, provided that the non-members only act as observers and do not participate in the meeting. If only one member of the Council who is not a member of the committee is present for the meeting, the member may participate in the meeting because less than a quorum of the full Council is present. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900.*



### COMMUNICATION ACCESS INFORMATION:

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date.

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I hereby certify that the agenda for this meeting of the Standing Committee of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on Thursday, February 16, 2023.


Mark Numainville, City Clerk

Communications

Communications submitted to City Council Policy Committees are on file in the City Clerk Department at 2180 Milvia Street, 1st Floor, Berkeley, CA, and are available upon request by contacting the City Clerk Department at (510) 981-6908 or policycommittee@cityofberkeley.info.

**BERKELEY CITY COUNCIL BUDGET & FINANCE COMMITTEE
REGULAR MEETING MINUTES**

**Thursday, February 9, 2023
10:00 AM**

Committee Members:

Mayor Jesse Arreguín, Councilmembers Rashi Kesarwani and Kate Harrison
Alternate: Councilmember Sophie Hahn

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MINUTES

Roll Call: 10:06 a.m.

Present: Kesarwani, Harrison, Arreguín

Public Comment on Non-Agenda Matters: 3 speakers

Minutes for Approval

Draft minutes for the Committee's consideration and approval.

1. Minutes - December 8, 2022

Action: M/S/C (Arreguín/Harrison) to approve the December 8, 2022 minutes.

Vote: All Ayes.

Committee Action Items

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Following review and discussion of the items listed below, the Committee may continue an item to a future committee meeting, or refer the item to the City Council.

2. Election of Chairperson

Action: M/S/C (Harrison/Arreguín) to elect Mayor Arreguín as chairperson.

Vote: All Ayes.

3. State of California Encampment Resolution Funding Program

From: City Manager

Recommendation: Receive a presentation on a proposal for the State of California Encampment Resolution Funding Program and provide direction regarding the submittal of a grant application to the State, including a local match of up to roughly \$5 million in City Measure P revenue.

Financial Implications: See report

Contact: Peter Radu, City Manager's Office, (510) 981-7000

Action: 3 speakers. M/S/C (Arreguín /Harrison) to approve that staff apply for a second round of Encampment Resolution Funding from the California Interagency Council on Homelessness and authorize staff to include in the application a match commitment funded with Measure P dollars to continue to program in Fiscal Years 26-27 if awarded.

Vote: All Ayes.

Committee Action Items

4. Update on Measure P

From: City Manager

Recommendation: Receive an update on the Measure P budget, recommendations on possible new programs and projects and provide direction to staff regarding homelessness funding priorities.

Financial Implications: See report

Contact: Sharon Friedrichsen, Budget Manager, (510) 981-7000

Action: 4 speakers. Discussion held.

5a. Allocation of \$3 Million Over Two Years, FY 2024 and FY 2025, to Reduce Consumption and Health Impacts of Sugar-Sweetened Beverages (SSBs).

From: Sugar Sweetened Beverage Product Panel of Experts

Referred: January 4, 2023

Due: June 5, 2023

Recommendation: Adopt a Resolution allocating \$3 million from the General Fund in FY24 (July 1, 2023 through June 30, 2024) and FY25 (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 \$3 million will be distributed in two installments of \$1.5 million per year for FY24 and FY25. In each of these years, the funds will be distributed as follows:

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c. Direct the City Manager to utilize up to 15% of the allocated funds to support HHCS/PHD to coordinate and monitor the grant process, coordinate the overall program evaluation, and produce an annual report that disseminates process and outcome data from the epidemiologist resulting from the SSBPPE Commission funding program as well as pay certain City of Berkeley Finance Department costs related to the sugary drink tax.

Financial Implications: See report

Contact: Roberto Terrones, Commission Secretary, (510) 981-5400

Committee Action Items

5b. Companion Report: Allocation of \$3 Million Over Two Years, FY24 and FY25, to Reduce Consumption and Health Impacts of Sugar-Sweetened Beverages (SSBs).

From: City Manager

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d. Carryover any sugary drink tax revenue received in excess of \$2 million during FY24 and FY25 to be awarded for related services in FY25 – FY27.

Financial Implications: See report

Contact: Henry Oyekanmi, Finance, (510) 981-7300, Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

Action: 3 speakers. Item continued to the Budget & Finance Committee's next regular meeting.

Unscheduled Items

These items are not scheduled for discussion or action at this meeting. The Committee may schedule these items to the Action Calendar of a future Committee meeting.

6. Investment Report Update - Investment Policies of Other Jurisdictions

From: City Manager

Contact: Henry Oyekanmi, Finance, (510) 981-7300

7. Accept the Risk Analysis for Long-Term Debt (Bonding Capacity) Report provided by Government Finance Officers Association

From: City Manager

Referred: April 26, 2022

Due: March 31, 2023

Recommendation: Accept the report titled 'Risk-Based Analysis and Stress Test of Long-Term Debt Affordability' as provided by the Government Finance Officers Association (GFOA). This report is based on their research and development of a risk-modeling tool to address issuing long-term debt related to City of Berkeley Vision 2050.

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Financial Implications: None

Contact: Henry Oyekanmi, Finance, (510) 981-7300

Unscheduled Items

8. **Additional Allocation of Measure P Funding to “Step Up Housing” Project**
From: Councilmember Bartlett (Author), Councilmember Wengraf (Co-Sponsor), Councilmember Kesarwani (Co-Sponsor)
Referred: August 3, 2022
Due: February 13, 2023
Recommendation: Adopt a resolution allocating an additional \$114,660 per year for 10 years, from Measure P transfer tax receipts to support the increased costs for the lease and operation of a new permanent supportive housing project for the unhoused at the Step-Up Housing Project at 1367 University Avenue. In addition, refer to the next meeting of the Budget and Finance Policy Committee to confirm the availability of requested funding.
On August 3, 2022, the City Council adopted Resolution No. 70,491-N.S. as amended and referred to the Budget & Finance Committee to consider future General Fund needs for this project and confirm availability of funds for the operating budget.
Financial Implications: See report
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130
9. **Recommendation on Climate, Building Electrification, and Sustainable Transportation Budget Priorities for Fiscal Year 2023 and 2024**
From: Energy Commission
Referred: November 3, 2022
Due: April 25, 2023
Recommendation: The Energy Commission recommends that the Berkeley City Council prioritize and include in the City’s budget for the Fiscal Years Ending (FYE) 2023 and 2024 several staff positions, pilot projects, investments in electric vehicles and charging infrastructure, and other measures to ensure that the City’s budget is aligned with and provides adequate and needed funding to implement the City’s adopted Climate Action Plan, Electric Mobility Roadmap, Building Emissions Saving Ordinance, 2019 ban on gas in new construction, and the Existing Buildings Electrification Strategy.
Financial Implications: See report
Contact: Billi Romain, Commission Secretary, (510) 981-7400

Items for Future Agendas

- None

Adjournment

Action: M/S/C (Arreguín/Kesarwani) to adjourn the meeting.

Vote: All Ayes.

Adjourned at 12:26 pm.

I hereby certify that the foregoing is a true and correct record of the Budget & Finance Committee meeting held on February 9, 2023.

Sarah K. Bunting, Assistant City Clerk



Sugar-Sweetened Beverage
Product Panel of Experts (SSBPPE)

ACTION CALENDAR

January 17, 2023

To: Honorable Mayor and Members of the City Council

From: Sugar-Sweetened Beverage Product Panel of Experts Commission

Submitted by: Joy Moore, Chairperson, SSBPPE Commission

Subject: Allocation of \$3 Million Over Two Years, FY 2024 and FY 2025, to Reduce Consumption and Health Impacts of Sugar-Sweetened Beverages (SSBs).

RECOMMENDATIONS

Adopt a Resolution allocating \$3 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 \$3 million will be distributed in two installments of \$1.5 million per year for FY2024 and FY2025. In each of these years, the funds will be distributed as follows:

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- b. Direct the City Manager to award at least 42.5% of the allocated funds 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 3).
- c. Direct the City Manager to utilize up to 15% of the allocated funds to support HHCS/PHD to coordinate and monitor the grant process, coordinate the overall program evaluation, and produce an annual report that disseminates

process and outcome data from the epidemiologist resulting from the SSBPPE Commission funding program as well as pay certain City of Berkeley Finance Department costs related to the sugary drink tax.

FISCAL IMPACTS OF RECOMMENDATION

Measure D, passed in November of 2014, created two provisions, namely: a) a 1 cent per ounce tax on sugary drinks distributed in Berkeley and b) creation of a Panel of Experts Commission. The collection of this tax commenced in May of 2015 and is being deposited into the City's General Fund. The SSBPPE Commission's recommendation to Council for allocation of \$3 million for FY2024 and FY2025 is independent of the amount of tax collected from the distribution of SSB in Berkeley. This request will create a liability of \$3 million for the City's General Fund in FY2024 and FY2025.

CURRENT SITUATION AND ITS EFFECTS

On October 20, 2022, the SSBPPE Commission approved the recommendation to the Berkeley City Council for allocation of \$3 million for the period FY2024 and FY2025, to be made available to invest in grants programs to reduce the consumption of sugary drinks and address the health consequences of the consumption of sugary drinks and moved to adopt their recommendation to Council as follows:

Key elements of the resolution include:

- 1) Direct the City Manager to award up to 42.5% of the allocated funds to BUSD through a grant proposal to reduce the consumption of SSBs.
- 2) Direct the City Manager to award at least 42.5% of the allocated funds through an RFP process managed by the HHCS/PHD for grants to community-based organizations consistent with the SSBPPE Commission's goals.
- 3) Direct the City Manager to utilize up to 15% of the allocated funds to support HHCS/PHD to:
 - a. Coordinate and monitor the grant process,
 - b. coordinate the overall program evaluation, and
 - c. produce an annual report that disseminates process and outcome data from the epidemiologist resulting from the SSBPPE Commission funding program as well as,
 - d. pay certain City of Berkeley Finance Department costs related to the sugary drink tax.

Action: Motion to update the SSBPPE Commission City Council recommendation from December 15th, 2020: 1) update dates; 2) background as needed, and recommendations; 3) maintain the same recommendation for funding; 4) and recommending the City Manager to utilize up to 15% of the allocated funds to support the COB Public Health Division and Finance Department fees related to the Sugar-Sweetened Beverage Soda Tax.

Votes: Ayes – Rose, Moore, Hecht, Morales, Scheider; Noes – None; Abstain – None; Absent – Browne, Crawford, Rodriguez.

BACKGROUND

A Brief History of Measure D

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 (the Sugar Sweetened Beverage Products 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.

In addition to nearly three years of a global pandemic, our nation, our state, and our community face a major public health crisis. Diabetes, obesity, and tooth decay have been on the rise for decades. Although no group has escaped these epidemics, children, as well as low income communities and communities of color have been and continue to be disproportionately affected. While there is no single cause for the rise in diabetes, obesity, and tooth decay, there is overwhelming evidence of the link between the consumption of sugary drinks and the incidence of diabetes, obesity, heart disease, and tooth decay.

Sugary drinks such as soft drinks, energy drinks, sweetened teas, and sport drinks offer little or no nutritional value, but contribute massive quantities of added sugar. A single 20-ounce bottle of soda, for instance, typically contains the equivalent of approximately 16 teaspoons of sugar. Before the 1950s, the standard soft-drink bottle was 6.5 ounces. In the 1950s, larger size containers were introduced, including the 12-ounce can, which became widely available in 1960. By the early 1990s, 20-ounce plastic bottles had become the norm. At the same time, hundreds of millions of dollars have been spent in an ongoing massive marketing campaign, which particularly targets children and people of color. In 2006 alone, nearly \$600 million was spent in advertising to children under 18. African American and Latinx children are also aggressively targeted with advertisements to promote sugar-laden drinks.

The resulting impact on consumption should not be surprising. The average American now drinks nearly 40 gallons of sugary drinks a year. In the past 20 years, the prevalence of obesity in adults increased from 30.5% to 42.4%, and the prevalence of severe obesity increased from 4.7% to 9.2%. During this time, the prevalence of obesity among youth (aged 2–19 years) increased from 13.9% to 19.3%, and the prevalence of severe obesity increased from 3.6% to 6.1%. The problem is especially acute with children in California. From 1989 to 2008, the percentage of children consuming sugary drinks increased from 79% to 91% and the percentage of total calories obtained from sugary drinks increased by 60% in children ages 6 to 11. This level of consumption has had tragic impacts on community health. Type 2 Diabetes –previously only seen among adults –is now increasing among children. If the current obesity trends are not reversed, it is predicted that one in three children and nearly one-half of Latinx and

African American children born in the year 2000 will develop type 2 diabetes in their lifetimes.

Our community has not been immune to the challenge of unhealthy weight gain and obesity. According to the 2018 City of Berkeley Health Status Report, over a quarter of Berkeley's 5th and 7th grade students (all race/ethnicities) are overweight or obese. Berkeley has a lower proportion of 5th and 7th grade children who are overweight or obese (29.4%) compared to children in Alameda County (35.3%) but has a higher proportion compared to California (26.8%). However, a higher proportion of African-American children are overweight or obese in Berkeley compared to Alameda County or California.

Tooth decay has meaningful impact on health, especially for children. In fact, tooth decay is the most common childhood disease, experienced by over 70% of California's 3rd graders. Children who frequently or excessively consume beverages high in sugar are at increased risk for dental cavities. Dental problems are a major cause of missed school days and poor school performance as well as pain, infection, and tooth loss in California.

COVID-19

Of relevance today are the jarring statistics on the higher risk and severity of COVID-19 related to the social determinates of health for persons of color. Latinx and Black communities are disproportionately affected by COVID-19. Health disparities, as documented in the Annual Health Reports from the Berkeley Health Department, were an important impetus in the rationale for Measure D as well as the proposed use of revenues from Measure D. SSB consumption is directly related to the health conditions observed with higher rates of COVID-19. The link between SSB consumption and diabetes, obesity and heart disease and the relationship of these conditions to increased risk of COVID-19 makes heightens the critical nature of the SSB tax and its revenues to the reduction of health disparities in Berkeley.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

When sugary drink consumption decreases due to the direct investments in programs and activities, the SSBPPE Commission expects that there will be a reduction to the City's waste stream.

RATIONALE FOR RECOMMENDATION

This two-year grant period supports comprehensive strategies to: a) reduce access to SSBs, b) improve access to water, c) limit marketing of SSBs to children, and d) implement education and awareness campaigns with specific populations. The two-year grant period will also indicate the City of Berkeley's commitment to reducing the consumption of SSBs and improving the health of Berkeley residents, particularly those most impacted by obesity, diabetes, tooth decay, and heart disease. The funding will allow grantees to develop interventions that include education, policy, systems and

environmental changes with measurable outcome data and evaluation to show the rise in public awareness about the harmful impacts of SSBs, reduce consumption of SSBs over time, and decrease the health risks among residents of Berkeley.

To have the greatest impact, the SSBPPE Commission recommends that the following populations be prioritized:

- a) Children and their families with a particular emphasis on young children who are in the process of forming lifelong habits,
- b) Children and young adults living in households with limited resources,
- c) Groups exhibiting higher than average population levels of type 2 diabetes, obesity, heart disease, and tooth decay rates,
- d) Groups that are disproportionately targeted by the beverage industry marketing,
- e) Pregnant women,
- f) Berkeley-based organizations that serve any or all of the above populations.

ALTERNATIVE ACTIONS CONSIDERED

The Commission did not identify an alternative action which is consistent with the City's

CITY MANAGER

See City Manager companion report.

CONTACT PERSON

Roberto Terrones, MPH, Commission Secretary, HHCS, (510) 510-981-5324

ATTACHMENTS

1. Resolution
2. SSBPPE Commission's Criteria for BUSD Funding
3. SSBPPE Commission's Criteria for Community Agencies Funding

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

ALLOCATION: \$3 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 FY2024 and FY2025, 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 \$3 million from the General Fund to be disbursed in two (2) installments of \$1.5 million in FY2024 and \$1.5 million in FY2025 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, 2023 to June 30, 2025; 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 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. Allocate up to 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 Commission funding program as well as City of Berkeley Finance Department fees related to the sugary drink tax.

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 FY22 and FY23 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%)



Office of the City Manager

ACTION CALENDAR
January 17, 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

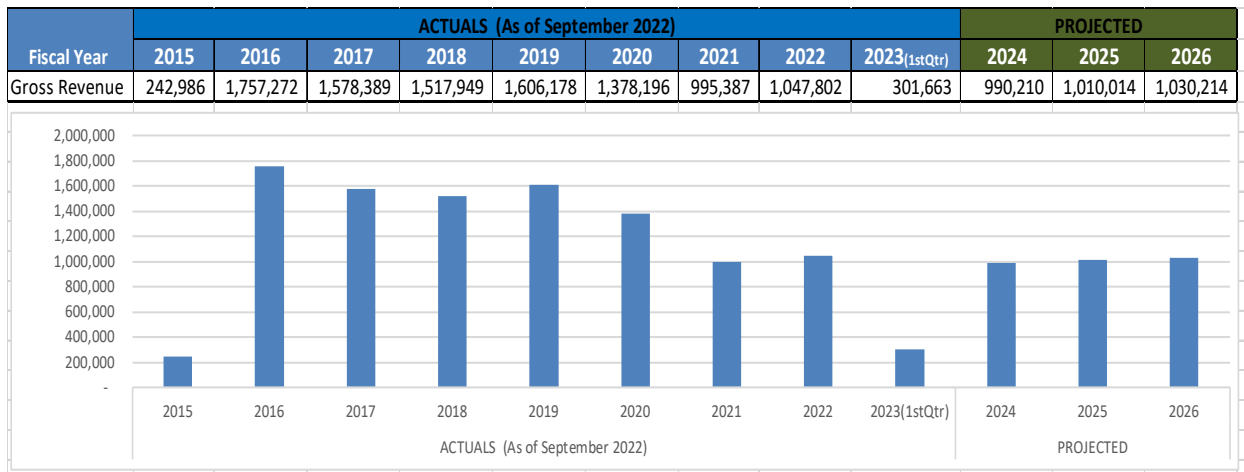
Adopt a Resolution allocating \$2 million from the General Fund in FY2024 (July 1, 2023 through June 30, 2024) and FY2025 (July 1, 2024 through June 30, 2025) that shall be invested in a grant program administered and coordinated by the Department of Health, Housing, and Community Services' (HHCS) Public 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.

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.

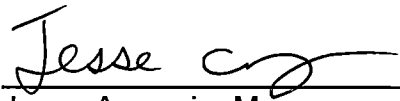
Absent: None.

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




No Material
Available for
this Item

There is no material for this item.

City Clerk Department
2180 Milvia Street
Berkeley, CA 94704
(510) 981-6900

The City of Berkeley Budget and Finance Policy Committee Webpage:

<https://berkeleyca.gov/your-government/city-council/council-committees/policy-committee-budget-finance>



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CONSENT CALENDAR
February 28, 2023

To: Honorable Mayor and Members of the City Council
 From: Councilmember Rigel Robinson (Author) & Mayor Jesse Arreguin (Co-Author)
 Subject: Approval of the Public Bank East Bay Viability Study

RECOMMENDATION

Refer to the Budget & Finance Policy Subcommittee to review and discuss the Public Bank East Bay Viability Study and consider the following recommendations for the full Council:

- (1) Adopt a resolution formally adopting the viability study
- (2) Adopt a resolution of intention to form the Public Bank East Bay alongside Oakland & Richmond
- (3) Refer to the City Manager to coordinate with the Friends of the Public Bank of the East Bay and the staff of the cities of Oakland and Richmond on the development of a business plan for the Public Bank of the East Bay, or designate the appropriate staff to do so
- (4) Refer to the City Manager to engage an independent consultant with expertise in banking operations and financing to advise city staff as they coordinate with the Friends of the Public Bank East Bay in the production of a business plan for a public bank

BACKGROUND

Public Bank East Bay seeks to establish a publicly operated bank—the Public Bank East Bay (PBEB)—serving the East Bay and prioritizing social equity and environmental stewardship above mere profits.¹ PBEB would operate as an alternative to—and alongside—the private banking system. It would allow individuals, businesses, and other entities to access standard banking services. Importantly, PBEB would prioritize access for individuals, economic sectors, and municipalities that have been traditionally underserved or exploited by the financial industry.

¹ “Vision & Values — Public Bank East Bay.” n.d. Public Bank East Bay. Accessed January 19, 2023. <https://publicbankeastbay.org/vision>.

In 2019, Governor Gavin Newsom signed AB 857, providing guidelines for establishing public banks in California.² AB 857 makes California the first state in the nation to legalize public sector banks.

PBEB advocates prepared a Viability Study in 2022 that meets the requirements set forth in AB 857. These include proving the purpose of the bank, analyzing costs, identifying the amount of initial capital required to establish the bank, financial projections for the first five years of operation, proving the PBEB complies with the California State Constitution, and how regulations would be implemented to prevent corruption.³ The Viability Study has already been approved by the Richmond City Council⁴ and the Oakland City Council.⁵

FINANCIAL IMPLICATIONS

Adoption of these recommendations has no general fund impact.

The development of the public bank, however, will be a significant financial endeavor. It is the objective of the Business Plan to fully assess the financial benefits and risks of forming the Public Bank East Bay.

This resolution does not appropriate or commit any City of Berkeley funds to the establishment of the PBEB, or to any organization. If a consultant is engaged, Finance has indicated that these costs, estimated at \$50,000, can be accounted for in the existing Finance department budget.

ENVIRONMENTAL SUSTAINABILITY

None.

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170
Sam Greenberg, Legislative Assistant

Attachments:

- 1: Resolution
- 2: Resolution

² Sgourous, Tom. 2022. "Public Bank East Bay Viability Study." Public Bank East Bay. <https://static1.squarespace.com/static/5ee14314979f2e18b9b6ed03/t/622a351f48637e3569cc3fcd/1646933281581/PBEB+Viability+Study+March+2022.pdf>.

³ "Public Bank East Bay Viability Study." Page 34

⁴ "Richmond Approves Viability Study." 2022. Public Bank East Bay.

<https://publicbankeastbay.org/news/0vitc9jw0cyug7jqkvub64mbaky3qb-6axls-mm2f3-twI3l>.

⁵ "Meeting Minutes: Concurrent Meeting of the Oakland Redevelopment Successor Agency and the City Council." 2022. City of Oakland.

<https://oakland.legistar.com/View.ashx?M=M&ID=1001259&GUID=57EC77BF-AC2B-4E18-837E-6427F9DC88AC>. Page 20

3: Public Bank East Bay Viability Study

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

RESOLUTION OF INTENTION TO FORM THE PUBLIC BANK EAST BAY WITH THE CITY OF BERKELEY AS A FOUNDING MEMBER ALONG WITH THE CITIES OF OAKLAND AND RICHMOND

WHEREAS, public banks are financial institutions that are owned by public agencies such as cities and counties and can serve as a tool to invest, lend, and provide banking services to local communities that are often left out of financial opportunities from larger firms; and

WHEREAS, the City of Berkeley began formally assessing the feasibility of establishing a public bank with a \$25,000 allocation made in 2017 to support the development of a feasibility study for the Public Bank of the East Bay; and

WHEREAS, a public bank can serve the residents of Berkeley through investment and lending activities that support small local businesses, affordable housing production, climate resilience, infrastructure projects and more; and

WHEREAS, the City of Berkeley intends to be one of the founding owners of the Public Bank East Bay; and

WHEREAS, the other proposed founding owners of the Public Bank East Bay are the cities of Oakland and Richmond; and

WHEREAS, the County of Alameda is proposed to be a non-founding owner of the Public Bank East Bay that will take an ownership stake shortly after the Public Bank East Bay's licensing by the State; and

WHEREAS, the Public Bank East Bay's proposed governance plan requires that each member city designate one councilmember to sit on the Public Bank East Bay's Board of Directors; and

WHEREAS, the California Public Banking Act further mandates that "a motion to move forward with an application for a public banking charter shall be approved by a majority vote of the governing body at a public meeting";

now, therefore, be it RESOLVED: That the City of Berkeley intends to be a founding member of the Public Bank East Bay as part of the application for a public banking charter;

and be it FURTHER RESOLVED: That the Berkeley City Council requests that the Alameda County Supervisors commit to joining the Public Bank East Bay as a full voting member immediately upon California state approval of the Public Bank East Bay's charter application;

and be it FURTHER RESOLVED: That the City Manager or designee is authorized to direct City staff to provide the necessary financial and other details to assist the Friends of the Public Bank East Bay in the production of a business plan for the ongoing operation of a public bank and return to the City Council with a report outlining anticipated capital contributions and any necessary budgetary amendments along with a final draft public bank business plan for approval;

and be it FURTHER RESOLVED: That the City Manager or designee is authorized to review and propose the probable terms of any articles of incorporation, operating agreements, and other nonprofit public benefit corporation documents or nonprofit mutual benefit corporation documents that may be required by California Government Code Section 57600 et seq., which may be finally negotiated and executed upon the City Council's adoption of the business plan;

and be it FURTHER RESOLVED: That the Berkeley City Council designates Councilmember Rigel Robinson as a representative to the Friends of the Public Bank East Bay to help guide the Public Bank East Bay's opening process and to serve as Berkeley's initial representative on the Public Bank East Bay's Board of Directors;

and be it FURTHER RESOLVED: That all the aforementioned charter(s), agreements, and articles shall be approved as to form and legality by the Office of the City Attorney and placed on file in the Office of the City Clerk;

and be it FURTHER RESOLVED: That this Resolution be conveyed immediately to the City Councils of Oakland and Richmond and to the Alameda County Board of Supervisors.

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

RESOLUTION ACCEPTING THE PUBLIC BANK EAST BAY VIABILITY STUDY

WHEREAS, public banks are financial institutions that are owned by public agencies such as cities and counties and can serve as a tool to invest, lend, and provide banking services to local communities that are often left out of financial opportunities from larger firms; and

WHEREAS, a public bank can serve the residents of Berkeley through investment and lending activities that support small local businesses, affordable housing production, climate resilience, infrastructure projects, and more; and

WHEREAS, the City of Berkeley intends to be one of the founding owners of the Public Bank East Bay; and

WHEREAS, the other proposed founding owners of the Public Bank East Bay are the cities of Oakland and Richmond; and

WHEREAS, the County of Alameda is proposed to be a non-founding owner of the Public Bank East Bay that will take an ownership stake shortly after the Public Bank East Bay's licensing by the State; and

WHEREAS, the California Public Banking Act mandates that "a local agency shall conduct a study to assess the viability of the proposed public bank," hereafter referred to as the Viability Study; and

WHEREAS, the California Public Banking Act mandates that "The study required shall be presented to and approved by the governing body of the local agency;" and

WHEREAS, the City of Richmond approved the Viability Study on April 5, 2022; and

WHEREAS, the City of Oakland approved the Viability Study on December 20, 2022; and

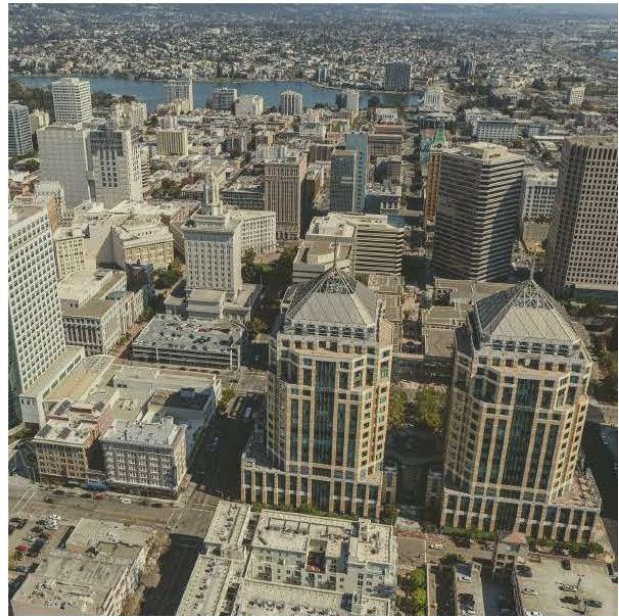
WHEREAS, the 2022 Public Bank East Bay Viability Study proposes lending in four main areas: affordable housing, small businesses, electrification/greening, and refinancing municipal bonds, and concludes that the Public Bank East Bay will be fiscally viable;

now, therefore, be it RESOLVED: That the Berkeley City Council approves the Public Bank East Bay Viability Study;

and be it FURTHER RESOLVED: That this Resolution be conveyed immediately to the City Councils of Oakland and Richmond and to the Alameda County Board of Supervisors.



Public Bank East Bay Viability Study



Prepared by Tom Sgouros
Commissioned by Friends of the Public Bank East Bay
March 2022



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Executive Summary

This Viability Study demonstrates that the Public Bank East Bay (“PBEB”), a cooperative venture among the cities of Oakland, Berkeley, and Richmond and Alameda County, is a viable entity which can:

- achieve fiscal stability within the first three years;
- provide loan support to underserved sectors of the local economy;
- address local infrastructure needs;
- reduce local government dependency on Wall Street banks;
- decrease local fossil fuel and other harmful investments;
- partner with local financial institutions to the economic and social benefit of all;
- mitigate economic inequity in the region;
- serve as a model for public banks around the state and the country.

This Study and the accompanying financial projections show that the PBEB can achieve these goals while operating in a conservative and secure way, minimizing the financial risk to its sponsor governments.

The PBEB will be a low-overhead enterprise, with a small staff to run lending programs in partnership with existing local financial institutions. The lending programs will include:

- making loans to local small businesses, in cooperation with local community development financial institutions (CDFIs) and local banks;
- providing nimble capital to non-profit affordable housing developers for property acquisition, bridge financing, or foreclosure prevention, as well as financing for rehabilitation projects;
- extending credit to help the East Bay do its part to ameliorate the climate emergency, financing building electrification as well as small-scale renewable energy installations;
- supporting municipal finance, by providing modest credit to the member governments for small projects.

As the Bank grows and adds capacity, it will also be able to provide an alternative to Wall Street banks for cash handling for the member governments. Through careful management of these programs, the PBEB can deliver benefits worth many times the initial investment, and provide a vibrant institution that is a vital part of the East Bay economy for decades to come.

Introduction

Why The East Bay Needs a Public Bank

The current national, California, and East Bay financial systems are not meeting the needs of the East Bay. The urgent issues we face include:

- The ongoing climate crisis is inescapable. Localities cannot wait for a paralyzed federal government to deliver, and must find ways to increase local funding for initiatives that will dramatically reduce greenhouse gas emissions and increase availability and affordability of green energy solutions.
- The Bay Area is experiencing a housing crisis of extreme scale, visible along so many major thoroughfares. Quality affordable housing that does not accelerate displacement is desperately needed, and solutions cannot take ten years to ramp up. New local funding, along with streamlining availability of existing funds, is badly needed.
- BIPOC small businesses lack funding. Nationally the unmet credit needs among entrepreneurs of color are 15-25% higher than those of white entrepreneurs.¹
- Worker cooperatives, employee-owned firms, community land trusts, and other community-based models of ownership are poised to grow in scope and scale, but they are often unable to access traditional bank funding.

Financing alone cannot solve these problems. However, access to inexpensive capital will inevitably play an essential role in all solutions. A public bank—that directs public assets to solve public problems—*can and will* be part of a solution that helps participating cities and counties tackle these issues, and more, by adding a component of financial infrastructure to the existing mix.

Responsible and responsive banking of public funds will be an invaluable tool in transforming the current system to one that works for the people who need it. This Study demonstrates that the East Bay region of Northern California can be the home of a stable, productive, and transparent public bank—the Public Bank East Bay—which can help its region address essential structural problems.

Wall Street banks which handle the vast majority of public funds in the East Bay and around the country have consistently placed profits and shareholders over the needs of everyone else. Self-admitted felonies by banks resulted in nearly \$2 billion dollars² paid in fines and fees over the past 20 years. Additionally, bank policies such as subprime mortgages and financialization led directly to the housing bubble and financial crisis of 2008 that devastated families and communities. People of color disproportionately lost wealth during this crisis. Banks were held accountable trivially if at all in the recovery from the crisis, and continued to play fast and loose with customers' money. The phantom account scandals at Wells Fargo (where the bank created millions of accounts for customers without their knowledge or consent) demonstrate how bank customers are often at risk from the banks themselves. Wall Street takes people's money, uses it to gamble in their high-stakes casino, and leaves customers holding the pieces

¹ Small Business Survey 2019.

² <https://bettermarkets.org/newsroom/new-report-details-first-time-20-plus-year-crime-spree-six-largest-wall-street-banks/>

when they lose. Sad experience shows that states and municipalities are equally at risk as customers of private banks.³

Just as online commerce and big-box wholesale stores have decimated local businesses, including hardware, stationery, and book stores, small banks have been driven out of the market by Wall Street banks, or have been bought out or merged into larger banks. This has left banking deserts around the state, including in the East Bay. In 1994, the state had 500 community banks, but by 2017 it had only 124⁴. While this corporate concentration may have brought convenience for some customers, it has caused pain to many others, in the form of less accessibility, fewer options, higher fees, and greater disconnection of banks from community priorities and control. Moreover, banks do not merely *hold* money, they *do* things with it.

The major role of Wall Street banks in funding the fossil-fuel industry underscores the profound mismatch of these banks with the values of our region. Many jurisdictions, including Alameda County, Oakland, Berkeley, and Richmond have voted to divest public funds from fossil fuels, but have been unable to do so, due to their inescapable relationships with Wall Street banks. For example, Alameda County, which has voted to divest, currently has 30% of its funds in banks with heavy fossil fuel investments, including \$300 million in JP Morgan Chase alone.

As easy as it is to enumerate the active ways in which the money-center banks harm our lives and our communities, it is just as important to examine what they fail to do. Over the past few decades, more and more bank revenue has been generated by fee income, i.e., direct charges made to bank customers for the service of handling money. This income has increased in importance, because interest income entails risk to the banks in a way that fee income does not. Consequently, bank management has emphasized fees over loans. In practice this has caused the big banks to cut back underwriting all but the most standard loans, eliminating much if not all of their lending risk. Plenty of mortgage credit is available; however, this market is highly controlled, subsidized, and insured by the federal government. Business credit is plentiful for big corporations, especially those large enough to access the bond market. But other market demand—including extending credit to BIPOC- and women-owned small businesses, worker cooperatives and land trusts, innovative green energy initiatives, and climate resilience measures—goes unmet. Even affordable housing, for which oceans of capital are theoretically available from federal, state, and private sources, suffers from a tragic lack of nimble capital that does not take years to approve.⁵ The consequences to the nation's economy have been severe, with bank credit to small businesses shriveling, and rising prices for mundane and low-risk municipal investments.

Transformative financial programs are essential to comprehensive solutions to these problems. By keeping overhead low, partnering with local financial institutions, reinvesting revenue to the business, using inexpensive public monies, and not being bound to reap high profits, public banks can make credit more available and more equitable, underwrite new initiatives, and serve as clearinghouses and

³ Sgouros, T, "Predatory Public Finance", *The Journal of Law and Society*, 17:1 (2016), pp 91-102. <https://law.wayne.edu/academics/co-curricular/journal-law-society>

⁴ <https://www.bankingstrategist.com/community-banks-number-by-state-and-asset-size>

⁵ Vitaly important in a state where approximately 160,000 people are experiencing homelessness on any given day. See ⁵<https://www.usich.gov/homelessness-statistics/ca/>

conduits for more efficient and restorative uses of public money. Public banks cannot fully address these crises on their own, but public banks are an essential component of addressing them.

In countries around the world, including Germany, Costa Rica, India, Vietnam, and many more, publicly owned banks have helped create and direct new financial tools to serve public needs. The Bank of North Dakota is the only major publicly owned bank in the United States. In its century of existence, it has maintained and strengthened community banks, reduced student loan debt, compensated for the 2008 financial crisis, and equitably distributed federal pandemic relief—and shown substantial financial success while doing so.

The public banking movement is growing around the country. California has led the way with the California Public Banking Act (AB 857), which authorizes the formation of public banks to engage in the lending of public monies under public ownership. This legislation sets out the path for PBEB to open its doors.

Mission Statement

PBEB will invest public monies from participating governmental agencies to meet the needs of local communities. PBEB will seek to return a reasonable, but not excessive, profit to its stakeholders by making economically sustainable loans and providing a high level of service to its partners and stakeholders. It will adhere to the principles of the United Nations Declaration on the Rights of Indigenous People, and will prioritize environmentally regenerative, culturally equitable and participatory practices that reverse discrimination against members of economically and socially marginalized communities.

The Bank's decisions will be based on five key values:

- **Equity:** We are committed to a public bank that acknowledges and attempts to relieve the contemporary and historical burdens carried by disenfranchised communities, including low-income communities of color and other marginalized groups.
- **Social Responsibility:** Decisions regarding loan recipients, sponsored projects, and who benefits from PBEB policies will all prioritize investing our money into the wealth and health of local communities and the environment.
- **Fiscal Responsibility:** As a steward of public money collected by depositing agencies from individuals and businesses in the East Bay, the Bank is committed to compliance with the directives and policies of state and federal regulators. It is equally committed to active and constant attention to managing risk and making fiscally responsible decisions so as to maintain PBEB in a safe and sound condition.
- **Accountability:** The Bank is accountable to the residents of the East Bay, who have a right to fully transparent explanations of PBEB's actions and choices.
- **Democracy:** The Bank will be governed using inclusive and participatory processes which consciously and intentionally adhere to the values/principles listed above.

What Will PBEB Do?

PBEB's primary function is to employ public funds to meet public needs. This will entail working with member government agencies (initially the cities of Berkeley, Oakland and Richmond, and the County of Alameda) to gradually redirect tax and fee assets and locally generated funds to:

- *increase available capital to the local economy* with a focus on affordable and community-controlled housing, small-business and worker ownership lending, green infrastructure projects, and cost-saving funding of municipal bonds.
- *support equitable economic development* in the region. By prioritizing the least served businesses and by attending to local infrastructure needs, the Bank can provide money to various enterprises and initiatives that are currently neglected, jump-starting needed changes with increased resources.
- *manage and invest municipal funds safely and cost-effectively*. Safeguards, regulatory oversight and conservative loss reserves will make the Bank a reliable guardian of public funds.
- *enable local governments to redirect public funds from Wall Street banks*. The nation's big banks invest our money in places that are not only irrelevant to our communities but are actively harmful to them. Those practices cannot change without adequate alternative institutions to manage those dollars.
- *harness public funds to invest in public goals*. Traditional banking models incentivize decision-makers to prioritize profits above all else. PBEB will remain committed to financial viability, safety and solidity, balancing the essential need to be profitable with its commitment to our region's social needs and the Bank's social mandates.
- *nimbly, transparently, and democratically modify these goals as local priorities change*.

To meet these goals, PBEB will partner with and complement local financial institutions, such as Community Development Financial Institutions (CDFIs), credit unions, and local community banks⁶. PBEB will be managed by professionals experienced in banking and community finance, independent of the member county and cities. It will have a strong democratic and multi-stakeholder operational and governance structure, including a Board of Directors, with community members and representatives of the governmental agencies filling a majority of seats. The mission, operations, and decision-making of PBEB will ensure financial viability, as demonstrated in this Study, while prioritizing community value above maximized profit.

A democratically organized Bank with strong community oversight, PBEB will be governed by a Board of 15 people who bring banking and financial expertise along with social and political experience. The Board members will have a varied knowledge base and a shared commitment to representing and meeting the needs of systemically underserved communities – and all East Bay residents. Meetings will be public except for discussion of private customer information, personnel matters and appropriate regulatory issues, and the Bank will hold a highly publicized annual meeting to share results with the community and get feedback on future priorities. The Bank and the Board will also adhere to the highest standards with regards to records accessibility and transparency.

A discussion of governance issues is on p. 35 and a detailed governance plan is included in Appendix A.

⁶ A strong positive for PBEB which is also required by AB 857

Programs

The purpose of the PBEB is to redirect a portion of the cash and investments of its member governments from bonds and CDs issued by Wall Street banks⁷ to local lending. This study lays out four initial target programs: housing, climate, business lending, and municipal finance. The credit market needs—and the outline of a plan for fulfilling them—are described in the following sections, and referenced in the financial projections.

A rough market analysis was done for each of the four target lines. For housing, climate, and business lending, the analysis included interviews with market participants and review of various reports and studies made on the subject. The review of municipal borrowing added an analysis of public bond documents as filed on the EMMA website of the Municipal Securities Regulation Board.⁸

Housing

The lack of affordable housing in our country has reached crisis level. According to Alameda County's 2021 Affordable Housing Needs report,⁹ 52,254 low-income renters do not have access to an affordable home and 71% of extremely low-income households are paying more than half of their income in housing costs. Renters in Alameda County need 2.9 times the minimum wage to afford the average asking rent. The housing crisis has been growing over time as housing construction has slowed¹⁰ and has been exacerbated by the Covid-19 pandemic. Over the course of the pandemic, nationally, rents have increased 11.4% in 2021 compared to about a 3% annual increase pre-pandemic.¹¹

The homeownership rate for Black and Hispanic residents stands at 45.1% and 49.3% respectively. For whites, the rate is 73.8%. Moreover, this gap has not changed significantly over the 50 years since the Fair Housing Act. Similar inequities are also found in home ownership by income level.

As is evident in places like the Bay Area, the high cost of housing in many areas—especially those experiencing significant levels of real estate speculation—forces many lower-income families out of established, often better-resourced communities and into concentrated pockets of poverty within the city or in a neighboring jurisdiction.

Lastly, there is evidence of significant generational inequality, with younger Americans unable to access homeownership at the same rates as previous generations. This is particularly true for the "millennial generation" (roughly born between 1981 and 1996), which has significantly lower median

⁷ Over \$300M (4.5%) of Alameda County's portfolio is invested in JP Morgan alone according to its annual reports.

⁸ <https://emma.msrb.com>

⁹ <https://chpc.net/resources/alameda-county-housing-need-report-2021/>

¹⁰ <https://www.nytimes.com/2021/08/10/opinion/housing-crisis-eviction.html>

¹¹ Research for this section included interviews with directors and staff at ten of the largest non-profit developers of affordable housing in the service area. This is a \$500M per year market, and the demand is still growing.

wealth than previous generations did at the same age and high levels of student loan debt. Many millennials are disproportionately burdened by housing costs, and fewer are able to purchase homes.¹²

Short-term financing for housing development and preservation

The goal of increasing the region's stock of affordable housing will not be reached merely by increasing the amount of available credit. A great deal of credit is available for affordable housing development, but the credit that is available does not always match the credit that is needed. In addition, securing the credit and managing all the other logistical aspects of building an affordable housing development is an arduous and complex process that can take three to five years from the time a property is identified to when the units are move-in ready. A single affordable housing development might rely on over 20 sources of funding.

Unfortunately, though both government and private credit is available in theory, it is difficult or expensive to find credit that can be deployed quickly, which can allow a non-profit developer to act on a property that comes up for sale suddenly, or to participate in the foreclosure or tax sale markets to preserve affordability of properties that come up for sale. Perhaps more important, a housing agency with a flexible and readily-deployed source of capital would also be better equipped to prevent those foreclosures or tax sales, and the cascade of negative impacts that result for the people who lose their homes. Foreclosures can also cause harm to neighborhoods and financial institutions by lowering neighborhood home values. During the pandemic, a moratorium was placed on foreclosure actions, however, that moratorium has been lifted and foreclosures are beginning again.

Housing agencies also frequently require bridge finance, to get a project underway while the longer-term financing is worked out. This tends to be expensive. Offering non-profit housing developers a flexible line of credit will help them obtain the cash they need efficiently, and will allow agencies the flexibility to deploy credit quickly. PBEB will coordinate this program with other financing agencies. Many of the developers interviewed for this study identified permitting and grants as a major obstacle to building more affordable housing and expressed hopes that as a public bank, PBEB would be in a better position to reach out to local agencies and governments, to help navigate public permits and grants and ensure ongoing municipal support for housing projects, saving money for projects overall.

The credit line will work as credit lines do for individuals, with a credit limit and a repayment schedule for each drawdown of credit based on a 3-5-year amortization of the balance. Many non-profit developers have equity in past developments which can be used to help secure such a credit line, and the acquisitions made with it can also be pledged as security. Participating in the housing market, and the security pledged for this housing credit could allow the PBEB to access the resources of the Federal Home Loan Bank, a potentially valuable source of collateral. This form of credit is a departure for this market, so it can be expected to take a bit longer to build out this component of the Bank's portfolio.

Affordable housing rehabilitation and other housing finance options

Affordable housing rehabilitation is another largely unmet need in the East Bay.¹³ Many affordable units were built decades ago and are overdue for repairs to their roofs, cabinets, plumbing, electric service,

¹² <https://thenextsystem.org/learn/stories/revisiting-community-control-land-and-housing-wake-covid-19>

¹³ <https://baysfuture.org/time-to-fill-a-crucial-gap-in-affordable-housing-financing/>

and more. This kind of lending is smaller than new construction or home purchase finance, typically in the tens of thousands per unit, and the terms also tend to be much shorter: in the 5-10 year range, or perhaps 15 for a roof. This is compatible with the strategy of focusing on shorter term loans in the formation stage of the PBEB. Some of the same agencies who might be line-of-credit clients could be partners to take on the underwriting overhead.

Financing Accessory Dwelling Units (ADUs) is another area where traditional housing finance is largely unavailable to meet current and future needs.¹⁴ Given the state of the housing market, this demand could be quite substantial and an important component to addressing affordable housing in the East Bay. The referenced study identified over 15,000 parcels where an ADU would be possible, so this has potential to add a substantial amount of housing.

Providing this credit, however, will require substantial underwriting effort, as well as navigating some legal issues, especially concerning the value of existing mortgages on properties where an ADU is proposed. From a policy perspective this is an important area to address, but providing this credit will require an investment in time and expertise beyond what is envisioned at the early stage of the PBEB. Without an obvious partner to absorb that overhead, this is not covered in this Study and the financials. It is mentioned here as a fruitful early place to expand PBEB business as the Bank Board and management deem feasible.

Climate

At this late date in the progress of the climate crisis, there is not nearly enough credit available to reduce the carbon footprint of our society. The PBEB can help by focusing funds on important climate goals, like reducing the carbon footprint of our buildings and adding renewable energy production capacity.

Electrification of residential buildings

Buildings generate an estimated 40% of annual global climate emissions, with building operations being responsible for most of those emissions. Though addressing the carbon contribution of individual buildings may seem unimportant, this is not only a vital step towards a low-carbon economy, it is also among the lowest-hanging fruit.¹⁵ Multiple plans have been developed in the Bay Area to decarbonize existing buildings. Electrification of new and existing buildings is a critical aspect of these plans. The City of Berkeley's Existing Building Electrification Strategy recognizes that:

"Beneficial electrification takes this idea further and ensures that electrification results in reduced GHG emissions, more grid resiliency, and lower energy costs for residents. With the availability of renewable electricity associated with Senate Bill (SB) 100 and EBCE, this switch to electrification, if done equitably, opens up the potential for significant benefits including reductions in GHG emissions, improved health and safety, cost savings, and more."¹⁶

¹⁴ https://communityinnovation.berkeley.edu/sites/default/files/a_solution_on_the_ground_report_9-27.pdf

¹⁵ <https://www.rewiringamerica.org/policy/rewiring-communities>

¹⁶ https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Energy_and_Sustainable_Development/Draft_Berkeley_Existing_Bldg_Electrification_Strategy_20210415.pdf

Over 42 cities in California have banned fossil fuel infrastructure such as natural gas heating systems in new construction, however electrifying existing buildings remains a challenge. Retrofitting existing buildings is more costly and complicated than electrifying new buildings. From a fiscal perspective, there is plenty of evidence for long-term savings associated with building electrification. Unfortunately, available and affordable financing of upfront costs is difficult to obtain. PBEB will provide low-cost credit to address this community need.

Providing low-cost electrification loans to residential properties owners will also strengthen local economies by creating an economic boom for local businesses and tradespeople. Electricians, plumbers, and carpenters are just some of the professions that will benefit from the increase in demand for residential home conversions.

Estimates from across the region give a glimpse of the size of the need for financing electrification loans. In a recent report, the City of Berkeley estimated the average cost of transitioning a residential building to be \$30K, with an estimated 32,500 existing residential buildings. The 2020 census for Alameda County counted approximately 625,000 residential housing units (not buildings) which would put the cost of electrification somewhere over \$10B.

Compared to many other kinds of credit, retrofit loans are relatively small with terms of five to ten years. Many will be only a few thousand dollars, though some will reach the tens of thousands. To keep the cost of underwriting as low as possible, the assessment of eligibility and approval can be partially automated, with much of the paperwork effort delegated to software run by the plumbers, electricians, and HVAC contractors who will be the customer's point of contact.

For security, customers can be offered a choice between an unsecured personal loan, repaid via an additional charge on their utility bill¹⁷ and a property lien, which might merit a lower rate. An on-bill tariff will also make the lending more responsive to the cost-effectiveness of the proposed improvements instead of the economic resources of the bill payer.

Costa Rica's BPDC serves as an example of the successful public financing of energy transition.¹⁸ There, the public bank financed a large-scale conversion to LED lighting by analyzing the potential cost-savings of the switch and then granting low-interest loans based on those savings. The switch to LED allowed the project sponsor to receive a carbon neutral certification and continues to provide additional cost reductions.

With a substantial push for building electrification, the potential size of loan demand for electrification will be much greater than the PBEB as proposed can accommodate. This can be addressed by carving out some subset of demand for intensive attention, either by geographic area, or perhaps by the type of

¹⁷ We are assuming the cooperation of the utility over issues like cash flow and the locus of default risk. These issues have been overcome in several other states and territories, e.g. <https://www.myrec.coop/bill-tariff-energy-efficiency-program>. California's AB 841 contains incentives for in-state electric utilities to adopt measures like these, and directs them to obey PUC directives to establish them.

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB841

¹⁸ <https://www.tni.org/en/publication/how-public-banks-can-help-finance-a-green-and-just-energy-transformation>

appliance (e.g. loans for batteries, or for heat exchangers). The financial projections indicate the prospective PBEB capacity, and assume that the main problem facing policymakers will be to contain the demand for electrification loans rather than to find borrowers.¹⁹ Cooperation from local utilities with either incentives or obligations to improve energy efficiency, in the form of grants and/or paying for some of the work, is not calculated into these projections because it requires substantial negotiation. If this were to be successfully arranged, the scope of this project could grow significantly.

Other green energy finance

Finance is needed, both to increase the green energy supply, and for load-balancing features, like in-house backup batteries, that will allow the existing electrical grid to accommodate that increase in supply without burning fossil fuels. Large solar and other energy projects take time to come online, while smaller projects can be built and installed relatively quickly.

According to the consulting firm Wood Mackenzie, a national goal of 50% renewable energy will require more than a trillion dollars in finance capital.²⁰ California represents 6-7% of the national electricity market,²¹ and the state's own goal is even more aggressive, seeking to achieve 60% renewables by 2030 and 100% by 2045.²² The state's financing needs are thus in the several tens of billions for the next decade, and the East Bay's share of that is in the range of \$3-7B. Obviously not all of that financing falls within the PBEB service area or initial target projects, but any appreciable fraction represents several hundred million in demand for financing, providing a substantial opportunity for the low-cost capital the PBEB can provide.

We recognize the current controversy around home solar policy costs proposed by the California Public Utilities Commission (CPUC). If approved, that will discourage the construction of small renewable installations in the near term,²³ however, the larger goal may be expected to prevail over the next 2-4 years unless the state also disavows its renewable energy targets. The financial projections are based on providing credit to small-scale renewable installations with the expectation that, though the details may change substantially based on possible state action, the demand will remain substantial.

Another benefit to focusing on renewable energy installation in partnership with local lending institutions is the potential for funding to be included in upcoming infrastructure legislation and

¹⁹ Alternatively, one might use the bond market to supply the lion's share of lendable funds, and use funding through the public bank as a liquidity reserve for that lending program and to augment the loanable funds. This would allow the PBEB to meet much more of this demand than is envisioned in this proposal, and reduce the risk to the bondholders, which would result in a lower cost of funds. This would be a substantially different institution than is proposed in this document.

²⁰ Presentation to the American Clean Power Association, December 2020. <https://cleanpower.org/wp-content/uploads/2021/02/american-clean-power-renewable-energy-and-infrastucture-policy-analysis.pdf>

²¹ https://www.eia.gov/state/seds/data.php?incfile=/state/seds/sep_fuel/html/fuel_use_es.html&sid=US

²² <https://www.ncsl.org/research/energy/renewable-portfolio-standards.aspx>

²³ <https://kesq.com/news/local-news/2021/12/17/residents-heated-over-california-legislators-proposal-to-rollback-solar-incentives/> (accessed 1/26/21)

regulation to benefit “green banks.”²⁴ Designating PBEB as a green bank may open up other funding opportunities as state and federal energy policies evolve.

Business lending

The severe lack of access to capital for small businesses, in particular for very small and woman- and BIPOC- owned businesses, is well documented nationwide and in the Bay Area.²⁵ In 2019, the Federal Reserve Bank of Atlanta published a report showing that Hispanic- and Black-owned businesses are less likely to be approved for bank loans and receive less money when they do.²⁶ It estimates that nationally the unmet credit needs among entrepreneurs of color is 15-25% higher than those of white entrepreneurs. These findings were confirmed in a more recent study by the Federal Reserve in 2021.²⁷ In an academic study from 2021 researchers showed that Black-owned businesses received loans that were 50% lower than observationally similar white-owned businesses.²⁸ The racial disparity in small business lending worsened during the pandemic, where Black-owned businesses were more likely to shut down²⁹ and less likely to receive government support through the Paycheck Protection program (PPP).³⁰ An SBA report has shown that in 2020 Black-owned businesses received only 2% of PPP loans while white-owned businesses received 83%.³¹

This racial disparity in small business lending is structural. A perceived higher risk-level for the part of the population that has been historically excluded from the formal banking sector, the generational impacts of poverty (e.g. entrepreneurs of color often have few assets to pledge as collateral for loans, and less wealthy family networks to tap into for starting a business) as well as a general lack of trust in banking institutions among people of color are some of the factors resulting in the lending discrepancy.

Typically, the loans needed by BIPOC-owned small businesses are too small for commercial banks to earn a profit. The cost to originate and service an individual loan is almost the same for a \$25K loan as it is for a multi-million-dollar loan, so Wall Street banks as well as community oriented local banks and credit unions, more often than not choose the larger loan, as they are structurally mandated to fulfill their private shareholders’ expectation for competitive profit rates. Out of \$1.1B of commercial loans

²⁴ [Clean Energy Finance: Green Banking Strategies for Local Governments \(epa.gov\)](https://www.epa.gov/clean-energy/clean-energy-finance-green-banking-strategies-for-local-governments)

²⁵ See <https://cameonetwork.org/microenterprise-research-policy/> for a rich collection of reports on this topic.

²⁶ Federal Reserve Bank of Atlanta (2019): Small Business Credit Survey. <https://www.fedsmallbusiness.org/medialibrary/fedsmallbusiness/files/2019/20191211-ced-minority-owned-firms-report.pdf>

²⁷ Federal Reserve (2021): Small Business Credit Survey. Report on firms owned by people of color. <https://www.fedsmallbusiness.org/medialibrary/FedSmallBusiness/files/2021/sbcs-report-on-firms-owned-by-people-of-color>

²⁸ Atkins, Cook, Seamans (2021): Discrimination in lending? Evidence from the Paycheck Protection Program. In Small Bus Econ, July 2021, <https://link.springer.com/content/pdf/10.1007/s11187-021-00533-1.pdf>

²⁹ [National Geographic Article](#)

³⁰ [Brookings Article](#)

³¹ See Wilmuth (2020): “The Effects of the COVID-19 Pandemic on Small Businesses.” SBA Office of Advocacy. See also the report by NCRC (2002): [“Lending Discrimination within the Paycheck Protection Program”](#)

lent among the six community banks headquartered in Alameda County, only \$93M (7%) was issued in amounts of \$100K or less.³²

In a recent report created by the Bay Area Association of Black-Owned Businesses for the Friends of the Public Bank East Bay, these general observations have been confirmed through surveys of the borrowing needs of Black-owned businesses in the East Bay region.³³ The majority of surveyed businesses operate with revenues less than \$75K, implying needed loan amounts of well below \$50K. Many Black business owners reported a lack of trust in banking and government institutions, including fear of being rejected and reluctance to carry debt in general. These concerns often keep business owners from applying for the credit that might be necessary to grow. Trustworthy institutions rooted in the community, low-interest loans, ease of access, flexible repayment terms, and more situational evaluation of the risk created by borrowers with lower-than-typical credit scores can all help address these concerns.

One type of lending institution is currently providing such loans: CDFIs are organizations, frequently nonprofit, with the federally assigned mission to provide loans to people and businesses underserved by the traditional banking system. The Bay Area has one of the highest densities of CDFIs in the country with more than ten CDFIs headquartered, and many more actively lending, in the area (Appendix D). These institutions have a strong track record of distributing a majority of their funds to BIPOC- and women-owned businesses, originating loans with amounts as small as \$5K, and providing technical assistance to help borrowers succeed. This includes determining the right type and amount of financing and writing a sound business plan. The goal is simply to help borrowers grow and succeed in their businesses—and repay their loan.³⁴

Providing loans and assistance with this level of engagement is costly. As they are committed to providing low rates, most CDFIs finance their operations primarily through grants and donations. Loan funds generally come from banks who are comfortable issuing loans to CDFIs at low rates (currently as low as 2-3%) in order to satisfy their Community Reinvestment Act (CRA) requirements. All CDFI executives we talked to confirmed that there is currently no lack of bank loans at low rates. In some cases, CDFIs commit to pay back 100% of the principal to the banks, even if the underlying borrowers fail, relying on grant money to cover any losses. This dependence on grants and donations to provide their loans often makes it challenging for CDFIs to grow, as they need to raise additional capital to enable additional debt financing for a growing portfolio.³⁵

³² This is based on an analysis of the latest published annual reports for these six banks (Fremont Bank, Summit Bank, Community Bank of the Bay, Beneficial State Bank, Gateway Bank, Metropolitan Bank.

³³ “Borrowing Needs of Black Owned Businesses” A report by the Bay Area Organization of Black Owned Businesses (BAOBOB), commissioned by the Friends of the Public Bank East Bay. See Appendix C for more information.

³⁴ Many representatives of CDFIs who we talked to during our research (see Appendix D) were proud of not letting any of their customers fail or rejecting them for their loan applications, instead they are doing everything in their capacities to help them succeed.

³⁵ See Simmons, Bereton and Klein (2021): [“Addressing the Capitalization and Financial Constraints of CDFI Microlenders”](#)

This situation is structurally unsustainable. Private banks satisfy their federally regulated requirements to lend to low-to-moderate income businesses without incurring the cost of issuing these loans themselves and without taking on any significant risk, while still returning profits to their private shareholders.³⁶ The CDFIs, on the other hand, do all the work necessary to issue these loans and additional services, operating with lower resources, distributing no profits, and financing their operations and loan losses through grant money.³⁷

When lenders complain they cannot find enough qualified borrowers, it means either that they have too few applications, or they do not feel comfortable with the level of risk implied by the applications they see. The PBEB can help with both aspects of this problem, primarily by providing an additional stable source of funding for CDFIs in the region at low interest rates (3% or less), in the form of a revolving line of credit. In the short term, this will provide additional financing sources for CDFIs eager to grow their portfolios. In the longer term this would guarantee the availability of low-cost funds in times when commercial banks might not be willing to lend at similarly low rates, thereby creating an interest rate ceiling that is crucial for ensuring the access to low interest rate loans for small businesses in the future.

Another way the PBEB can assist is to buttress the management of loan guarantees, to allow local lenders to be comfortable with applicants further out on the risk spectrum. One successful program for helping financial institutions occupy space further out on the risk spectrum has been the California Capital Access Program (CalCAP). Though the program has been a success for years, recent changes in both federal and state rules have made the program less attractive in some different ways.³⁸ The PBEB can address some of these issues, partly by providing a locus for joint management of guarantee funds for multiple local lenders, and partly by foregoing some interest rate revenue to offset the loss of state subsidy on participation loans. For example, a borrower might have loaned \$50K to an entrepreneur. Under CalCAP, both would contribute 2-3% to a guarantee fund, or about \$1250 each. With a participation loan, the originating bank would contribute half that amount, with PBEB making up the other half. To make up for the absent state subsidy, PBEB can offer half its revenue from that loan for the first two years. Unlike the state subsidy, this can be sustainable indefinitely, so long as PBEB can keep its underwriting and administrative expenses down.

The CalCAP program works best when the volume of lending is high enough for the statistics of a guarantee fund to work well. A 5% loss ratio for some category of a hundred loans held by multiple banks can still be devastating for a single bank that only made a few of those loans if they are unlucky enough to hold more than one default. PBEB can aggregate activity from a variety of small banks and CDFIs, thus spreading the risk across multiple banks.

³⁶ Default rates for CDFI loans are generally not higher than for typical bank loans. For 2019, the delinquency rate of all reported CDFI loans was 1.08%. See the report by the Opportunity Finance Network (2019): "[Opportunity Finance Institutions Side by Side](#)", p. 5

³⁷ The Financial Times recently summarized this unsustainable situation well. Financial Times, 12/13/2021: "[Race and Finance: America's Segregated Finance Sector](#)".

³⁸

https://www.urban.org/sites/default/files/publication/98051/capital_access_programs_cdfi_case_study_on_the_california_capital_access_programs.pdf

In addition, PBEB could improve the climate for local small businesses in other ways, not currently reflected by this Study's financial model.

- PBEB could purchase loans from CDFIs, securitize them and sell them on the secondary markets to banks and other lenders, thereby freeing up the balance sheets of CDFIs that will allow them to make more loans. Centralizing the purchase, securitization and sale of these small assets at a public bank could reduce costs for participating community banks and CDFIs that are already doing these types of transactions.³⁹ Given that these credits would mostly be CRA eligible, a high demand on the secondary market for these loans is almost guaranteed.
- PBEB could help smaller CDFIs or other non-profit lenders with technical loan infrastructure. These lenders create great value in the time-intensive customer-centric interactions with the customers focusing on their actual needs; the training provided in understanding their borrowing needs, business plan, accounting, growth, and much more. The technical infrastructure for distributing and servicing loans on the other hand could probably be standardized and centralized, thereby reducing the cost of lending for CDFIs.
- PBEB could act as a referral agency supporting the growth of CDFIs. Every single CDFI representative we talked to mentioned a lack of awareness among small business owners in the Bay Area of the existence of alternative and mission-oriented lenders like themselves. Public agencies, such as cities' economic development offices, are much more known to small business owners. By developing a trusted public brand and cross-subsidizing significant marketing and platform building, PBEB could take on the role of referring incoming loan inquiries to the most relevant CDFI or community bank in the area.⁴⁰

Approximately [ten CDFIs](#) headquartered in the Bay Area focus on small businesses (primarily low-income, BIPOC-owned). They (very roughly) have originated approximately \$50M in such loans over the last year. The East Bay makes up about 1/3 of the Bay Area by population, so the CDFI loan volume in the East Bay can be estimated at about \$17M. Beyond the CDFIs, the six community banks located in Alameda County have around \$90M in small business loans (loan amounts below \$100K) on their books. Assuming 10-year terms, this is about \$9M in business each year. Adding credit unions and other lenders implies as much as \$30M in small business lending in the PBEB service area each year.

If partnerships with the PBEB could expand the range of businesses to which these CDFIs could lend, either by lowering the interest rate, or providing access to a guarantee fund, this sum could increase substantially, and the PBEB might be able to grow into a share of that expansion. This is incorporated into the financial projections.

³⁹ Michael Herne from LISC made the case for creating a secondary market for CDFI loans. Herne (2021): [“A Quantum Leap” for CDFI Funding: The Potential of Securitization](#)”.

⁴⁰ Darien Louie's report for Alameda County in 2019 came to a similar conclusion. While there are plenty of resources in the East Bay providing loans and assistance to small businesses, few of them are widely known. Darien Louie (2020): “Community Investment and Local Banking Initiative Study.”

Municipal finance

Most municipal borrowing is served by the nation's investment banks and the market for municipal bonds they have developed, and yet there is value in including municipal lending in the services provided by the PBEB, both to the Bank and to its member municipalities. In 2020 alone, the four initial member governments issued more than \$350M in bonds, not counting short-term tax anticipation notes. These bonds had a wide range of terms, ranging from 1 to 20 years, with a few even longer than that. The mid-to-longer term bonds have rates ranging from 2% to 3%. Some of these bonds are for taxable purposes, and those are for slightly higher rates, up to 4%. The nation may be entering a climate of somewhat higher rates than has been the case for several years.

From a government's perspective, bond debt is slow and relatively inflexible. A program must be thoroughly described in bond documents prepared months in advance, and once a bond is sold, there is no negotiation if the agency's programmatic needs or economic circumstances change. The bond market can be a huge resource to the government of a wealthy community, which can access seemingly endless quantities of money at low rates. Less affluent communities, however, can struggle to access affordable interest rates, even though the actual difference in risk to the bondholder is barely detectable. PBEB can relieve some of these burdens, providing a valuable asset to the member governments.

Though it will take time to grow into an institution that can address these needs at large scale, the Bank can help in a small way simply by being one additional buyer for members' municipal debt. This is especially true because it is not driven by maximizing profit and thus may be able to consider lending at a lower cost and set a ceiling on bond rates secured by the member governments.

Beyond that, with sufficient expertise and personnel, the Bank could actually underwrite some small bond issues. Apart from the basics of filing regulatory documents, the fundamentals of underwriting are twofold: finding buyers and making a market, which simply means promising to buy bonds in the future if some bondholder wishes to sell. (The price is not predetermined.) Collateral requirements mean the Bank will usually have the liquidity necessary to make a market for a modest issue because the state-required collateral can be repurposed to purchase these securities, which also count as collateral.

Finding buyers for these bonds is related to other prospective components of PBEB business. For example, the PBEB might choose to securitize and sell packages of small business loans or green energy loans, and presumably the buyers of those securities might also be buyers of the municipal bonds.

Being able to underwrite some bonds could potentially save on issuance costs for the member government and provide revenue to PBEB. It could also help the member governments in future negotiations with potential underwriters to have additional options for underwriting, especially an option that provides a degree of transparency about what it earns. Finally—and this gets to the original point of a public bank—it makes sense to be able to deploy public assets in service of important public policy goals. If a PBEB can make some of its member governments' own capital available for their needs, that is all to the good.

From the Bank's perspective, municipal debt is valuable not only for its security, but also for its predictability. Because of the bond market's inflexibility, bond issues are generally planned far in advance. This allows the PBEB to have a high degree of confidence in certain components of its business,

especially important during the opening phase of the Bank, where the guarantee of some income can allow the PBEB to show incoming revenue much sooner than is usual for a startup.⁴¹ In fact, recent years have seen a substantial amount of project finance move from the open bond market to private placements with banks for exactly these reasons, especially for smaller projects.⁴² These are attractive lending opportunities for any bank, not just a public bank.

The PBEB will not start at a scale that could accommodate hundreds of millions in loans per year, but setting a precedent that it will lend to its members may be useful, both to the member governments and to the Bank itself. However, if at its inception, the Bank were to buy a substantial amount of upcoming bond issues, it would have a fair amount of interest income available from the start, that could be liquidated as it builds out other components of its lending portfolio. It could buy this either by participating in a standard bond sale, or underwriting the bond and keeping some fraction of the issue.

Financing

The basics of a bank are the money invested in it and the money it invests. The first constitutes the bank's capital, the foundation of its financial stability, and the second, its funding, the deposits and invested funds with which the bank makes its loans. We describe these in turn.

Capitalization

Any bank must account for the capital with which it is begun. This is the original money invested in creating the bank, and that continues through its life to be the difference between the bank's assets and the deposits and investments that it must eventually return to others. The PBEB is to be a mutual institution, where ownership is by the members who invest "pledged" deposits that count as capital. These are deposits that are meant to be permanent.⁴³ Pledged deposit accounts do not bear interest, though the ownership share they represent can acquire additional value through retained earnings. Because of this, it is likely not within the purview of investment administrators alone to make such an investment, and will require an explicit appropriation by the relevant legislative body. These pledged deposits are to be fully collateralized.

The financial projections accompanying this report assume that the Bank begins with a commitment of \$40M in pledged deposits from the initial four member governments: Oakland, Berkeley, Richmond, and Alameda County. They show that running the Bank in a conservative and careful fashion can result in an institution worth over \$250M within a decade. Much of the activity of a bank—the number of loans issued, the amounts, the deposits and investments behind them—can be scaled arbitrarily. Some of the important costs, however, do not scale as conveniently. These components of the Bank's overhead

⁴¹ A more mature and financially stronger bank can offer more flexibility, but this will not be true at the beginning, at least not at the scale at which most bonds are issued. At smaller scale, it will certainly be true, and pieces of the original bond issue can be liquidated to fund such loans.

⁴² See Ivanov and Zimmerman, "[The Privatization of Municipal Debt](https://www.brookings.edu/wp-content/uploads/2018/08/WP45.pdf)" Brookings, 2018. The privatization is not all to the good, and can have the effect of impeding access to the bond market for financially weaker governments. <https://www.brookings.edu/wp-content/uploads/2018/08/WP45.pdf>

⁴³ The pledge contracts can conceivably be drawn to allow for gradual withdrawal as the Bank is able to replace the pledged monies with capital accumulated through operations, or through other contributions.

include the costs of staff, as well as the costs of the necessary data processing infrastructure, legal expenses, and regulatory compliance. The smaller the bank, the more difficult it is to amortize these costs and the more expensive the services it provides become. In effect, a policy goal of low-cost capital sets a minimum size for the institution. We have tried here to specify the minimum size necessary to carry these overhead costs and still achieve the policy goals of low interest rates and security.

Funding

This study does not address the question of municipal budgeting to identify how the initial investment might be appropriated by each member government.⁴⁴ As identified in the financial projections, the total amount constitutes less than half a percent of the collective value of the cash and investments of the four founding member governments, or about 0.75% of their collective annual budgets. The money could be appropriated from those investment balances as a one-time expense invested in the PBEB.

In addition to the bank capital, any bank plan must also account for the money to be loaned. For the PBEB, this will include liabilities in the form of tradable bonds, or notes of the Bank, as well as more traditional deposits. These bank bonds are specifically permitted by California code 53601(r), and are not required to be collateralized.

Large institutions widely use bonds and large denomination CDs as a store of value. These investments are secure and easily cashed in to provide necessary liquidity. The PBEB founding agencies are no different from thousands of other institutions. Alameda County has over 30% of its portfolio in money market funds and commercial paper, including over \$300M at JP Morgan. PBEB bonds will be another option available to the cash managers for storing their money and keeping it safe.

Investments like these are made for security and liquidity, not yield. The average rate of return for Alameda County is 1.12% (July 2020-June 2021) and the rate for the three cities is even lower; the rates PBEB investment returns will mirror the rest of the market. The agencies investing their money in PBEB notes will not have to sacrifice yield to do so. The use of these funds and their relation to the budgets and assets of the sponsoring agencies is explored further in the financial projections.

In addition to the member governments, the Bank can accept deposits, or note purchases, from area non-profits and foundations. These have considerable cash resources. According to publicly available tax disclosure forms and annual reports, the assets of twenty of the largest non-profits and foundations in the local area include more than \$1.3B in cash and equivalents, and billions more in equities and longer-term bonds. Moreover, institutions such as these (especially in health and education) are increasingly adopting the “anchor mission” approach to their relationship with local communities, and a significant part of this includes re-directing a portion of their financial assets to locally beneficial strategies (such as affordable housing, environmental sustainability, and economic development). Attracting only a percent or two of that cash alone could amount to tens of millions potentially available to the Bank. There are also many smaller non-profits and foundations in the area, from which PBEB might receive investable funds. These funds would provide valuable flexibility and be an important component to the liquidity

⁴⁴ All numbers referencing the cities’ and County’s finances in this section are based on an analysis of the last five years of the four agencies’ monthly treasurer’s/cash management reports published on their websites.

risk management strategy (see Risk analysis, p. 29). The financial projections reference deposits and investments made from these cash balances amounting to a bit more than one percent of the available cash.

The bank deposits from the member governments, including the pledged deposits, are required by California state law to be collateralized. This will provide a substantial amount of available liquidity that can be used for the management of the municipal lending operation, such as the market-making suggested there.

Finally, according to the state Treasurer's investment guidelines, doing business with the PBEB will require adjustments to the investment policies of its member governments. The City of Oakland has already made this change, approving the option to invest in public banks.⁴⁵

Expenses

The goal of the PBEB is to provide credit as safely and inexpensively as possible. To achieve this goal, lending programs are designed to capitalize on existing networks and partner banks, and to eschew expensive underwriting operations wherever possible. In similar fashion, the day-to-day operations are intended to take advantage of existing infrastructure and avoid expensive expenditure for buildings and real estate. Thus, the financial projections include minimal funds for facilities; the assumption is that most if not all of the Bank operations can be housed in facilities already owned by the member governments.

Similarly, the staffing projections beyond the C-suite employees use salary numbers comparable to those appropriate for senior civil servants and employees of local CDFIs in the area. People should be paid fairly—with the cost of living in the East Bay taken into account and commensurate with their expertise and ability to contribute to the operation of PBEB—but not exorbitantly. Details of the staffing levels and salaries can be found on the assumptions sheet of the financial projections.

Expansion and growth

The Bank can become an integral component of the financial management and policy apparatus of the member governments. However, it will have to grow substantially from its inception in order to fill that role and some constraints on the growth of the PBEB must be considered. At the outset, PBEB does not anticipate providing demand accounts (checking services) to its member agencies. Governments are high-engagement customers for this service, which requires complex bookkeeping and instantly responsive customer service. The PBEB may grow into this role for its members over time, at the discretion of its Board.

At this juncture, we have focused on keeping costs low, to demonstrate that keeping costs low is viable. A future PBEB board might choose to stress capital growth to a greater degree by increasing rates for some business lines. A mutual bank can only grow as fast as its investors—or its business operations—build up its capital. Since part of the policy goal is to provide credit as cheaply as possible, there will always be tension between providing low costs and increasing capital.

⁴⁵ Oakland ordinance: <https://cao-94612.s3.amazonaws.com/documents/IPFY22.pdf>

One growth strategy for the PBEB is to ask its member governments to increase the amount of capital and funding they invest. Though there is considerable room between the initial investment level envisioned here and the limits prescribed by the concentration risk treasury policies of the member governments, there are obvious limits to growth by that strategy even beyond concentration risk.

Another growth strategy is to increase the PBEB's capital by including other agencies as members. Though Oakland and Berkeley are the two largest cities in Alameda County, a dozen others could also join, representing growth potential of another 20-25% of assets. Alameda school districts and other quasi-governmental agencies (not counting BART) would add another 20-25%. BART alone would add 10%. Beyond the borders of Alameda, other nearby county governments and their cities and agencies offer the possibility of perhaps four to five times more investments. There is, therefore, ample room for growth by expanding membership.

Financial Projections

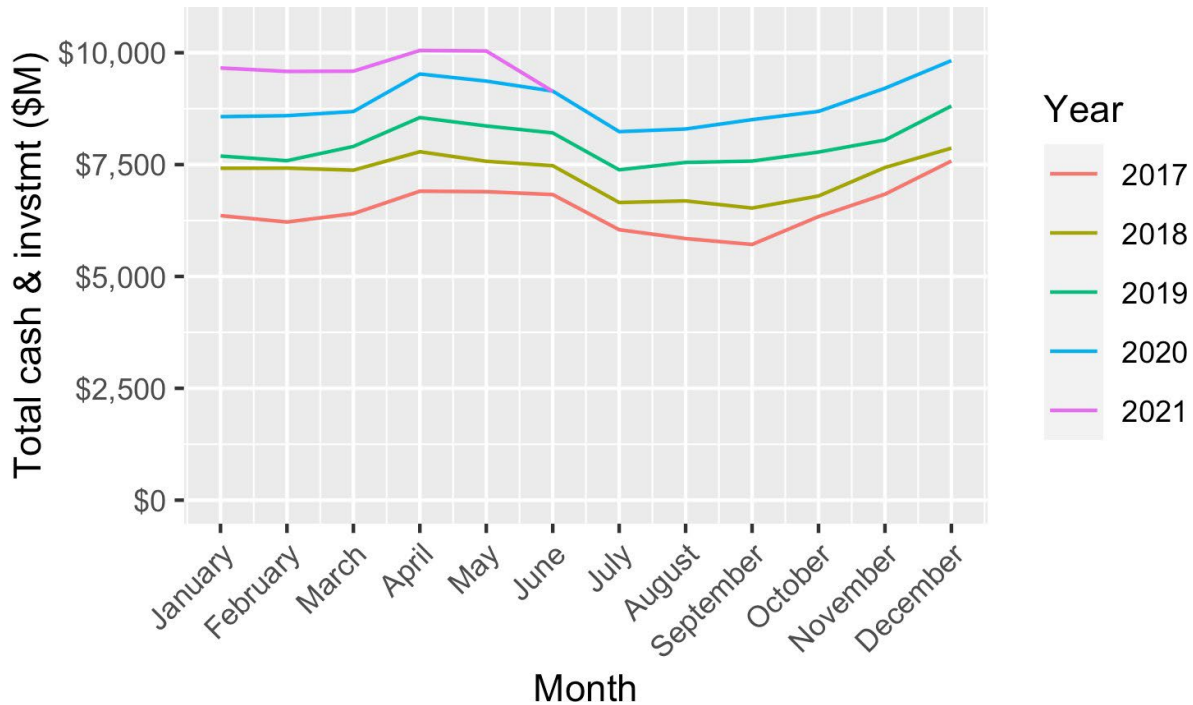
The following financial projections do not incorporate growth assumptions beyond increases in loan demand and modest increases in the amount of assets invested, such as increases in membership, or substantially higher investment levels. Given that we have projected that this small and conservative form of the Bank is viable, growth opportunities are likely to arise naturally.

The financial projections for the PBEB depend on an analysis of the available assets and estimates of the demand for credit in the various lines of business anticipated. A bank run in a conservative, steady fashion will result in a tremendous benefit to the member governments and their citizens.

The projections show a bank with assets approximately six times the size of its capital—substantially more conservative than the 10-to-1 or more that is typical of private banks—while still doubling in size over the course of its first few years, as it fills out its loan portfolio. Because these projections are conservative, the Bank may grow more quickly than these projections suggest.

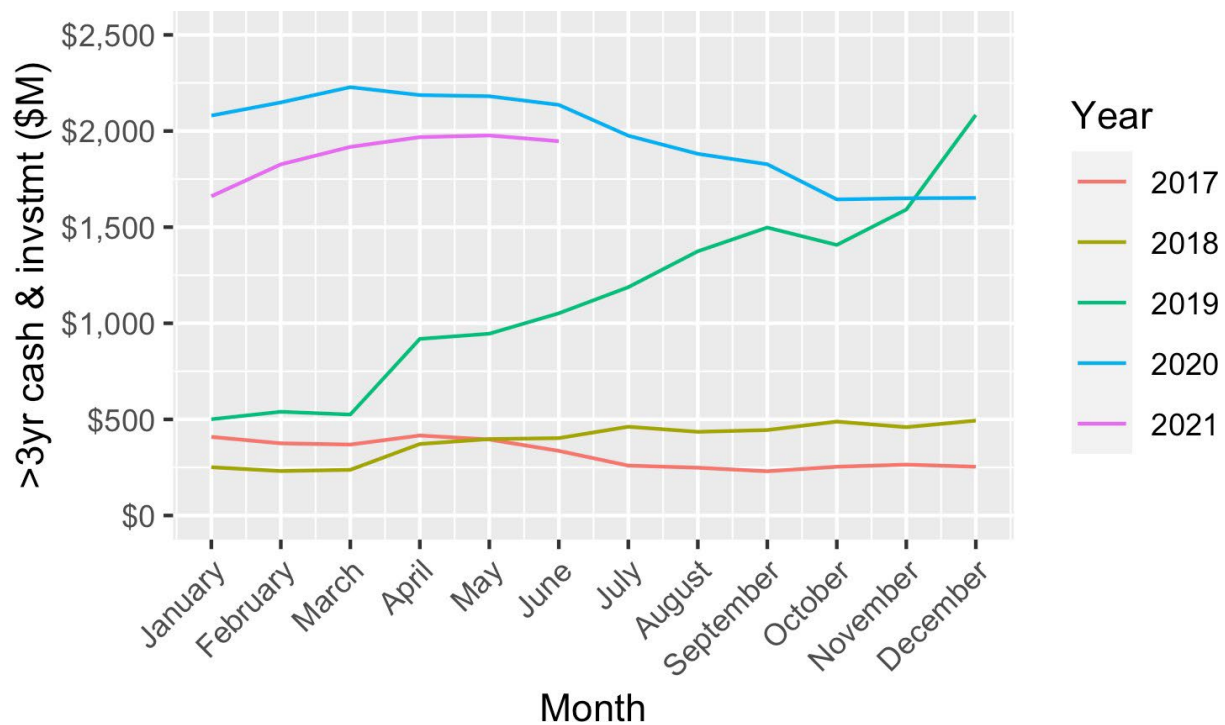
For clarity, the PBEB’s pledged deposits and accrued earnings are presented separately in the financial projections. How the earnings accrue to the Bank’s original investors and how much is reinvested is a matter to be determined by the member governments and Bank management.

The design of the PBEB assumes that some portion of the cash and investments of each of the member governments will be made available for investment by the Bank. In making estimates of how much might be available, it is important to consider not only the economic cycle of boom years and busts, but also the annual cycle of tax payments. Municipal governments in California tend to be flush with tax revenue in April and May of each year, and at a low ebb a few months later, as fall approaches.



The above graph shows the annual cycle of collective cash and investments for all four prospective member governments. At the low ebb in 2017, the treasuries of those governments still held more than \$5 billion. For the sake of financial projections, we assume that only a little more than 1% of the funds available for investment at the low ebb of August and September of that year might be invested in the PBEB in 2022. Except for the initial capital investment, these would be time deposits or notes, available for liquidation at the end of the investment term, though we assume that most or all are normally reinvested when their term is complete.

The sponsoring agencies already make longer-term investments with these funds. The graph below shows the levels of investments for terms longer than three years. Again, looking back to the low ebb of these funds in 2017 and 2018, there were more than \$250 million invested at these terms by the member governments. There is considerably more today, almost \$2 billion according to annual treasury reports, as the second graph indicates.



The financial projections envision these notes to be issued in 1, 3, and 5-year terms, currently estimated at 0.5, 1.0, and 1.5% interest. The projections assume that the member governments invest in the Bank proportionally to the relative size of their portfolios.

The projections show that with a \$40 million investment, the member governments will create a bank able to invest many times that number in their local economy. Assuming moderate growth and making conservative assumptions about investments, the PBEB will have loaned over \$120 million by year 3. By the end of a decade, the original investment will result in over \$250 million in assets, and almost \$400 million in loans made.

Basic financial projections are on the next three pages. The full spreadsheet of the financials is available on request; please email publicbankeastbay@gmail.com.

Balance Sheet

(dollar figures in thousands)

AssetsTerm Loans and Lines of Credit

| | Y1 | Y2 | Y3 | Y4 | Y5 | Y6 | Y7 | Y8 | Y9 | Y10 |
|--------------------------------------|---------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| Municipal Bonds | 50,000 | 50,000 | 50,000 | 50,000 | 50,000 | 50,000 | 50,000 | 50,000 | 50,000 | 50,000 |
| Electrification Loans | 11,760 | 27,440 | 43,120 | 50,000 | 50,000 | 50,000 | 50,000 | 50,000 | 50,000 | 50,000 |
| Other Green Energy | 1,323 | 3,087 | 4,851 | 6,651 | 8,451 | 10,251 | 12,051 | 13,851 | 15,651 | 17,451 |
| Small business participation lending | 2,026 | 4,637 | 7,248 | 9,968 | 12,688 | 15,408 | 18,128 | 20,848 | 23,568 | 26,288 |
| Affordable Housing Loans | 1,386 | 2,178 | 2,970 | 3,770 | 4,570 | 5,370 | 6,170 | 6,970 | 7,770 | 8,570 |
| Pre-development Housing LOC | 6,831 | 13,891 | 20,880 | 28,080 | 35,280 | 42,480 | 49,680 | 50,000 | 50,000 | 50,000 |
| CDFI Small Business Lending LOC | 1,584 | 2,360 | 3,129 | 3,929 | 4,729 | 5,529 | 6,329 | 7,129 | 7,929 | 8,729 |
| Loan Loss Allowance | -113 | -144 | -30 | -117 | -158 | -199 | -240 | -268 | -294 | -321 |
| Total Loans and LOCs | 74,797 | 103,449 | 132,168 | 152,281 | 165,559 | 178,838 | 192,117 | 198,530 | 204,623 | 210,716 |

Other Investments

| | | | | | | | | | | |
|--|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
| Government Securities | 40,000 | 40,000 | 40,000 | 40,000 | 40,000 | 40,000 | 40,000 | 40,000 | 40,000 | 40,000 |
| Mission-aligned short-term investments | 32,491 | 12,849 | 12,104 | 3,388 | 2,216 | 1,842 | 174 | 1,557 | 3,502 | 5,697 |
| Total Other Investments | 72,491 | 52,849 | 52,104 | 43,388 | 42,216 | 41,842 | 40,174 | 41,557 | 43,502 | 45,697 |
| <u>Clearance Account / Cash</u> | 800 | 800 | 800 | 800 | 800 | 800 | 800 | 800 | 800 | 800 |

| | | | | | | | | | | |
|---------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| Total Assets | 148,088 | 157,097 | 185,072 | 196,469 | 208,575 | 221,480 | 233,091 | 240,887 | 248,925 | 257,214 |
|---------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|

Equity

| | | | | | | | | | | |
|---------------------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
| Capital founding agencies | 40,000 | 40,000 | 40,000 | 40,000 | 40,000 | 40,000 | 40,000 | 40,000 | 40,000 | 40,000 |
| Retained Earnings | -642 | -518 | -82 | 301 | 350 | 452 | 526 | 476 | 434 | 388 |
| Total Equity | 39,358 | 38,839 | 38,757 | 39,058 | 39,408 | 39,860 | 40,386 | 40,863 | 41,296 | 41,684 |

LiabilitiesAgency Loans

| | | | | | | | | | | |
|---------------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| 1 year loans | 61,898 | 67,322 | 73,081 | 79,193 | 85,678 | 92,554 | 98,647 | 102,593 | 106,697 | 110,965 |
| 3 year loans | 22,925 | 24,934 | 27,067 | 29,331 | 31,732 | 34,279 | 36,536 | 37,998 | 39,517 | 41,098 |
| 5 year loans | 23,908 | 26,003 | 28,227 | 30,588 | 33,092 | 35,748 | 38,102 | 39,626 | 41,211 | 42,859 |
| Total Agency Loans | 108,730 | 118,258 | 128,375 | 139,112 | 150,502 | 162,581 | 173,285 | 180,217 | 187,426 | 194,923 |

Non-profit deposits

| | | | | | | | | | | |
|--|---|---|--------|--------|--------|--------|--------|--------|--------|--------|
| | 0 | 0 | 17,940 | 18,299 | 18,665 | 19,038 | 19,419 | 19,807 | 20,203 | 20,607 |
|--|---|---|--------|--------|--------|--------|--------|--------|--------|--------|

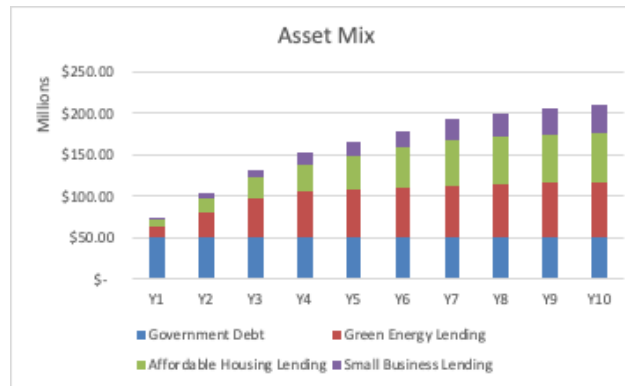
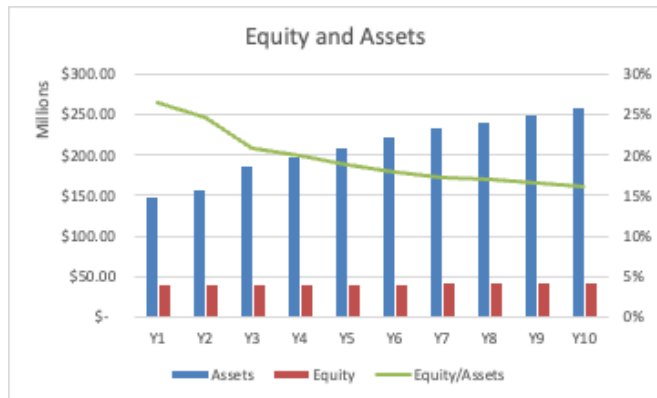
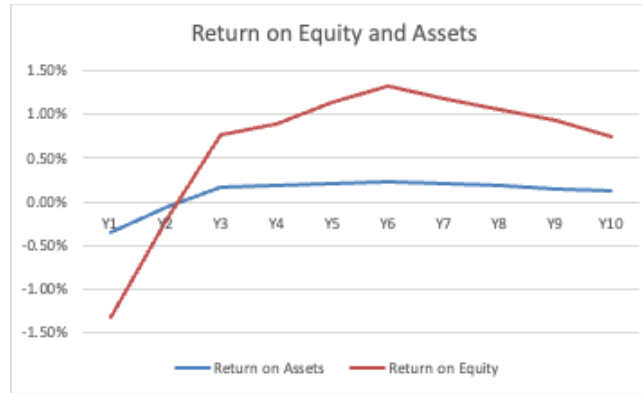
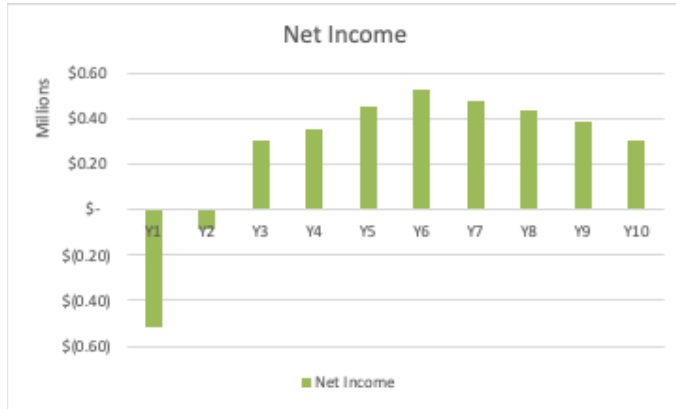
| | | | | | | | | | | |
|-------------------------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| Total Equity and Liabilities | 148,088 | 157,097 | 185,072 | 196,469 | 208,575 | 221,480 | 233,091 | 240,887 | 248,925 | 257,214 |
|-------------------------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|

Profit and Loss

(dollar figures in thousands)

| | Y1 | Y2 | Y3 | Y4 | Y5 | Y6 | Y7 | Y8 | Y9 | Y10 |
|--|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Income | | | | | | | | | | |
| <u>Asset Income</u> | | | | | | | | | | |
| Municipal Bonds | 1,375 | 1,375 | 1,375 | 1,375 | 1,375 | 1,375 | 1,375 | 1,375 | 1,375 | 1,375 |
| Electrification Loans | 240 | 870 | 1,498 | 2,000 | 2,000 | 2,000 | 2,000 | 2,000 | 2,000 | 2,000 |
| Other Green Energy | 27 | 98 | 168 | 266 | 338 | 410 | 482 | 554 | 626 | 698 |
| Small business participation lending | 54 | 186 | 317 | 498 | 634 | 770 | 906 | 1,042 | 1,178 | 1,314 |
| Affordable Housing Loans | 36 | 75 | 107 | 151 | 183 | 215 | 247 | 279 | 311 | 343 |
| Pre-development Housing LOC | 137 | 368 | 598 | 913 | 1,147 | 1,381 | 1,615 | 1,625 | 1,625 | 1,625 |
| CDFI Small Business Lending LOC | 36 | 57 | 79 | 108 | 130 | 152 | 174 | 196 | 218 | 240 |
| Default Losses | 0 | -117 | -262 | -403 | -490 | -531 | -572 | -614 | -641 | -668 |
| Total Loan and LOC interest income | 1,904 | 2,914 | 3,879 | 4,908 | 5,317 | 5,772 | 6,226 | 6,458 | 6,692 | 6,928 |
| <u>Other Investment Income</u> | | | | | | | | | | |
| Government Securities | 300 | 300 | 300 | 300 | 300 | 300 | 300 | 300 | 300 | 300 |
| Mission-aligned short-term investments | 1,059 | 526 | 369 | 85 | 55 | 46 | 4 | 39 | 88 | 142 |
| Total Other Investment Income | 1,359 | 826 | 669 | 385 | 355 | 346 | 304 | 339 | 388 | 442 |
| Total Income | 3,264 | 3,740 | 4,548 | 5,293 | 5,672 | 6,118 | 6,531 | 6,797 | 7,080 | 7,370 |
| Expenses | | | | | | | | | | |
| <u>Debt service expenses</u> | | | | | | | | | | |
| Interest paid on non-profit deposits | 0 | 0 | 56 | 91 | 93 | 95 | 97 | 99 | 101 | 103 |
| Interest paid on agency loans | 889 | 956 | 1,051 | 1,148 | 1,242 | 1,342 | 1,430 | 1,487 | 1,547 | 1,609 |
| Total debt service cost | 889 | 956 | 1,107 | 1,240 | 1,335 | 1,437 | 1,527 | 1,586 | 1,648 | 1,712 |
| <u>Operations</u> | | | | | | | | | | |
| Total Operations Expenses | 862 | 964 | 997 | 1,031 | 1,066 | 1,102 | 1,140 | 1,178 | 1,217 | 1,258 |
| <u>Staff</u> | | | | | | | | | | |
| Total personnel cost | 2,156 | 2,338 | 2,527 | 2,721 | 2,920 | 3,126 | 3,338 | 3,556 | 3,781 | 4,013 |
| Total Number of staff | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| Total Expenses | 3,906 | 4,258 | 4,630 | 4,991 | 5,322 | 5,665 | 6,005 | 6,321 | 6,646 | 6,982 |
| Net Income | -642 | -518 | -82 | 301 | 350 | 452 | 526 | 476 | 434 | 388 |

Key Ratios



Staffing

The PBEB is designed to be as lean as possible. Programs are to be run in partnership with existing institutions and overhead is to be kept as low as feasible. Salaries are projected to be in line with comparable jobs in the government and non-profit sectors.

Following are short, high-level descriptions of the work involved in each of the envisioned programs.

Housing

Most of the labor involved in supporting the housing program will involve negotiating arrangements with the nonprofit affordable housing developers who want to take advantage of the line of credit program. We anticipate working with one to two dozen of these agencies over the course of the first three years. Much of the time involved will be in the original negotiation of agreements, including reviewing proposed collateral.

In addition, the housing program will involve establishing partnership agreements with lenders who wish to support the proposed rehabilitation lending. Some of these may be the agencies getting a line of credit, and some may be different lenders. We anticipate a relatively small number of lenders relative to the line-of-credit agencies, so not a tremendous additional burden.

Climate

The climate lending, including both electrification and renewable construction, will involve making arrangements with a small number of partner underwriters and seeking ways to delegate the paperwork to the customer points of contact—plumbers and electricians for the electrification work and installation contractors for the renewable energy lending. This will involve working with a small number of partner lenders, along with software vendors that might produce applications for doing the paperwork, as well as associations of contractors to get the word out.

Small business lending

Developing relationships with the co-operative businesses, CDFIs and local banks that are to be the backbone of the operation will make this likely the most labor-intensive program included. The underwriting judgments are to be carried out by the partners, but considerable work will be involved in reviewing the terms and outcomes of the partnerships.

Municipal finance

Municipal finance operations are important to the vision laid out here, but the actual transactions will be relatively few and large compared to the lending programs described above. Managing these transactions, and any potential subsequent repurchases and sales related to the market-making operation, requiring relatively small contributions of time from the CEO, CFO, and treasury management.

Treasury operations

The treasury operations for the PBEB include managing the sales of the notes that fund the operation, managing collateral, and investing excess funds that are not currently invested in a core lending program. Eventually this will also include deposits from non-profits and foundations.

The treasury will also be involved in the repurchase and resale of municipal securities for which the PBEB is providing market-making service. This must be done daily, and as a consequence requires adequate backup plans, but the number of transactions per day is probably small and can be handled by one person in a morning's work.

Data processing/IT

A certain amount of baseline IT overhead accrues to every office operation: maintaining the local area network, wi-fi, a computer on each desk, and so on. It is plausible that this can be addressed by colocation of the PBEB in space maintained by one or the other of the founding agencies and participating in their IT system.

Beyond that basic level of support, the PBEB will require financial software in order to support organic growth of future business. Most data processing overhead will be focused on the development and maintenance of that platform. Because this is supplied by an outside vendor, most development and maintenance will happen there, but the PBEB must provide adequate oversight of that outside vendor, as well as local expertise to assist in development and addressing unforeseen situations.

In addition to the backbone software, some lending programs may require specialized software to assist in the underwriting process. For example, we envision a tablet application that plumbers and electricians can use to initiate the underwriting process on behalf of their electrification customers. Because financial software requires a high degree of security, much of this development will probably not be done in-house, with local expertise available to consult and direct. Some development may be done with grants or donations prior to startup.

We project that these tasks can be serviced by a "hands-on" CTO, along with a relatively technical assistant, who will serve as the local point of contact for the networking and other local technology concerns.

Compliance officer

The PBEB has budgeted a staff member to oversee the Bank's compliance with all the relevant state and federal regulations. In addition, the officer has a budget to employ outside accountants and auditors as required by management and regulatory law.

Pre-Opening Budget

Some budgeted funds will need to be spent before the start of the financial projections. These funds are being raised separately, via foundation grants and donations and some contributions from member governments. The rough numbers below were generated through conversations with experienced bankers and banking attorneys in California.

| | |
|--|---------------------|
| Developing business plan in collaboration with government agencies | \$ 250,000 |
| Vetting and compensating founding board members | 380,000 |
| Hiring and retaining executive staff | 650,000 |
| Additional legal and consulting fees | 250,000 |
| Technology & Fixed Assets | 725,000 |
| Misc. Fees | <u>90,000</u> |
| Total | \$ 2,345,000 |

Risk analysis

Banking is all about how to manage the risk of taking in money at one set of terms and lending at another. While history has shown that these risks exist, it has also shown how to manage an institution to be resilient against inevitable economic fluctuations. Many banks failed during the Great Depression, for example, but there were also many that did not. Many banks became overextended and collapsed during the bank crisis of 2007-2008, but again, many, including the public Bank of North Dakota, did not. The secrets of resilience are not obscure, but they are routinely ignored in the stampede for greater profit and the quick buck. The PBEB will manage its risk in many small ways: demanding adequate security for its lending, healthy loan-loss reserves (the financial projections assume loan default rates between 1-4%, depending on the program and in line with industry standard), sharing its risk with local bank partners, transparency and auditing, regulatory oversight, governance controls on self-dealing, and more. It will also manage it in a global sense by simply limiting its leverage.

Leverage is the ratio between the bank's equity (what it owns) and what it lends out (its assets). The more a bank lends, the more interest payments it receives and the more profitable it can be. However, the more a bank lends, the more it relies on all its borrowers to repay their loans. A bank with \$50M in capital and \$500M in loans will be rendered insolvent with a 10% default rate, while a bank with the same capital and only \$250M in loans will obviously be hurt, but will survive.

Following the urge to extract every penny possible from their investments, commercial bank management typically pushes leverage up to the regulatory limits. Asset-to-capital ratios approaching 10-to-1 (often written as 10%) are not uncommon. The PBEB is to be run conservatively and carefully to make it resilient, and the financial projections show that this can be done successfully at 6-to-1 (or 16%). Apart from small-scale provisions like loan-loss reserves, this level of capital provides a substantial cushion for when hard times inevitably hit.

Obviously, there is default risk to any loan, but concentration restrictions and other internal controls can address those. Systemic risk must be considered as well. The important risks are a change in interest rates that squeezes the spread between the rates the bank pays and the rates the bank receives, and a recession where default rates go up and borrowing goes down.

The financial projections contain a crude stress test where, in year 4, the default rates double and the growth rate in borrowing drops 90%. As a result, the losses from some lines of business triple and the bank loses money that year. But even so, the losses are much smaller than the cushion available and

though the bank has a negative cash flow, it does not require more cash. The growth of subsequent years quickly makes up for them, though note that those years assume the same conditions as before the recession, and not the typical above-average growth that is usual in the years immediately after such an event.

Following is a discussion of the individual lines of business, their risk, and how they would be impacted by a change in interest rates or a recession.

Housing

Bridge finance for housing agencies carries some risk because not all complex deals work out in the end. However, the structure of these loans is lines of credit secured by equity the agency already owns, which will limit the risk to the Bank. Importantly, these loans do not depend on the success of any particular deal to be secure.

The sum of the debt of each participating agency is indefinite, though subject to an overall limit, but the terms of each drawdown of that credit is a 3- to 5-year term, which will limit the interest rate risk to the Bank. These lines of credit could also be structured with a floating rate, which would eliminate the interest-rate risk, though it might also make the program less attractive to the housing agencies. The financial projections assume a fixed rate for this line of business.

Loans for affordable housing rehabilitation have longer terms, so the interest rate risk exposure opened by this line of lending is more substantial. Because the PBEB is young and its equity new, it would be best to make this kind of longer-term lending as floating-rate loans. This might reduce the appeal of these loans, but the market is unserved at present, and with low overhead, the PBEB should be able to hold that floating rate down even so. Since many of the debts that built these properties are already fully amortized, these loans can be secured with the property to be rehabilitated, in part or in whole.

Electrification lending

The loans involved in the electrification program are small and the terms limited to 5-10 years at the outside. Because the terms are relatively short, the risk of rising interest rates is low. The relatively high turnover means that rates to borrowers can be adjusted relatively easily if rising rates produce pressure on the cost of funds.

Automating the underwriting paperwork and delegating some of it to the plumbers and contractors will reduce the administrative burden, but will necessarily increase the borrowing risk somewhat. Adequate loss reserves are thus necessary to make the program successful. If the repayment can be done through the utility bill, this will dramatically lower the risk of default.

Business

The business lending proposed at the outset is largely in the form of relatively short-term lending to small businesses: loans averaging \$40,000, with terms of 5-7 years. These might be in the form of lines of credit for buying goods or business expansions/construction. This lending will be conducted jointly with other underwriters, who will share some of the risk. The interest rates may float, depending on the risk appetite of the participating bank or CDFI. The relatively short terms will help insulate against interest rate risk.

Other business lending envisioned in this proposal is essentially the maintenance of a guarantee fund, where the risk involved is essentially limited to misapprehension of the default risk for these kinds of loans. The CalCAP program has 20 years of history to draw on, which means that there is good data available for making risk estimates in different economic conditions.

The interest rate risk involved in these loans is no more than the partner bank wishes to take on. Much business lending uses a floating rate, so the risk of rising interest rates will be borne by the borrower. Again, the PBEB's low overhead can offset the disadvantage of the floating rate.

Municipal lending

The default risk for municipal bonds is very low. A small number of California cities have gone bankrupt in recent history, so the risk is not negligible. But the ledger has two sides: the PBEB will possess not only the debt of its member governments, but some of their assets as well, which will serve as a certain amount of insulation against default risk.

Interest rate risk for municipal obligations is more of a concern, since the likely terms can be substantially longer. The PBEB can address this by limiting its purchase of any particular issue, but also by committing to making a market for that issue. To see how this could work, imagine one of the member governments is planning to issue a \$30M bond for some purpose. The PBEB can buy a third of it at a yield of 2.5%, and use some of its liquid holdings to guarantee a purchaser for the other two-thirds of it. Because the Bank will be required to hold collateral against its deposits, it will always have an ample store of liquidity, and this can be put to use by promising to buy back bonds, which can also serve as collateral. If interest rates rise, the Bank can buy bonds back from bondholders who wish to divest, and resell them. This is the traditional role of the underwriter, but with low enough overhead, the PBEB can afford to support a good price for the bonds, keeping them a good investment for other bondholders.

Alternatively, of course, the issuing government could make the bonds a floating rate, in which case a private placement would not entail interest rate risk. However, it is valuable to develop the risk-management capacity of the PBEB, so this might perhaps be a strategy kept in abeyance as a way to address problems that might occur in the future.

Liquidity risk

Any bank must address the risk that its investors or depositors will seek to put their money elsewhere. The three scenarios to contemplate are the short-term, and temporary, embarrassment of one of the member governments; some member government wishing to withdraw from the PBEB; and a widespread economic downturn that limits member liquidity.

First, consider the possibility that a member government experiences a budget catastrophe that forces it to withdraw its liquid assets from the PBEB and makes it unable to roll over its investments. In this case, the PBEB would seek to make up the difference from the other members. One member is much larger than the others, but by limiting the amount of investment from each, it should still be feasible for the other members to make up the difference. The projections here envision only 1-2% of all cash and short-term investments going to the Bank, so the difference will be small. If the cities had to make up the difference from losing Alameda County, their contribution might rise from 1% of their investments to 4%.

This is a comparable risk to having some member withdraw from the Bank. Presumably the written agreement of the initial investment will preclude sudden large withdrawals from the Bank's capital. In the event that the obstacles to withdrawal are overcome, the mitigation strategy is roughly the same: to have the other governments step in to make up the difference.

Insulation against these risks is another reason to cultivate a certain level of investments from local non-profits. While few of these organizations could be considered counter-cyclical, their finances are affected in different ways from the member governments. Like the governments, there are social and political reasons for them to support the PBEB, and if stepping in to help alleviate a potential liquidity crisis only involves moving investments from some other bank to the PBEB, this is a small ask to make in a time of crisis.

Finally, consider the effect of a recession. Obviously, a recession reduces the amount of cash and investments available to each of the member governments, and increases their demand for liquidity, too. Here, there are two lines of defense for the PBEB. The first is simply the small demand on the member governments. Again, the financial projections here assume only a small percentage of the available funds are invested in the Bank. Presumably these can be among the last to be liquidated by a government in distress. In the event of a liquidity crisis caused by these events, the PBEB can turn to its non-profit depositors, its correspondent bank, or even the Federal Reserve, for help. Recent recessions have seen the Fed flooding the zone with very cheap or free liquidity to help financial institutions through these kinds of events. Because those efforts have been largely successful, there is ample reason to suspect the same will be true in future recessions.

In addition to these risks, there is liquidity risk involved in the similarity of the PBEB customers. Unlike many other banks, the primary funders of the PBEB are a small and homogeneous group. Their finances are roughly synchronous with each other, with the annual ebbs and flows of their funds occurring in the same months of the year. For this reason, the financial projections depend on allocations derived from the annual minimum balance of cash and investments for the member governments. The PBEB can absorb a certain amount of these ebbs and flows through adjusting investments in a managed investment fund rather than trying to adjust its loan balances.

It is certainly possible—indeed it is to be hoped—that the PBEB will eventually ask for a higher level of investment from its member governments.⁴⁶ The flip side of the uniformity of customers is that the finances of the PBEB member governments are highly predictable. Each of the governments makes a budget with short- and long-term financial projections. As the PBEB grows and becomes more successful, these member projections can be made available to the PBEB for liquidity planning purposes.

Governance

The governance design of the PBEB is a critical component to committing to its community objectives while also ensuring financial viability and compliance with banking regulations. Democratic, local

⁴⁶ Though not too much. California law limits the percentage of its investments a county or city can make in a single entity to 10%, though exceptions may apply. There is a considerable distance between 1-2% and 10%, but expansion of the bank ultimately will depend on accumulating equity or on expanding membership.

control of the PBEB places community members in control of local finance decisions. Community members serving as Directors are more likely to make decisions that will benefit the communities they live in when compared to the traditional private banks that are solely focused on maximizing profits. Additionally, incorporating community priorities and values into the charter of the Public Bank, further ensures that the Bank's decisions will balance those important public interests with the fiscal and regulatory considerations.

The PBEB's Governance Plan, attached as Appendix A, calls for a majority of community representatives on the Bank's Board. Specifically, the Board will provide seats for five governmental agencies (one from each of the three cities and two from the County), two bankers or financial experts, five representatives of grassroots community organizations, and three community representatives who are also financial experts, making a majority of eight community representatives out of a total of 15 Directors. All Board members will be fully vetted and approved by state and federal regulators as part of the process of approving the business plan and the Bank's charter.

PBEB's draft Governance Plan also recognizes that it is critical for all Directors to have a solid foundation in "board member responsibilities, fiduciary responsibility, financial and banking principles, and decision-making processes." The Board of Directors will have responsibilities similar to the directors of community banks and corporate boards, with a much greater emphasis on mission alignment, community participation, and transparency. To accomplish this goal, PBEB will establish an "Academy" to train new Directors and administer a test to Directors before they are seated on the Board. The Academy ensures that Directors all have the requisite banking and financial knowledge to competently serve on the Board and makes Board service available to people who may not have formal knowledge or experience in the financial sector. The existence of the Academy makes Board service accessible to anyone who is interested in serving. Furthermore, the Academy ensures that all Directors will be full participants in Board activity and decision-making.

The PBEB's draft Governance Plan establishes that the Bank will approve a Conflict of Interest Policy to protect against unlawful insider transactions and conflicts of interests. The Academy will also train Directors as to their roles and responsibilities which will include the necessary education to identify and avoid insider transactions and conflicts of interest. The California Department of Financial Protection and Innovation will supervise the Bank closely for its first three years, as will the Federal Deposit Insurance Corporation. The Board policies, Director training, and regulatory agencies provide multiple layers of protection from double-dealing.

PBEB's draft Governance Plan embeds community priorities into PBEB's decision-making process. The Bank has a robust mission statement with five stated values: equity, social responsibility, fiscal responsibility, accountability, democracy. Furthermore, the draft Governance Plan establishes broad loan policies that require Directors to consider the Bank's external policy goals, including "projects that benefit the economic, environmental, and social health of the entire community." Traditional banks have charters that generally focus only on the fiscal health of the bank at the cost of all other considerations. Regulatory agencies focus on consumer protection and the fiscal health of the bank. The PBEB's unique loan policy framework will allow the Bank to make lending decisions that balance the advancement of community benefits, fiscal responsibility, and regulatory expectations.

The PBEB's governance structure, including the structure of the Board of Directors and the loan policy framework, will ensure that the Bank leverages its role in the financial ecosystem to advance projects with just, equitable, and democratic principles in mind. Furthermore, Board training, and the appropriate regulatory oversight will protect against unlawful insider transactions and conflicts of interests.

Compliance with AB 857 Requirements

Before submitting an application to organize and establish a public bank pursuant to Section 1020 of the Financial Code, a local agency shall conduct a study to assess the viability of the proposed public bank. The study shall include, but is not limited to, all of the following elements:

(1) A discussion of the purposes of the bank including, but not limited to, achieving cost savings, strengthening local economies, supporting community economic development, and addressing infrastructure and housing needs for localities. (p. 3 and throughout)

(2) A fiscal analysis of costs associated with starting the proposed public bank. (p. 22-30)

(3) An estimate of the initial amount of capital to be provided by the local agency to the proposed public bank. (pp. 18-27)

(4) Financial projections, including a pro forma balance sheet and income statement, of the proposed public bank for at least the first five years of operation. The financial projections shall include an estimate of the time period for when expected revenues meet or exceed expected costs and an estimate of the total operating subsidy that the local agency may be required to provide until the proposed public bank generates sufficient revenue to cover its costs. In addition to projections that assume favorable economic conditions, the analysis shall also include a downside scenario that considers the effect of an economic recession on the financial results of the proposed public bank. The projections may include the downside scenario of continuing to do business with the local government's current banker or bankers. (pp. 25-27)

(5) A legal analysis of whether the proposed structure and operations of the public bank would likely comply with Section 6 of Article XVI of the California Constitution, but nothing herein shall compel the waiver of any attorney-client privilege attaching to that legal analysis. (Appendix B)

(6) An analysis of how the proposed governance structure of the public bank would protect the bank from unlawful insider transactions and apparent conflicts of interest. (pp. 34-36)

(b) The study may include any of the following elements:

(1) A fiscal analysis of benefits associated with starting the proposed public bank, including, but not limited to, cost savings, jobs created, jobs retained, economic activity generated, and private capital leveraged. (Not included because of methodology concerns.)

(2) A qualitative assessment of social or environmental benefits of the proposed public bank. (This is included throughout and specifically discussed in Introduction [p. 4] and Programs [beginning on p. 8].)

(3) An estimate of the fees paid to the local agency's current banker or bankers. (Not included in this draft.)

(4) A fiscal analysis of the costs, including social and environmental, of continuing to do business with the local agency's current banker or bankers. (Not included.)

Appendix A

Governance Plan

I. Mission Statement

The mission and values of Public Bank East Bay are set forth on pp. 6 of the Viability Study to which this document is attached.

II. Board of Directors

PBEB will be a 501(c)(6) mutual benefit corporation under California law, and regulations regarding directors of a mutual benefit corporation will govern. The Board of Directors of any bank, including this one, sets general policy for the Bank, ensures continuing integrity and alignment with the Bank's mission, and is responsible to the stakeholders, in this case the founding depositors and all residents of the East Bay for the Bank's decisions and policies. The Board is also subject to additional scrutiny from the various regulatory agencies that will oversee the safety and soundness of the Bank. The initial Board members will be chosen based on their ability to make sound banking decisions, their adherence to PBEB values, and the understanding that people closest to the problems being addressed are the people with the most robust, innovative, and productive solutions.

Board Composition

The Board will be composed of people with banking and financial expertise, including the CEO of the Bank, and people who can represent and convey the needs of the various East Bay communities, with an emphasis on financial experience along with representatives of systemically underserved and under-represented communities. In addition, the Board will also oversee the safe and sound operation of the Bank. Directors will be chosen from a substantial pool of applicants identified and initially vetted by the experts creating the bank charter application for Friends of the Public Bank East Bay, and then further vetted and examined by state and federal regulators, specifically including California's Department of Financial Protection and Innovation (DFPI), the Federal Deposit Insurance Corporation (FDIC) and representatives of depositing agencies. All Directors will be accountable to the mission and values of the Bank.

In addition, the treasurers of member agencies, if they are not their agency's appointed representative, will be ex officio non-voting members of the Board of Directors.

In our research, we determined that a Board of at least 15 members, all committed to the same mission and values, is key to keeping the representation diverse and ensuring that the Bank is connected to the needs and concerns of the people it serves.

When we posed the question of recruiting and selecting Directors to several community leaders and all of our supporter organizations at the time, geographic representation was one of the most supported criteria for community representation, along with race/ethnicity, issue representation (such as experts in environmental concerns or affordable housing), and gender.

All potential Directors are required to fill out an application and go through an initial organizers' interview process, as well as undergo formal vetting by an appropriate professional third party. By California law and DFPI process, all Directors will be subject to a rigorous state-run vetting including a conflict-of-interest evaluation and also background checks and fingerprinting. Also per California law, no one will be permitted to serve on the Board if they cannot resolve any issues which arise in the vetting process to the satisfaction of the DFPI and other regulators. The Board will also be subject to a Code of Conduct related to their continued service on the Board.

Applicants will be asked to commit to serving for up to a three-year time period. One-third of the initial Board members will be appointed for a one-year term, one-third for a two-year term, and one-third for a three-year term.

Once a complete operating Board is chosen, preliminary vetting of future Directors will be turned over to a committee of the Board. After three financially sound years of operation, we expect the regulators to leave Director screening entirely in the hands of the Bank Board.

Creating a Board of Directors with as much community representation as possible is worth the challenge and will result in a Bank that meets the needs of the residents. Because many community representatives may not have had previous financial experience, providing educational resources to such Directors is essential. In the future, the advocates plan to create a public-bank focused Academy to educate Bank Directors; in the interim, the start-up costs will pay for educational resources for Directors, such as the programs at [Bank Director](#) and the [FDIC](#). Existing manuals for bank directors will also be used as reference material.

All Directors will be required to participate in trainings and to demonstrate sufficient familiarity with banking theory and practices.

Terms and Removal of Directors

Most Directors will serve a three-year term; however, the initial Board appointees will serve staggered terms (as discussed above) so that one-third of the Board Members' terms end each year. Once the initial Directors have served their three years, the financial and community Directors' terms will become staggered, so that five people's terms will expire at the end of the third year and five at the end of the fourth year. Initial Directors will opt for one of these term lengths, with a fallback of a lottery if the opting does not work out appropriately.

In addition, the initial Board will be tasked with creating a process, in compliance with California law, for removing Directors if legal or reputational disqualifications are uncovered after their appointment, or for inactivity. This process can be defined by the initial Board, or in the business plan for the Bank.

Relationship to Bank management, staff, and city and county governments

The initial Chief Executive Officer (CEO) of the Bank and other key senior management personnel must be chosen before the DFPI application is submitted, and will have initial three-year contracts. After that, the Board will be responsible for renewing the CEO's contract or selecting a new CEO. If the Board is fully operational prior to launch, the Board will have the right to review and approve appointment of senior management other than the CEO. Otherwise, while the application is in progress, the Board

candidates will review and recommend the appointment of additional Bank management, some of whom will then have to be confirmed by state and federal regulators.

Directors will have access to confidential customer financial information and will be subject to confidentiality and privacy constraints as required by law and by the Bank's own regulations. Directors will not participate in Bank management's decisions with respect to extending or denying credit to any individual or entity where such Director has any conflict of interest. Directors will be responsible for ensuring that the Bank has a robust and reliable policy specifically drafted to prevent unlawful insider transactions and Board Member conflicts of interest while also ensuring that partnerships, loans, lines of credit, and other Bank services are scrutinized for potential conflicts both before they are initiated and while they are active.

The Bank charter will include a provision for non-liability of Directors, and the initial budget includes professional errors & omissions insurance. The CEO and the Chair of the Board will report to the sponsoring agencies and other government stakeholders every six months for the first three years and at least annually after that. The ex officio members of the Board will present ongoing reports to their agencies. Internal and external audits will be conducted at least annually to ensure that bank assets are being reported honestly and used constructively.

The Bank will incentivize managers and loan officers with long-term benefits like job stability and community recognition, not with exorbitant salaries, short-term performance metrics, or bonuses. In addition, the Board should establish a maximum executive compensation ratio; for example, the Bank's lowest-paid worker should earn no less than 1/5 of what the CEO earns, with a Bay Area living wage as the baseline for lowest-paid workers. The Bank's charter or other governance instruments should also establish a mechanism, such as an annual performance audit by an independent third party, by which the Board can evaluate management performance and take appropriate steps if the Bank incurs consistent losses.

Compensation

Directors will be paid a modest annual stipend for serving on the Board to make the position more accessible to all community members. They may refuse the stipends if they so choose. The feedback we received through interviewing activists and organizational leaders supported the need for these stipends.

Frequency of Meetings

The Board should, at minimum, meet quarterly, and more frequently at the discretion of the Directors. We anticipate that the initial Board meetings will need to be more frequent, until procedures are in place and the Bank is running smoothly.

Public Access

Modeling city councils and county boards of supervisors, community college districts, and many other public bodies, we propose that meetings be open to the public as much as possible, with closed-door sessions as needed. We also recommend an annual public meeting, widely publicized, followed by food

and celebration of the arts, to encourage community awareness of, connection to, and appreciation of the Bank.

In especially sensitive situations, the Directors may desire to hold regular or special meetings at which no Bank senior management is present. At these meetings, Directors may frankly discuss any concerns they have with Bank management.

The Board is also strongly encouraged to undertake periodic formalized self-assessments of its processes and practices.

Appendix B

Legal Analysis

Friends of the Public Bank East Bay retained attorney Sylvia Chi to provide a legal analysis of whether the proposed structure and operations of PBEB would likely comply with the California Constitution as required by Cal. Gov. Code § 57606(a)(5). While the statute explicitly allows preservation of attorney-client privilege for such legal analyses, Friends of the Public Bank East Bay is making a copy of the memo available for viewing in the interest of transparency and full disclosure.

Attorney Chi found that under California Assembly Bill 857 the proposed structure and operations of public banks in general and more specifically, PBEB's proposal, would be in compliance with the California Constitution. Attorney Chi's memo follows:

To: Friends of Public Bank East Bay
From: Sylvia Chi
Re: Section 6, Article XVI of the California Constitution and the Proposed Public Bank of the East Bay
Date: October 21, 2021

Introduction

In 2019, Governor Gavin Newsom signed into law AB 857, establishing the nation's first framework for licensing and regulating city- and county-owned public banks. Under this law, California cities and counties can apply to the Department of Financial Protection and Innovation (DFPI) for a license to operate a public bank.

Prior to a local agency submitting a license application to DFPI, AB 857 requires local agencies to conduct a study to assess the viability of the proposed public bank and specifies mandatory elements of the study. Various elements of this study are specified in the law, including:

A legal analysis of whether the proposed structure and operations of the public bank would likely comply with Section 6 of Article XVI of the California Constitution, but nothing herein shall compel the waiver of any attorney-client privilege attaching to that legal analysis.

Gov. Code § 57606(a)(5).

This memorandum analyzes Section 6 of Article XVI of the California Constitution and its interpretation by the courts, its implications for AB 857 public banks in general, and provides a preliminary assessment of its application to the structure and operations of the proposed Public Bank East Bay. This memorandum is intended to provide a starting point for the legal analysis required in the Gov. Code § 57606(a)(5).

The proposed structure and operations of any AB 857 public bank, and the proposed public bank to serve the East Bay in particular, is likely to comply with Section 6 of Article XVI of the California

Constitution. The Legislature's findings in AB 857 establish that the extension of the state's credit for the creation of public banks qualify for the public purpose exception to the Constitution's prohibition on subscribing for stock. This prohibition would not apply to AB 857 public banks, since the law requires that such public banks take the form of nonprofit corporations which do not issue stock.

Section 6, Article XVI of the California Constitution

Section 6, Article XVI of the California Constitution prohibits the California State Legislature from making public gifts. Specifically, Section 6 imposes three types of restrictions on the Legislature:

1. No giving, lending, or authorizing giving/lending of credit of the State or any of its political subdivisions
2. No gifts, or authorizing making of any gifts, of public money or things of value
3. No authorizing the State, or any political subdivision thereof, to subscribe for stock or become a stockholder in any corporation

After these prohibitions were added to the Constitution, and because many contemporaneous activities of the Legislature appeared to violate them, the courts recognized a "public purpose exception" to resolve the apparent contradiction. This "public purpose exception" applies where an expenditure of public funds or extension of credit is made in furtherance of a public purpose, i.e. expenditures "which may tend to make that government subserve the general well-being of society...." *Veterans' Welfare Board v. Jordan*, 189 Cal. 124, 141 (1922). It is well settled that such expenditures for a public purpose "are not a gift within the meaning of [Section 6 of Article XVI]" because "an expenditure for a 'public purpose' is in the nature of consideration and the funds expended are therefore not a gift even though private persons are benefited therefrom." *County of Alameda v. Janssen*, 16 Cal.2d 276, 281 (1940).

In addition to direct expenditures made or authorized by the Legislature, the courts have applied the public purpose exception to the *lending* of public credit. For example, the California Supreme Court confirmed the constitutionality of the Veterans' Welfare Bond Act of 1921, which authorized the lending of public credit through the issuance and sale of state bonds to assist war veterans in acquiring property. *Jordan* at 140-1. Likewise, the California Supreme Court upheld the constitutionality of the Zenovich-Moscone-Chacon Housing and Home Finance Act (Health & Saf. Code § 51000 *et seq.*), which authorized the California Housing Finance Agency to issue revenue bonds, the proceeds of which would be made available to both public and private housing developers in the form of various types of loans to encourage the construction of housing, as well as the purchase of loans from mortgage lenders and refinancing of existing mortgages. *Cal. Hous. Fin. Agency v. Elliott*, 17 Cal.3d 575 (1976). In *Elliott*, the court found that the Act did not violate the constitutional prohibition against the extension of public credit, citing the close relationship between elements of the program and the broad public purposes supporting the program, as identified by the Legislature. *Id.* at 586.

In general, courts defer to the Legislature's discretion regarding what constitutes a public purpose, as long as that determination has a reasonable basis. *County of Alameda v. Janssen*, 16 Cal.2d 276, 282 (1940). Thus, courts have upheld against constitutional challenges a "wide variety of welfare and other social programs." *County of Alameda v. Carleson*, 5 Cal.3d 730, 746 (1971). The Court held in *Jordan* that an action is not made unconstitutional if, "incidental to the main [public] purpose there was an

advantage to the purchaser of the land ultimately derived from the credit of the state.” *Jordan* at 141. In *Carleson*, the California Supreme Court analyzed the challenged state action, disregarding a portion of a household’s earned income in determining eligibility for welfare, and found that “the Legislature could reasonably conclude... that employment incentives are essential to accomplish the goal of self-sufficiency, and that the income-disregard provision was a necessary and proper device for encouraging employment.” *Carleson* at 746.

The public purpose exception has not been recognized by courts as applicable to the third type of restriction in Section 6, Article XVI, regarding subscribing for stock in any corporation. The California Supreme Court has upheld state legislation creating city or county housing authorities, finding that this action did not constitute subscribing for stock or becoming a stockholder in a corporation, since the housing authorities “are public corporations and do not issue stock.” *The Housing Authority v. Dockweiler*, 14 Cal.2d 437 (1939). Although they are not binding, California’s Office of the Attorney General has issued several opinions interpreting this clause, finding that it “operated to prohibit public retirement funds from operating in common stock” and applied to “all public bodies and agencies in the state whose powers and functions are derived from the Legislature,” including hospital, transit, and water districts, but not charter cities. *See* Ops. Cal. Atty. Gen. No. 83-1002 (1984), 10 n.10.

Section 6, Article XVI of the California Constitution Likely Does Not Apply to AB 857 Public Banks in General

The legislative findings in Section 1 of AB 857 specify that the Legislature’s intent was to “authorize the lending of public credit to public banks and authorize public ownership of public banks for the purpose of achieving cost savings, strengthening local economies, supporting community economic development, and addressing infrastructure and housing needs for localities.” In enacting AB 857, the Legislature determined that the lending of public credit to public banks served the public purposes of achieving cost savings, strengthening local economies, supporting community economic development, and addressing localities’ infrastructure and housing needs. Although such legislative findings are not binding upon courts, courts give them great weight unless they are found to be unreasonable and arbitrary. In the case of public banks proposed under AB 857, courts are likely to find that the Legislature acted reasonably in concluding that establishing a public banking system is necessary and proper to accomplish the broad economic purposes identified in the findings, thus applying the public purpose exception to any public bank organized under AB 857.

As discussed in Part II, *supra*, the courts have found that a “public purpose” exception applies to the California Constitution’s Section 6, Article XVI prohibition on giving public money and credit, but have not found such an exception to the prohibition on subscribing for stock in corporations. However, as provided in AB 857, public banks must take the form of either a nonprofit mutual benefit corporation or nonprofit public benefit corporation. *See* Gov. Code § 57600(b)(1). Neither type of nonprofit corporation provides for the issuance of stock. Thus, consistent with both *Dockweiler* and the Attorney General’s opinion, it seems likely that courts would find that the constitutional prohibition on subscribing for stock does not apply to the creation of AB 857 public banks as nonprofit corporations.

Section 6, Article XVI of the California Constitution Likely Does Not Apply to the Proposed Public Bank East Bay's Structure and Operations

While local agency owners of a public bank may be described as “shareholders,” the Corporations Code describes nonprofit corporation “owners” as “members.” In the case of the proposed Public Bank East Bay, the members of the public bank have not been finalized, but may include cities such as Oakland, Berkeley, and Richmond, as well as Alameda County and potentially other cities and/or counties. As required by AB 857, the proposed Public Bank East Bay will be organized as either a nonprofit mutual benefit corporation or nonprofit public benefit corporation, and, as discussed in Part III, *supra*, neither type of corporation issues stock.

At this stage, the proposed public bank's potential activities include lending to government agencies, small businesses, minority-owned businesses, worker cooperatives, and affordable housing developers. If these lending activities are ultimately approved by the local agency owners and Board of Directors of the proposed Public Bank East Bay, it is likely that a court would find that the local agencies acted reasonably in authorizing such activities. Even if particular individuals or businesses, such as minority-owned businesses or private sector affordable housing developers, benefit from the public bank's lending activities, these benefits are incidental to the main public purpose of the lending activities. Because these activities are closely related with the broad public purposes expressed in AB 857 regarding supporting community economic development and meeting local needs for infrastructure, and housing, it is likely that a court would apply the public purpose exception to the lending of public credit for the proposed Public Bank East Bay.

While the details of the structure and operations of the proposed Public Bank East Bay have yet to be fully developed, the high-level plan does not appear to introduce any obstacles that would implicate the prohibitions in Section 6, Article XVI of the California Constitution.

Appendix C

About This Study

This study was directed and written by Tom Sgouros, with writing assistance from Dawn Euer.

Tom Sgouros has worked for over 33 years as a policy consultant specializing in public budgeting, finance, taxation, and other technical issues of public policy. He has consulted to campaigns and office-holders, to activists and media outlets, and has been invited to testify about public finance issues to legislatures in four states. He was Senior Policy Advisor to the Rhode Island General Treasurer, and is now a fellow at The Policy Lab at Brown University, where he is also a member of the research faculty in Computer Science, working on projects in data science, visualization, and information theory.

Dawn Euer owns the Law Office of Dawn Euer in Rhode Island where she works with nonprofits, social enterprises, and small businesses. She also serves as a State Senator in the Rhode Island Senate where she is Chair of the Environment & Agriculture Committee and a member of the Judiciary Committee and the Rules, Ethics & Oversight Committee.

Attorney **Sylvia Chi**, a co-author of AB 857, provided the legal analysis included as Appendix B.

We had extensive professional assistance from Gary Findley, principal banking attorney at The Findley Companies, and Graham Seel, Strategic advisor to community banks and community development nonprofits. Friends of the Public Bank East Bay conducted significant research and editing on the final document. Primary contributors include Susan Harman, Debbie Notkin, George Quaye, and Benjamin Streim. Additional help was provided by Alexis Frasz, Thomas Hanna, Margie Lewis, Valerie Myers, and George Syrop.

Friends of the Public Bank East Bay commissioned the Oakland-based organization Bay Area Organization of Black Owned Businesses to conduct a survey of the borrowing needs of Black-owned small businesses in the East Bay. The final report is published as "[Borrowing Needs of Black Owned Businesses](#)."

To inform the research on potential lending demand and programs, Friends of the Public Bank East Bay met and spoke with the following experts. For the purposes of clarity, the people on this list have not reviewed the final Study and are not necessarily endorsers or supporters of this effort.

- José Quiñones, CEO, Mission Asset Fund (small business lending)
- Sara Razavi, CEO, Working Solutions (small business lending)
- Scott Lewis, CFO, Main Street Launch (small business lending)
- Tom Duryea, CEO, Summit Bank (small business lending)

- Shanna McClearn, Director, Sales & Partnerships, Accion Opportunity Fund (small business lending)
- David Green, CEO, 1st NorCal Credit Union (small business lending)
- YaVette Holts, CEO, Bay Area Organization of Black Owned Businesses (BAOBOB) (small business lending)
- Dan Leibsohn, CEO, Community Development Finance (small business lending)
- Sally Smith, Community Development Underwriter, LISC Bay Area (affordable housing lending)
- Aubra Levine, Director of Real Estate Development, Unity Council (affordable housing lending)
- Eve Stewart, Director of Real Estate Development, Satellite Affordable Housing Associates (SAHA) (affordable housing lending)
- Louis Chicoine, CEO, Abode Services (affordable housing lending)
- Jim Lutz, local green energy consultant (electrification)
- Michael Theroux, California environmental project consultant (green project opportunities)
- Renee Roy Elias, recently at Center for Community Innovation (UC Berkeley) (small business landscape)

Appendix D

Local Community Banks and CDFIs

List of community banks and Community Development Financial Institutions (CDFIs) that are doing business in the East Bay and are potential partners for public bank lending programs

| Community Banks | County Headquarters | Assets |
|---|--|--------|
| Fremont Bank | Alameda County | \$5.1B |
| Beneficial State Bank | Alameda County | \$1.2B |
| Community Bank of the Bay | Alameda County | \$600M |
| Summit Bank | Alameda County | \$300M |
| Metropolitan Bank | Alameda County | \$180M |
| Gateway Bank F.S.B. | Alameda County | \$170M |
| United Business Bank | Contra Costa County | \$2.3B |
| California Bank of Commerce | Contra Costa County | \$1.9B |
| Amalgamated Bank | New York (strong presence in the Bay Area, recently acquired local New Resources Bank) | \$4.7B |

| CDFIs | Headquarters |
|---|---------------|
| Cooperative Center Federal Credit Union | Berkeley |
| Self-Help Federal Credit Union | Oakland |
| ICA Fund | Oakland |
| Main Street Launch | Oakland |
| Accion Opportunity Fund | San Jose |
| Pacific Community Ventures | Oakland |
| Community Vision | San Francisco |
| Low Income Investment Fund (LIIF) | San Francisco |
| SixUp Lending | San Francisco |
| Mission Economic Development Agency | San Francisco |
| Mission Asset Fund | San Francisco |
| Working Solutions | San Francisco |
| Capital Impact Partners | Arlington, VA |
| RSF Social Finance | San Francisco |

| Other local lending institutions that are mission aligned and potential partners for PBEB | Headquarters |
|--|---------------------|
| C-Note | Oakland |
| The Runway Project | Oakland |
| CDC Small Business Finance | San Diego |
| Oakland Black Business Fund | Oakland |
| Kapor Capital | Oakland |
| Kiva | San Francisco |
| Local Initiatives Support Corporation (LISC) | Nationwide, Oakland |
| Cutting Edge Capital | Oakland |
| TMC Community Capital | Oakland |
| The Bay's Future | Oakland |
| REAL People's Fund | Oakland |
| Community Development Finance | Oakland |

Appendix E

Next Steps

| | |
|--|---|
| Finalize Viability Study | Determine initial estimates of capital, proposed loan priorities, and governance structure. |
| Pass Viability Study | Cities approve resolution and appoint representative to Friends. If needed, amend investment policy to include ability to invest in public banks. Appoint representative to be point person for each agency to help design business plan. |
| Form 501(c)(6) Mutual Benefit Corporation | This is the legal structure for initial members. As the County of Alameda cannot be a founding member without a county-wide referendum process, this corporation will begin with the founding charter cities with paperwork in place so that the County can join immediately after the application is approved. |
| Recruit and hire CEO | The CEO will work with the banking attorney in writing the business plan. By requirements of the regulators, this person must be in place when the application is submitted. |
| Develop Business Plan | Involves identifying capitalization sources and deposits to be moved into the PBEB. Requires a full financial model, detailed explanations/assumptions, corporate governance, and more. To be led by the Friends' banking consultant and the CEO. |
| Finalize Governance Structure | Finalize and approve Bank governance plan to be included in the charter application. |
| Finalize Bank Board Applicants | Confirm applicants for the initial Board of Directors for the Bank, who will be included and vetted in the charter application process. Banking consultant performs upfront/initial vetting. Agencies will select who will represent them on Board. |
| Host Pre-Filing Meeting | Pre-filing meeting with the California Department for Financial Protection and Innovation (DFPI), all proposed Board Directors, business plan consultant and CEO. |

| | |
|--|--|
| Approve Business Plan Locally | City Councils review and obtain formal authorization to apply for a public banking charter. |
| Submit Business Plan | Submit charter application to DFPI and Federal Deposit Insurance Corporation. Submitted by banking consultant on behalf of the agencies. |
| Bank Staffing & Setup | Infrastructure, technology, hiring, etc. (pending application approval), all led by the CEO. |
| Application Review | Business plan will undergo rounds of feedback and modification, led by the regulators and managed for all other parties by the banking consultant and CEO. |
| Federal Reserve Approval | Gain access to Federal Reserve services, including ACH and discount window. |
| Transfer Capital & Deposits | Place funds into the Bank. |
| Cut the Ribbon! | Loans and other initiatives begin. |



Office of the City Manager

Date: June 23, 2022
To: Budget and Finance Policy Committee
From: Dee Williams-Ridley, City Manager
Submitted by: Henry Oyekanmi, Finance Director
Subject: Investment Policies of Other Jurisdictions

The City's investment policy is a formal document which provides the guidelines for investments and operational structure in the management of public funds and is confirmed annually by the City Council.

One of the components of the City's investment policy is the section for responsible investing. This provides a list of identified restrictions that were ratified by the City Council. It is extremely important that the investment officer regards these as requirements when making decisions for investment purchase.

Each year the City's investment policy is updated to add all the responsible investing policies passed by city council throughout the year. Throughout the many years, the City has accumulated seven policy restrictions for responsible investing.

Most cities' have the three main statutory objectives in managing the investment programs which are safety, liquidity and return. However, due to the restrictions in City of Berkeley's investment, the investment program considers responsible investing as an additional objective. Compliance to these restrictions is highly regarded as a requirement for its investments. These results in limiting the type of investment offering the investment officer can purchase. Restrictions has a direct impact on diversification of funds and the rate of returns on investments.

On January 27, 2022 while discussing the Fourth Quarter Investment report, the Budget and Finance Committee asked that Finance conduct a comparison study in investment restriction for other cities in California. The Finance Department researched and reviewed the investment policies of the various cities to identify the investment restrictions for their investment program. Finance took the cities that it currently uses to benchmark the rate of returns on the City's quarterly investment report and identified the restrictions on their cities' investment policies.

Below is a summary of the findings from the research:

| VARIOUS CALIFORNIA CITIES INVESTMENT RESTRICTIONS | | | | | | | | | | | |
|---|--------------|---|----------|--------------|---------------|--|---------|-------------------|----------------------------------|--|--------------------------------|
| City | Rates Earned | DIVESTMENT FROM COMPANIES/MANUFACTURERS | | | | | | | | INTEGRATE | |
| | | Tobacco Products | Firearms | Fossil Fuels | Nuclear Power | Private Prison and Immigration Detention | Weapons | Oppressive States | Companies for Mexico Border Wall | Environment, social and governance principle | Investing Community Well Being |
| Palo Alto | 1.58% | X | X | X | | | | | | | |
| Los Angeles | 1.09% | | | | | | | | | | |
| San Jose | 1.08% | | | | | | | | | | X |
| Sacramento | 0.99% | | | | | | | | | | |
| Torrance | 0.98% | | | | | | | | | | |
| San Diego | 0.83% | | | | | | | | | | |
| Berkeley | 0.80% | X | X | X | X | X | X | X | X | X | |
| Santa Monica | 0.54% | X | X | X | X | | | | | | |
| San Francisco | 0.48% | X | X | | X | | | | | | |
| Oakland | 0.19% | X | X | X | | | | | | | |

Research Analysis:

The study shows that there is a direct correlation between the number of restrictions to the rate of returns for various jurisdictions. The cities that have no restrictions or encouraged restrictions without it being mandated are the cities that have higher rate of return on their investment. Cities with restrictions are the ones who have lower rate of return. The City of Berkeley rate of returns still remains fairly high amidst the restrictions in the investment policy.

As a result of the differences in the investment policies of different cities, including responsible investing policies, maturity restrictions, investment restrictions, etc., it is difficult for any City to come up with a reasonable performance measure for pooled cash investments. In order to provide some measure of the relative performance of the City’s investment returns, past City Councilmembers requested that information about the rates earned by other California cities be included in the quarterly investment reports for comparison purposes, despite the differences in the investment policies of the various cities.



Office of the City Manager

ACTION CALENDAR
April 26, 2022

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Henry Oyekanmi, Director, Finance
 Subject: Accept the Risk Analysis for Long-Term Debt (Bonding Capacity) Report provided by Government Finance Officers Association

RECOMMENDATION

Accept the report titled 'Risk-Based Analysis and Stress Test of Long-Term Debt Affordability' as provided by the Government Finance Officers Association (GFOA). This report is based on their research and development of a risk-modeling tool to address issuing long-term debt related to City of Berkeley Vision 2050.

FISCAL IMPACTS OF RECOMMENDATION

There are no fiscal impacts of accepting the report

CURRENT SITUATION AND ITS EFFECTS

The Risk-Based Analysis and Stress Test of Long-Term Debt Affordability (Bonding Capacity) report is a Strategic Plan Priority Project, advancing our goal to:

- Provide an efficient and financially-healthy City government

The City engaged GFOA to conduct this analysis of the City's bonding capacity through their risk-modeling approach. This analysis will support the City's later development of a thirty-year borrowing plan, which will enable the City to replace its aging infrastructure assets, maintain its General Obligation Bond rating at AA+ at S & P Global and Aa1 at Moody's, and keep the bond property tax rate at an affordable level (which was .0540% at June 30, 2020). The GFOA's risk model and report look at a comprehensive financial analysis with particular focus on options to maintain the City's debt affordability within the framework of the City's huge unfunded pensions and other post-employment benefits (OPEB) and overall City operations.

The study and report are intended to help develop recommendations for a combination of infrastructure-focused revenue measures slated for November 2022 and beyond.

The context provided for GFOA to build the risk model and draft the subsequent report was framed through initially providing these items to GFOA:

1. Vision 2050
2. Unfunded Liabilities Report
3. Capital Improvement Plan in the most recent biennial budget and five-year planning horizon
4. Annual Comprehensive Financial Reports (ACFR)
5. GO Bonds, Revenue Bonds, and Certificates of Participation Debt Repayment Schedules
6. Current Bond Authority and Outstanding Amounts (GO Bonds for the past 20 years as of 7/12/21)
7. City's Debt Policy
8. S and P Global Ratings Letter Re: GO Bonds
9. S and P Global Ratings Letter Re: Lease Revenue Bonds
10. Analysis of City's Debt and Contingent Liability Profile
11. GO Rating Report – April 2021
12. GO Rating Report – February 2020

The GFOA report details these and additional factors that GFOA researched and incorporated into their construction of the risk model and their drafting of the final report.

BACKGROUND

The City has an extensive portfolio of capital assets and infrastructure, including 95 public buildings; 254 miles of public sanitary sewer mains and 130 miles of public sewer laterals; 52 parks, two pools; three camps; and 42 different facilities served by the City's IT systems. Maintaining these assets is costly and requires significant resources and constant attention. As an older city, 50% of Berkeley's \$837 million of capital assets have exceeded their useful life.

The City's FY 2021 Capital Plan called for spending of \$57 million/year on capital and maintenance needs. Even at this increased level of funding, Berkeley's infrastructure will deteriorate faster than it is being repaired and replaced, and construction cost escalation at four (4) percent/year will significantly increase replacement costs.

To modernize these old physical structures with resilient, durable, and climate-smart infrastructure will require substantial new investments. To adequately address the \$882 million in unfunded infrastructure liabilities, the City needs to double its annual capital spending over the next decade to \$80 million/year. Capital expenditures are typically funded through a combination of debt financing (pay-as-you-use) and cash (pay-as-you-go). Paying in cash avoids the cost of interest, but requires the City to accumulate sufficient cash to fund the project, while construction costs escalate. Using debt to finance capital projects incurs interest expense but allows the project to start earlier, thereby avoiding escalation costs.

The City has an infrastructure system that has allowed it to thrive for over 100 years. Now, the City wants to incorporate new technologies and be able to adapt to meet environmental trends so that the infrastructure systems can continue to support the City for another 100 years. The risk analysis report shows the potential impact of multiple factors on the City's capacity to issue debt during the next thirty years.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable effects or opportunities associates with this item.

RATIONALE FOR RECOMMENDATION

The City administered Request for Proposals #21-11459-C for consulting services to determine the City's bonding capacity. The RFP was published twice with neither publication generating responses from the market. In the course of staff researching why no responses were received, staff met with GFOA. GFOA provided their relatively new risk-modeling approach to the bonding capacity topic. Thus, it was determined, since a traditional RFP was not generating market response, that it would be advantageous to contract with GFOA for their services to research and develop the risk-model for City of Berkeley to evaluate its capacity for issuance of long-term debt.

ALTERNATIVE ACTIONS CONSIDERED

Not conducting the study

CONTACT PERSON

Henry Oyekanmi, Director, Finance, 981-7326

Attachments:

1: Report: Risk-Based Analysis and Stress Test of Long-Term Debt Affordability (from GFOA, 2022)

A Risk-Based Analysis and Stress Test of Long-Term Debt Affordability for the City of Berkeley, California

April 2022

Produced by:

The Government Finance Officers Association



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Section 1 – Introduction

Long-term debt is an important tool for municipal governments to invest in long-term assets that serve their community. The City of Berkeley, California (City) is considering seeking authorization from its voters on a large amount of long-term debt, perhaps up to \$600 million, to support the City of Berkeley's infrastructure needs included in its Vision 2050 plan. The debt would be used to fund assets like streets, public buildings, and more. This would be the largest amount of debt the City has sought to authorize in at least the last 20 years.¹ Therefore, the City has, prudently, decided to analyze the long-term affordability of this debt and has engaged the Government Finance Officers Association (GFOA) to perform this analysis.

GFOA is a non-profit association of more than 21,000 state and local government finance professionals and elected officials from across the United States and Canada. A key part of GFOA's mission is to promote best practices in public finance, including analyzing important financial risks like the affordability of long-term debt. GFOA's approach to risk analysis is distinctive because we use the same basic methods used by insurance companies and climate scientists to evaluate risk. We use computer simulation to build hundreds, if not thousands, of scenarios of how the City's financial situation could play out over 30 years. Each scenario changes important variables that influence how affordable the City's debt might be. For example, each scenario features a different interest rate environment. The variation in these variables is governed by parameters we set, where the parameters keep the variation within the realm of possibility. To continue our interest rate example, we gathered data on the rate of change in bond interest rates since 1970. This information was used to create the parameters for the interest rate environments generated for each scenario. We then see how often the City's debt remains affordable over those thousands of scenarios. If the debt is shown to be affordable under a high proportion of those scenarios, then that suggests there is a good chance that the debt will ultimately be affordable in the real world. Conversely, if the debt is not affordable under a high portion of the scenarios that suggests the debt is unlikely to be affordable in the real world. This computer simulation is built in Microsoft Excel using open standards for the data.² We'll refer to this computer simulation as the GFOA "Risk Model". The Risk Model is completely available to the City to use as it sees fit, including the ability to adjust many of the assumptions utilized for the simulations.

The rest of this report is divided into the following sections:

- **Defining What is "Affordable" Debt.** This section describes our rationale for using a typical bond ratings analysis as the basis for determining what is "affordable" for the City government.
- **Key Financial Indicators and Assumptions.** This section examines the key indicators of debt affordability that are taken into consideration by bond ratings companies and our method of approximating how the indicators suggest debt affordability in our simulation of the City government's future.

¹ History of the City's bond issuances compiled with the help of the City Clerk.

² Visit probabilitymanagement.org for more information on the standards we use.

- **Results of the Analysis and Recommendations.** In this section, we will address the findings from our analysis, including recommendations to help the City retain its credit rating.

Section 2 – Defining What is “Affordable” Debt

The definition of what is “affordable” debt is at the foundation of this analysis.

The first step to defining what is affordable is defining the type of debt the City is considering. The City is considering “general obligation (GO) debt”. This debt is paid for by a dedicated property tax levy. Thus, the City **does not** have to pay for this debt out of its existing revenue streams. This means that taking on more general obligation debt **will not** have a **direct** impact on the City’s operating budget. There is **indirect** impact – for example, perhaps the higher tax bills faced by taxpayers would cause them to vote against future tax measures intended to support the operating budget. Or, maybe residents or businesses feel the impact of higher taxes in their businesses or personal finances and decide to move. These are important considerations, but are outside the scope of this analysis, which is focused on the **direct** impacts to City government. That said, the financial indicators we will examine do include measures of personal income and the size of the tax base relative to the size of the population, which do provide some insight into affordability to taxpayers. It is also worth remembering that, according to California law, debt like the City is considering must be approved by two-thirds of voters in an election. If approval is not obtained, the debt cannot be issued. Thus, taxpayers evaluate the affordability of the proposed debt themselves by choosing to approve it or not. However, affordability to the taxpayers might not be that simple. We’ll have more to say on this topic later in the report.

The impact of general obligation debt on the City government’s finances is to add to the City’s total debt burden. Generally, the more debt a City takes on the less attractive its debt becomes to investors, all else being equal.³ This is because, in theory, the more debt a City has, the less likely it is that it will be able to pay it all back. This is important because if the City’s debt becomes too unattractive, it will need to offer higher interest rates to investors. That would make it more expensive to borrow and, thus, more expensive for the City to make future investments in long-term assets. **Thus, we will define debt affordability as the extent to which issuing more debt in support of any City Council program might cause the City’s debt to cross a threshold point where the City has to offer a higher interest rate to attract investors.**

Threshold points where higher interest rates must be offered are known as bond ratings. There are three major agencies that issue bond ratings: Moody’s Investors Service, Standard and Poor’s, and Fitch Ratings. Each rating agency has its own approach, but there are broad similarities between all three. For purposes of this analysis, we will focus on Moody’s approach. This is because Moody’s method is: A) well documented; and B) makes use of quantitative financial information to help standardize the approach to issuing ratings. This means we can collect the same financial information Moody’s would collect and evaluate it in a similar, albeit much simplified, manner. By doing this, our Risk Model was able to essentially duplicate the City’s current rating, which is “Aa”, according to Moody’s. Aa is the second best rating on Moody’s scale (which is similar to the scales used by the other rating agencies). The complete scale is shown in the accompanying table. The reader should note that rating agencies also make finer grained distinctions within the rating tiers. For example, technically, the City’s rating is “Aa1”, which

³ Municipal governments might issue more debt, but their tax base and revenues might also continue to grow. In this case, all else has not remained equal so the debt of that municipality may not become less attractive.

indicates the City is a strong Aa or at the upper end of what is considered Aa. An Aa2 would be in the middle and Aa3 would be considered a weak Aa. For the majority of this report we will not refer to these finer grained distinctions. This is, first, in the interest of simplicity. Using just the ratings scale showing in our accompanying table, the reader will be required to track six different categories of ratings. Multiplying the number of categories by three might make this analysis much more difficult to follow. Second, we do not have access to reliable historical data on how big a difference these finer distinctions would make on the interest rate the City could obtain for its bonds. We have data back to 1970 for the differences between the tiers shown in our table. Therefore, most the analysis will take place at the level of these six tiers. Occasionally, though, we will refer to the finer distinctions (e.g., Aa1 vs. Aa2 vs. Aa3) to discuss how the City’s credit rating could change in response to different conditions.

If the City’s debt were to be downgraded to an “A” we would expect the City to have to pay a higher interest rate on future debt. How much more would depend on the interest rate environment at the time. Historically, the difference between the interest rate of Aa and A has ranged from 1.05 to 0.08 percentages points, with an average of 0.26 percentage points. If, for example, a \$100 million 30-year bond sold at 2.26% interest rather than 2.00% interest, this would translate to \$5 million more in total interest cost over the life of the bond.

| Moody’s Rating Scale | |
|----------------------|------------|
| The best-> | Aaa |
| | Aa |
| | A |
| | Baa |
| | Ba |
| The worst-> | B or below |

To evaluate the affordability of the City of Berkeley’s borrowing plan including its Vision 2050 debt issuance plan we can do the following:

1. Update the key financial indicators used within the Moody’s rating system to reflect what the indicators would look like with the additional debt over the 30-year analysis period covered by our Risk Model.
2. Use computer simulation to vary key variables that impact the financial indicators over the 30-year analysis period. We’ll describe what these variables are and the assumptions our analysis makes in the next section.

Section 3 – Key Financial Indicators and Assumptions

The purpose of this section is to summarize the key financial indicators used to help frame bond ratings and to describe key assumptions we have made with respect to future values of the important variables that go into the analysis. Our analysis considers the next 30 years, so we had to make assumptions about how key variables would behave. Before we delve into these topics, we’d like to bring five important points to the attention of the reader:

1. The amount of debt the City takes on is not the only, or even primary, factor that determines bond ratings. Bond ratings take into account a number of factors besides debt. Therefore, our analysis include other factors that impact bond ratings, such as pensions, fund balance and tax base, along with debt.
2. Bond ratings are intended, primarily, to help investors decide how risky it is to invest in a municipality’s debt. Though many of the factors bond ratings take into account are reflective of

the general financial health of a municipality, the ratings are not a perfect measure of financial health. This is because ratings are intended to judge the ability of the City to pay back its bondholders and nothing more. This is a limited perspective on financial health.⁴

3. Bond ratings method are not a purely mechanical exercise where a given value for the financial indicators leads to a perfectly predictable bond rating. For example, Moody's rating method includes "notching factors", which are essentially the wiggle room to adjust a municipality's rating up or down, based on local circumstances and the judgment of bond rating analysts. Nevertheless, given that our approximation of the financial indicators that Moody's uses did produce the City's current rating in our Risk Model, we can assume that the financial indicators will produce useful insights into what the City's rating might be under different circumstances.
4. Our analysis is based largely on the future looking a lot like the past in many important respects. For example, we will see that the size of the City's tax base is regarded as a big strength by the Moody's evaluation method. We will assume it will continue to be. Of course, it is plausible that that a large natural disaster, like an earthquake, could severely damage property stock in Berkeley to the point where the tax base is seriously impaired and is no longer the strength it once was. These kinds of extreme scenarios (e.g., natural catastrophes) are not within the scope of our analysis. This is not to say such scenarios are not important. In fact, GFOA analyzes the impact of catastrophic scenarios on municipal financial health on a regular basis. However, given the scope for this project we focused on the key financial indicators of the City's financial health that are described in the following pages and not on catastrophe events. The Risk Model is not intended as a perfect representation of reality. It has been said "all models are wrong, but some are useful". We would suggest that focusing on the trajectory of key financial indicators given the decisions that City makes is a useful perspective on the affordability of its debt plan.
5. Readers who are not interested in the details of the Moody's methods and the assumptions we made about the future of the City's finances are invited to skip the rest of this section and go directly to the next section for our findings and recommendations.

The rest of this section will delve into key financial indicators that are salient to bond ratings and which underlies how we are defining "debt affordability" for this study.

The key financial indicators Moody's considers are described by what Moody's calls its "scorecard". Moody's has four broad factors for its bond rating scorecard and a number of sub-factors, which are shown in Exhibit 3.1.⁵ We will summarize each immediately following. With respect to the overview provided by Exhibit 3.1, the reader should note the factor weightings. We see that measures of the City's debt constitute only 10% of the total scorecard. Thus, the City's plan to issue more debt, by itself, can only have a marginal impact on the score. The City's actions with respect to its financial position, in whole, will be what really matters for debt affordability.

⁴ A comprehensive approach can be found in GFOA's Financial Foundations for Thriving Communities.

⁵ Our primary source on Moody's methods is "US Local Government General Obligation Debt" dated January 26, 2021, published by Moody's Investors Service.

Exhibit 3.1 – Moody’s Scorecard Factors and Weights (for Local Governments)

| Broad Scorecard Factors | Factor Weighting | Sub-factors | Sub-factor Weighting |
|-------------------------|------------------|---|----------------------|
| Economy/Tax Base | 30% | Tax Base Size (full value) | 10% |
| | | Full Value Per Capita | 10% |
| | | Wealth (median family income) | 10% |
| Finances | 30% | Fund Balance (% of revenues) | 10% |
| | | Fund Balance Trend (5-year change) | 5% |
| | | Cash Balance (% of revenues) | 10% |
| | | Cash Balance Trend (5-year change) | 5% |
| Management | 20% | Institutional Framework | 10% |
| | | Operating History | 10% |
| Debt/Pensions | 20% | Debt to Full Value | 5% |
| | | Debt to Revenue | 5% |
| | | Moody's-adjusted Net Pension Liability (3-year average) to Full Value | 5% |
| | | Moody's-adjusted Net Pension Liability (3-year average) to Revenue | 5% |

Source: Moody's Investor Service

Economy / Tax Base

The tax base ultimately determines if a city can pay back its debt. There are three sub-factors considered:

Tax-base size: The size of the property tax base is where a municipality draws its revenue from. Currently, full value of the property in the City’s tax base is almost double what is necessary to receive the highest possible score on Moody’s scorecard. We did not find a reason to think that a radical decline in the value of property in the tax base was a probable risk. Of course, events like the 2008 recession and bursting of the housing bubble can cause a temporary decline. These kinds of variations are captured in the Risk Model. The Risk Model assumes that tax base will grow (and occasionally shrink) at rate that is broadly consistent with historical patterns, but the Risk Model does not assume a constant rate of growth. For example, the Risk Model simulates market pullbacks like the Great Recession (and worse). However, we did not find a reason to think that a dramatic, long-term decline in the City’s property values was a high-probability risk. The Risk Model does provide the user with the ability to easily change growth rate assumptions in order to see the effect of more optimistic or pessimistic outlooks.

Full-value per capita: This indicator adds in population size to the size of the tax base. The per resident property wealth shows the availability of tax-generating resources relative to the users of public services. This measure is almost 1/3 above what is necessary to receive the highest score on Moody’s scorecard. We did not find reason to believe that the City’s population would outpace the growth in property values to the point where it would risk the City falling below the Moody’s threshold for the best score. In fact, a long-term forecast sourced from Association of Bay Area Governments (ABAG) shows the City’s population forecasted to grow just over 1% per year over the next 30 years. This growth does not seem to be so great that it puts a strain on City finances and, thus, pose a risk to the City’s bond ratings.

Median Family Income: A community with high-income taxpayers may have greater ability to cover the cost of debt. The City is almost exactly in the middle of the two threshold values that bound the second highest score on Moody's scale. Presumably, the large number of college students in Berkeley exert downward pressure on this measure. That said, we did not uncover a high probability risk that the City would fall out of the second-highest category over the next 30 years.

Finances

This factor considers a local government's cushion against the unexpected, the City's ability to meet existing financial obligations, and its flexibility to adjust to new ones. There are four sub-factors considered:

Fund Balance: Fund balance describes the net financial resources available to a municipality in the short term. It is essentially the "rainy day fund" or "self-insurance" to react to unplanned, unavoidable costs (like natural disasters). More fund balance would presumably reduce the risk of a local government failing to repay debt because of a natural disaster or other catastrophe. For the City, this measure is currently almost 2/3 above what is necessary to receive the highest score on Moody's scorecard (Aaa). That said, fund balance is not nearly as stable a quantity as the economic forces we reviewed above. For example, in the years 2007 to 2013 the City's annually available reserves were less than half of what they've been in the last few years. In fact, the City would have been in the Aa, rather than Aaa, equivalent tier for six of the last 15 years (though not too far below the Aaa tier, at least). This means that we shouldn't take for granted that the City will continue to maintain reserves high enough to receive Moody's highest scores for the entire 30-year analysis period. The Risk Model assumes the City has a chance of falling out of the Aaa equivalent tier for fund balance. That chance is determined by the City's historical experience. Over the last 15 years the City was below the Aaa threshold six times. So, the Risk Model assumes a six in 15 chance (or two in five chance) per year that the City falls below the Aaa tier.

Five-Year Dollar Change in Fund Balance as % of Revenues: The reason for this measure is much the same as stated above, except this takes longer-term perspective on fund balance. Fund balance can change fairly rapidly, year to year, compared to some of the other indicators in the Moody's scorecard. So, this measure checks to see if fund balance is growing or shrinking and by how much. Currently, the City is just above the threshold required for the highest score. However, this is an example of a measure that is highly relevant to the interest of bondholders, but not as well aligned with the interests of the people who live in Berkeley. From the perspective of bondholders, it would not be a bad thing if the City continued to build its fund balance indefinitely. That continues to reduce the risk of a default. However, from the citizens' perspective there is a clear upper limit on the amount of fund balance a local government should hold. At some point the opportunity cost (in terms of higher taxes or foregone services) is not worth the benefit the public receives from the City having a larger fund balance. Thus, given that the City already, by Moody's own standards, has a large fund balance, it is questionable whether the City would continue to grow the fund balance in the future at the same rate it has in the past. Thus, it seems unlikely the City would continue to achieve the highest score under the Moody's rating system. However, that said, Moody's documentation does imply that local governments with a strong fund balance might be given consideration for maintaining that fund balance rather than continuing to grow it - Moody's might adjust ratings upwards to reward maintaining stability of a high level of fund balance. This means that the City

may not enjoy the top-rated scores it had gotten in the past on this measure, but if it maintains a high level of fund balance, it might only drop to the second highest score. The Risk Model gives the user the option to choose the growth rate, from maintaining a rate of growth equivalent to Aaa to remaining flat (equivalent to an A rating). For the purposes of this report, we chose to make this indicator equivalent to an Aa rating. The rationale is that the City probably can't keep historic levels of growth indefinitely, but the high amount of fund balance the City usually carries would, hopefully, be enough to avoid falling down to an A rating.

Cash Balance: Cash is a similar measure to fund balance – but focuses on “money in the bank”, whereas fund balance can include some non-liquid resources. For the City, this measure is currently almost three times above what is necessary to receive the highest score on Moody's scorecard. At the City, cash balances and fund balance levels tend to mirror each other. So, just as the City did not have nearly the same level of fund balance in the past as it does today, it did not have the same level of cash either. Thus, like fund balance, this means that we shouldn't take for granted that the City will continue to maintain cash high enough to receive Moody's highest scores for the entire 30-year analysis period. That said, given that cash appears to be so far above what Moody's is looking for that it would take much more extraordinary circumstances for the City's cash to fall below Aaa equivalence. The Risk Model assumes that the City has a 2 in 15 chance of falling to the Aa tier, each year. This chance is smaller than fund balances falling to the Aa tier. The rationale is the City's cash amounts are very high above the Aaa threshold, so would have a long way to fall to reach Aa territory.

Five-Year Dollar Change in Cash Balance as % of Revenues: The rationale and issues related to this measure are much the same as discussed above. Cash is a more liquid resource for dealing with unplanned, unavoidable expenditures and this measure shows the rate and direction of growth. The City is currently well above the amount required for Moody's highest score, but, again, the same rate of growth probably cannot keep up indefinitely. Like fund balance, though, it seems possible that Moody's might not penalize the City for mere stability in its amounts of cash on hand, if the amounts on hand were kept high. The Risk Model uses identical assumptions for this measure as for the fund balance trend, described above.

Management

The legal structure of a local government and management under which it operates influence the government's ability to maintain a balanced budget, fund services, and continue to derive resources from the local economy. There are two measures in this category.

Institutional Framework: This factor measures the municipality's legal ability to match revenues with expenditures based on its constitutionally and legislatively conferred powers and responsibilities. For example, a local government with many mandated responsibilities, but with little ability to raise revenues would score poorly on this measure. Our examination of the City's prior Moody's bond ratings suggest that the City, for this measure, was rated consistently with its overall rating: Aa. In other words, the second best possible score. We found no high probability risk that the City's legal powers and responsibilities would change dramatically in the coming years, so we assume the City's score on this measure will remain constant throughout the analysis period.

Operating History: Operating history is essentially the extent to which the City runs annual surpluses or deficits. The City's current measure is well above what is required for Moody's highest score. However, because surpluses and deficits are determined annually, we shouldn't assume stability in this measure over a long-term period. We looked at the last 15 years of the City's history to see the size of surpluses (there were no deficits) and used those to simulate what surpluses will be in the future. This results in a more conservative assumption than simply continuing the most recent trends indefinitely into the future.

Debt / Pensions

Debt and pension burdens are measures of the financial leverage of a community. The more leveraged a tax base is, the more difficult it is to service existing debt and to afford additional debt, and the greater the likelihood there will be difficulties funding debt service. There are four measures in this category.

We gave this category the most analytical attention for a number of reasons. First, debt was the primary focus of the City in commissioning this study. The amount of debt the City is considering issuing will have a direct impact on some of the measures in this category. Second, as we will see, the City's current performance on debt indicators is already weak compared to the other indicators we have reviewed. Third, this section includes pensions, which, as we will see, are the weak spot in the City's performance on the Moody's scorecard.

We will first briefly overview the four measures in this category and then go into details on the assumptions made for future values of these indicators.

Debt to Full Value: This evaluates net direct debt relative to full value of the property in the City's tax base. This metric tells us how onerous future debt service payments could be to the tax base. Currently, the City is in the second best category for scoring on this measure.

Debt to Revenues: This compares debt to the City's regular revenue stream. Moody's does not subtract from the calculation any debt whose principal and interest is paid by taxes, even if those costs are external to the General Fund. Under this definition, the City gets a score on the Moody's scorecard equivalent to an "A" rating.

Three-year Average of Moody's-Adjusted Net Pension Liability to Full Value. This measures the magnitude of a local government's pension obligations relative to its tax base.⁶ Similar to the debt burden evaluation, the tax base serves as a proxy for future revenue-generating capacity to amortize accrued pension obligations. The City's score here is equivalent to a "Baa" bond rating.

Three-year Average of Moody's-Adjusted Net Pension Liability to Operating Revenues. This metric seeks to measure pension obligations relative to the size of the local government's budget. The metric attempts to reflect that amortization of accrued net pension obligations could divert revenues out of future budgets and lead to funding shortfalls. The City's score here is equivalent to a "Ba" bond rating (the second worst rating).

⁶ Note that Moody's adjusts the standard net pension liability measure found in government financial reports to include less favorable assumptions on the discount rate for pension investments. The details behind these calculations are available in the Risk Model supplied to the City by GFOA.

Assumptions for Future Indebtedness:

- The Risk Model includes all repayment schedules for the City’s existing debt and assumes debt will be repaid in the times and amounts currently scheduled.
- The Risk Model includes three categories of “new” debt. The detailed assumptions behind the new debt are described in more detail later, but the general categories of new debt are:
 - Debt that the voters have previously authorized, but which the City has not issued. This is in the amount of \$117 million in principal.
 - Debt issued to support Vision 2050 or other programs. The user defines the amount of principal in the Risk Model. The Risk Model assumes that the number entered by the user will be approved by the voters.
 - Debt issued in the far future. Given we are taking a long-term (30 years) perspective, we should not assume that future City Councils will not issue any more debt. The amounts and timings of these simulate future debt issues are described as part of the following bullets.
- For all new debt, the user can choose the length of the repayment schedule. For the purposes of this report, we assumed 30 years. This is consistent with the City’s past practices and current plans. We assume level repayment schedules (i.e., no front or back loading of repayment schedules). We assume no debt refunding, refinancing, etc.
- For all new debt, we simulate the interest rate, where historical rates are used as a model. Here are some key points:
 - We use forecasts of the yield on ten-year US Treasuries for the next two years to simulate the interest rate environment for the next two years. We do this so that the Risk Model does not generate short-term results that are divergent from short-term expectations.
 - After two years, the Risk Model randomly generates future interest rates, where the rate of change in the rates is entirely consistent with the rate of change in the interest rates for Aaa-rated GO bonds and US Treasuries since 1977. We used the historical rate of change to simulate downward, upward, and stable trajectories for long-term interest rates.
 - The Risk Model assumes bond interest rates will not go below zero. The user has the option to adjust this rate floor.
 - The Risk Model includes the City’s informal policy that the City will not borrow if rates are above 5%. If rates are simulated to go above 5% in any year any simulated, then borrowing is deferred until rates go back below 5%.
 - For the purpose of this report, the Risk Model assumes that rates are just as likely to go up in the future as they are to go down, with the exception of the first two years. As discussed above, the next first years are determined by the 10-year US Treasury forecasts produced by other organizations. For the years after that, the user is able to adjust how likely rates are to go up or down to explore assumptions other than what we assumed for this report. So, if the user wanted the Risk Model to simulate an interest environment where it is twice as likely rates would go up, then that assumption could be entered. In no case will the rates rise at a greater rate of change than has been observed historically.

- The Risk Model assumes that the City will issue new debt that has been previously authorized by voters, but which have not yet been issued. This amounts to \$117 million in additional principal that is added to the City's debt burden over the next five years. The debt is issued according to a user-defined schedule.
- For the debt to support more borrowing, including the City of Berkeley Vision 2050, in the Risk Model, the user can choose the amount of debt the City will issue. The Risk Model allows the user to choose between the options below. The options are completely user definable so the City can add, change, or delete options as it likes:
 - An option for \$300 million in debt, which represents the lower end of what the City Council has discussed. Note that the City Council has discussed supplementing this amount of debt with a parcel tax. The parcel tax would not impact the City government's performance on the key indicators in the Moody's scorecard other than requiring the City issue less debt. Hence, the parcel tax is not included in the Risk Model.
 - An option for \$600 million in debt, which represents the upper end of what the City Council has discussed.
 - An option for \$900 million in debt. This is included just for demonstration purposes, so the user can see what a larger amount of debt would do to the model results.
- Debt issued to support more borrowing for the 2050 Vision Plan are assumed to be issued in increments evenly throughout the 30-year analysis period. The user can change this assumption and make the debt issued on any schedule they would like.
- We should not assume that the debt issued to support the City of Berkeley Vision 2050 will be the last debt the City issues for 30 years. Since 2000, the City has tried to gain voters' approval to issue new debt in seven of ten election years. Thus, we must assume that future City Councils will have plans to issue debt to support future projects. The model simulates this under the following assumptions:
 - The City will not try to issue new debt again until 2028. This assumption can be easily changed by the user.
 - For any election year after 2028, there is a 70% chance that the City will try to gain approval to issue new debt. This is based on the fact the City has historically tried in 70% of election years, though this assumption can be adjusted by users.
 - The amount of debt the City attempts to issue in any given election year varies between \$13 million and \$150 million. This is based on the inflation adjusted amounts the City has tried to issue in the past. The Risk Model adjusts this amount upwards in future years to account for the effects of inflation.
 - The public approves proposed new issues at the same rate it has in the past, including partial approvals.

Assumptions for Future Pension Liabilities

For pension liabilities, we developed a single alternative pension assumption, based on the work of the City's CPA firm. This assumption assumes a negative 1 percentage point adjustment to the discount rate applied to pension investments. So, if the baseline, status quo assumption is 7.15%, then the alternative would be 6.15%. The user can activate or deactivate the alternative assumption on the Risk Model

dashboard. If activated, the alternative assumption is applied across all of the thousands of scenarios the risk model produces. If is not activated, it is not applied to any of the scenarios.

The Risk Model also includes an assumption for annual increase in pension liability and the current annual rate of 3.96%. GFOA would like to acknowledge the assistance of Dan Matusiewicz, Senior Finance Consultant, at GovInvest for providing assistance on formulating this assumption, which is based on a 6.8% discount rate and wage growth of 2.5%.

Section 4 – Results of the Analysis and Recommendations

In this section, we will address the finding from our analysis, including recommendations to help the City retain its credit rating.

Let's Put Debt in Context of the Financial Indicators Used to Estimate Debt Affordability

The City's level of debt only impacts the financial indicators that comprise a total of 10% of the Moody's scorecard. Put another way, 90% of the scorecard result is determined by factors other than the City's debt! That means that long-term affordability of the City's debt will be influenced by things like how the City manages its tax base, fund balance, its pensions, and its budget. Exhibit 3.1 provided details on the relative importance of the different factors in the Moody's scorecard. To recap some of the more notable items:

- Pensions are equal to 10% of the scorecard result, or the same as debt.
- Fund balance and cash are equal to 30% or are three times the importance of debt.
- A balanced budget is equal to 10% of the scorecard result.
- Economic factors, like full value and median family income, are equal to 30% of the scorecard result.

According to our re-creation of the Moody's scoring method, today, the City is just short of a score that would be consistent with an Aaa rating. The City's pension liabilities are the main culprit for keeping the City from that score. This conclusion seems consistent with what bond analysts have conveyed to the City: that the City would have an Aaa rating if not for its pension situation. This means that the City has some "distance to fall" in order to get down to an A rating, at least according to the quantified scoring system and the assumptions we described in this report.

All this means that the City's decision to issue debt must be done in the context of the other factors that impact affordability when trying to determine the chance that additional debt will reduce the City's bond rating.

So, to review, the City's strengths are:

- The City's economic base is firmly in Aaa territory and there does not seem to be a plausible risk of it falling out of that tier. The economic base accounts for almost 1/3 of the rating.
- The City's fund balance and cash are firmly in Aaa territory as well. Even though these measures are, by nature, more volatile than the measures of the economic base there seems to be low risk that they would fall completely out of Aaa territory much less all the way down to an A-rating territory (assuming the City maintains a strong reserve policy, as further described in our recommendations). Fund balance and cash measures also constitute almost one-third of the rating.
- The City has also consistently maintained a balanced budget.

And, the City's weaknesses are:

- The City’s pensions are in Baa territory currently. Some observers believe there is a case for a lower discount rate to estimate the City’s pension liability. A lower discount rate would make the liability to go up substantially. The City’s CPA firm produced the calculation for a 1 percentage point reduction and we included it in the Risk Model as an option for the user to activate, if they wish. If this scenario came to fruition, pensions would become an even greater drag on the City. In fact, the Risk Model shows a good chance that pensions reach B territory (the worst rating) well before the end of the 30-year analysis period. Finally, it is worth noting that the Risk Model shows that one of the pension measures in the scorecard (pension liabilities compared to revenues) is at risk of slipping down to a score equivalent to the next lower rating tier (Ba) within in the next five years. As we will discuss more later, a continued downward trajectory on pensions could influence bond ratings analysts to give the City a lower rating.
- Though the City’s current indebtedness is not nearly the problem that pensions are, it is not helping the City’s bond rating either. Currently, debt measures sit between Aa and A territory.

More debt reduces the City’s score on the indicators. We can illustrate with the table below. The table shows the City’s scores under different simulations, starting with the City’s current score and ending with the City’s simulated score at the end of 30 years. The simulation does not produce a single score for the end of 30 years, but rather produces a range of possible scores. For this reason, we show the average, optimistic, and pessimistic outcomes.⁷ The table uses assumptions identical to that described earlier in this report and assumes \$600 million of new debt in support of the City’s programs, including Vision 2050, plus debt issued by future City Councils, as described earlier. We can see that the score at the end of the 30 years is worse than the City’s current score under all three perspectives in the table (average, optimistic, pessimistic). The good news is that when we consider just debt, at least the scores do remain broadly consistent with an Aa rating. But, what about if we consider more than just debt? Other factors do enter into the final bond rating of course.

Exhibit 4.1 – Simulated Results on Moody’s Scorecard under the Assumptions Described Earlier in the Report

| Rating | Score for Each Rating | | City's Current Score | Average Score at end of 30 years | Optimistic Score at end of 30 years | Pessimistic Score at end of 30 years |
|------------|-----------------------|-----|----------------------|----------------------------------|-------------------------------------|--------------------------------------|
| | Min | Max | | | | |
| Aaa | 0.05 | 1.5 | | | | |
| Aa | 1.5 | 2.5 | 1.65 | 2.14 | 2.00 | 2.30 |
| A | 2.5 | 3.5 | | | | |
| Baa | 3.5 | 4.5 | | | | |
| Ba | 4.5 | 5.5 | | | | |
| B or below | 5.5 | 6.5 | | | | |

⁷ Optimistic and pessimistic are defined as the points at which 5% of the outcomes produced by the model are above or below the point indicated on the table.

To examine the other considerations that go into a rating, Exhibit 4.2 changes the assumptions in the Risk Model to be less favorable for the City, including: a lower discount rate on pensions (1 percentage point) and performance equivalent to an Aa rating for fund balances, cash balances, and operating history (which would be less favorable than the City’s recent history would suggest). We can see that the City’s scores now deteriorate enough that the pessimistic outcome places the City in the “A” rating equivalent scoring tier. What the table does not show is how the scores change for periods less than 30 years. The Risk Model tells us that the risk of a downgrade is present in the near-term future, not just the long-term future. This is because the City is close enough to the next lower tier of scoring for its debt and pension measures that it is plausible that the City will reach these lower tiers in five to ten years. We’ll discuss this more detail in the next section. Over the long-term, the City’s strong property tax base (and growth in that base) can balance out some of the nearer-term challenges (assuming the challenges don’t also get worse).

Exhibit 4.2 – Simulated Results on Moody’s Scorecard under Less Favorable Assumptions

| Rating | Score for Each Rating | | City’s Current Score | Average Score at end of 30 years | Optimistic Score at end of 30 years | Pessimistic Score at end of 30 years |
|------------|-----------------------|-----|----------------------|----------------------------------|-------------------------------------|--------------------------------------|
| | Min | Max | | | | |
| Aaa | 0.05 | 1.5 | | | | |
| Aa | 1.5 | 2.5 | 1.65 | 2.39 | 2.30 | |
| A | 2.5 | 3.5 | | | | 2.50 |
| Baa | 3.5 | 4.5 | | | | |
| Ba | 4.5 | 5.5 | | | | |
| B or below | 5.5 | 6.5 | | | | |

The reader will notice that even on this second table, the scores are certainly not disastrous, by any means: the average score is still within the Aa equivalent tier. That said, we must remember that the final bond rating a municipality receives is not a purely mechanical exercise, where the key financial indicators dictate the bond rating. According to Moody’s: “The scorecard is not a calculator. Its purpose is not to determine the final rating, but rather to provide a standard platform from which to begin viewing and comparing local government credits. It therefore acts as a starting point for a more thorough and individualistic analysis.” Put another way, the rest of the rating is subject to a human element: the rating analyst. In a real-life scenario characterized by unfavorable performance across the indicators that Moody’s looks at we can’t discount the possibility that the analyst might decide to “put a thumb on the scale” and raise the chance of a downgrade. For example, perhaps a significant amount of new debt along with further deterioration in the City’s pension situation dampens the rating analyst’s enthusiasm for the City of Berkeley’s debt even more than the Moody’s scorecard suggests. Finally, it could be possible that rating agencies could change the weightings of the indicators they consider. GFOA has observed that the measures favored by rating agencies and the relative weight placed on them has evolved over time. It seems unlikely that debt and pensions would come to occupy a less important place in rating considerations given that they currently constitute a relatively small consideration compared to fund balance / cash and tax base. Given that pensions and debt are biggest risk to future debt affordability, we’ll examine this risk more in the next subsection.

Finally, the model can address different interest rate environments and property markets. Some observers believe that sustained higher interest rates may result from efforts to combat inflation. This would result in economic stagnation and impact on the housing market. In fact, the Federal Reserve Bank of Dallas recently stated that the property market is showing "signs of a brewing U.S. housing bubble". The implication is that bubbles pop, with the types of consequences we saw in the 2008. To explore these concerns further, we adjusted the model assumptions to give more weight to a rising interest rate environment and to reduce, by half, the chances of growth in the City's revenue and property values. Note that the baseline assumptions in the Risk Model **did not** assume uninterrupted growth in property values, but did assume a good chance of a long-term upward trajectory. These new assumptions result in a good chance of long-term stagnation. Under these assumptions, unsurprisingly, the City's is at significantly greater risk of slipping below an Aa equivalent score. Interestingly, the City's informal policy of not borrowing at rates above 5% makes a noticeable difference in the high interest rate environment: the City stops borrowing at a certain point and pays back existing debt, which helps its score. The take-away is that unfavorable turns in the economic environment will have a noticeable impact on the financial indicators and increase the risk of a ratings downgrade.

Pension, Debt and the Risk Posed to the City's Bond Rating

Though pension and debt do not dominate the Moody's scorecard and are not the most important consideration in bond ratings, they still can influence bond ratings. For example, especially poor performance or notable deterioration from previous performance might capture the attention of the bond ratings analyst. To illustrate, the table below displays results from one of thousands of simulations the Risk Model produced, using the more unfavorable assumptions described in the previous section. We chose to illustrate using the more unfavorable assumptions because it helps make the point we wish to make more clearly. Also, keep in mind this is just one of the thousands of simulations we developed, so it's not intended to show generalizable results (unlike the tables in the last section which summarized results from across the thousands of simulations).

The top set of rows in the table shows the City's current values for the key financial indicators associated with debt and pension in the Moody's scorecard. The next set of rows shows the scores the indicators receive under the Moody's methodology. The scores can range from 1 to 6, where 1 is the best (Aaa equivalent) and 6 is the worst (equivalent to B or below). The final row is the average of all indicators in the Moody's scorecard, which includes indicators not shown in the rows above (e.g., tax base, fund balance, etc.). Remember that the average is weighted towards the indicators Moody's deems most important (see Exhibit 3.1).

We see that the City's current score across all indicators is a 1.65 (bottom left corner), consistent with a strong Aa rating. However, as we move to right and further into the future, we see City's score on debt and pensions deteriorate (the numbers on the 1 through 6 scale get higher). We can also see the average score move upwards. The movement upwards is not as dramatic because debt and pensions only account for 20% of the total score. The measures that account for the other 80% perform well, often in Aaa territory. Nevertheless, we see that although the City's score remains consistent with an Aa rating, it has become consistent with a weak Aa (or Aa3 in Moody's terminology). It should be noted that the cutoff

points used in the table to differentiate strong from weak come directly from Moody’s documentation.⁸ With this in mind, it becomes more understandable why an analyst might decide to downgrade the City to an A rating, if they observe the City’s scorecard result fall from a strong to a weak Aa. They might conclude that the possibility of continued decline, for example, merits a lower rating.

Exhibit 4.3 – Example Results from a Simulation the Risk Model Produced

| | Now | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |
|---|--------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| VALUES FOR INDICATORS | | | | | | | | | | | |
| Net Direct Debt / Full Value | 1.3% | 2.2% | 2.3% | 2.2% | 3.0% | 2.9% | 2.7% | 3.5% | 3.8% | 3.8% | 3.8% |
| Net Direct Debt / Operating revenues (x) | 0.76 | 1.29 | 1.34 | 1.86 | 1.78 | 1.69 | 2.08 | 2.28 | 2.20 | 2.10 | 2.01 |
| Adjusted Net Pension Liability (3-Year Average) to Full Value (%) | 8.7% | 13.7% | 13.7% | 13.8% | 14.0% | 14.1% | 14.7% | 15.2% | 16.4% | 17.7% | 18.8% |
| Adjusted Net Pension Liability (3-Year Average) to Revenues (x) | 5.24 | 7.73 | 8.26 | 8.49 | 8.72 | 8.90 | 8.80 | 9.17 | 9.44 | 9.67 | 9.93 |
| SCORE FOR DEBT & PENSION INDICATORS (1 THRU 6 SCALE) | | | | | | | | | | | |
| Net Direct Debt / Full Value | 2 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 |
| Net Direct Debt / Operating revenues (x) | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 |
| Adjusted Net Pension Liability (3-Year Average) to Full Value (%) | 4 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 6 |
| Adjusted Net Pension Liability (3-Year Average) to Revenues (x) | 4 | 5 | 5 | 6 | 6 | 6 | 6 | 6 | 6 | 6 | 6 |
| SCORE FOR TOTAL OF ALL INDICATORS (1 THRU 6 SCALE) | | | | | | | | | | | |
| | 1.65 | 2.2 | 2.2 | 2.25 | 2.25 | 2.25 | 2.25 | 2.25 | 2.25 | 2.25 | 2.3 |
| | ^ | ^ | ^ | ^ | ^ | ^ | ^ | ^ | ^ | ^ | ^ |
| | Strong | Weak | Weak | Weak | Weak | Weak | Weak | Weak | Weak | Weak | Weak |
| | Aa | Aa | Aa | Aa | Aa | Aa | Aa | Aa | Aa | Aa | Aa |

Finally, the Risk Model can be used to explore different weightings on financial indicators. For instance, we could give greater weight to pensions and debt and less to cash and fund balances (perhaps because cash and fund balance measures are very similar, so weighting both heavily in the analysis could be seen as “double counting”). This feature of the Risk Model could be used to mimic how a ratings analyst might decide to weigh the indicators differently than Moody’s standard documentation suggests. Unsurprisingly, weighting debt and pensions more puts downward pressure on the City’s scores.

Develop and Maintain Strong Financial Policies

Financial policies can help the City maintain its good bond rating. An example is the City’s General Fund Reserve Policy. GFOA’s review of the City’s policy finds that it includes all the critical features of a good policy and calls for a reserve equal to Moody’s Aaa equivalent threshold. That said, it is important to recall that Moody’s looks across all “operating funds”, which includes more than the General Fund. **Hence, there could be an argument for defining reserve policies for other critical operating funds.**

The City also has a debt policy. The policy has many of the features of a good policy, but there may be some opportunities for improvement. Particularly salient to our discussion of bond ratings is debt affordability. The City’s debt policy notes that “the City is subject to debt capacity limit for its general obligation bonds: 15% of assessed value.” This amount of debt would be equivalent to the second lowest rating, Ba, under Moody’s scoring. **Hence, there may be a case for defining a more locally appropriate debt affordability policy.** For example, even under the most aggressive assumptions of how much debt the City might issue, the Risk Model did not show that there was a high chance that debt issued in support of the Vison 2050 would bring the City’s scorecard result below an “A” equivalent score on the measure

⁸ Note that Moody’s doesn’t use the terms “strong” and “weak”, but rather a numeric code. We elected to use the more descriptive terms of “strong” and “weak” in order to make the table more understandable.

comparing debt to property value of the tax base. The A rating is defined as debt equal to between 1.75% and 4% of property value. This might be a good starting point for defining a locally affordable limit. The City could “stress test” affordability by simulating larger issues to see how much pressure is placed on the scorecard result by increasing the amount of debt. It could be that the City’s strong tax base and fund balance / cash practices would make it practical to incur debt beyond 4% of property value without putting the score at too much risk, but perhaps 15% is still too much. Of course, we must remind ourselves that bond ratings consider only the interest of the City’s creditors. Just because creditors are willing to lend does not mean the City should borrow. More debt also places more of a burden on taxpayers. Taxpayer burden should be analyzed as part of developing a debt affordability policy. We’ll discuss this more in one of our other recommendations, later in this report.

Another opportunity for improvement of the City’s debt policy might be to define interest rate ceilings for issuing debt. GFOA understands that the City has an informal policy that considers “5%” the interest rate ceiling beyond which the City will not issue debt. Formalizing this policy, or something like it, could help make a positive impression on rating analysts. The GFOA Risk Model can be used to help the City stress test different policy choices because the user can customize the interest rate ceiling the Risk Model uses and adjust assumed behavior of the interest rate environment.

Finally, **a structurally balanced budget policy could be helpful.** The City has a good history of running budget surpluses. A municipal government is subject to legislative requirements to pass a balanced budget. However, the definition of a balanced budget is just that inflows equal outflows for the year and says nothing about the long-term sustainability of how the budget is balanced. For example, according to the law, an asset could be sold to pay for the compensation of permanent City staff positions. An asset is a one-time revenue while staff compensation is a recurring expenditure, so this strategy would not be advisable even if it is legal. A structurally balanced budget policy commits a local government to adopting a budget that is balanced using sustainable strategies. GFOA is happy to provide the City with templates for such a policy, if the City is interested in pursuing it. This kind of policy would support both a strong score in the “operating history” and, perhaps, the “institutional framework” measures in the Moody’s system. For example, Moody’s recognizes “unusually strong budget management and planning” as a “notching factor” that could justify a higher score for a municipality than the ratios in the scorecard might suggest. A structurally balanced budget policy could be an illustration strong budget management and planning.

Manage the Risk Posed by Pensions

As we've discussed, pensions are the Achilles' heel of the City's bond rating. The City has been considering strategies to manage its pension risk and has established an irrevocable supplemental (Section 115) pension trust. This could help support a good bond rating. This is supported by conversations the City's Finance Director has had with bond rating agencies: the City's current pension challenges has kept it from achieving an Aaa rating and continued deterioration in pension position could even lead to the City slipping to an A or a lower rating.

Support a Strong Tax Base

If pensions are the City's Achilles heel, then its aegis is its tax base. Not only is the tax base directly responsible for 30% of the City's score on the Moody's scorecard, it directly impacts other measures as well. For example, the Moody's scorecard method compares debt and pensions to the full value of taxable property in the City. Of course, the tax base also determines how much revenue the City can raise, which influences fund balances and the City's ability to balance its budget. Therefore, the City should take active steps to preserve and to enhance its tax base. GFOA has found that there are unrealized opportunities for municipal governments to better reflect the financial interests of municipal government in land use planning. After all, land use planning will have an important influence on how the tax base develops and how the tax base develops will have an important impact on the quality of life in Berkeley (like the City's ability to invest in infrastructure!). The City can learn more about GFOA's findings and recommendations for how to make the connection between land use planning and city finances in [this report \[Note to reader: as of the date the City of Berkeley's report was posted the GFOA report on the intersection between land use planning and municipal finances has not be released to the public. It will be available soon\]](#).

Develop and Maintain Measures of Tax Burden

General Obligation (GO) debt is paid for by a special tax levy. Therefore, more GO debt does not place a direct pressure on the City's budget. It does, however, place burden on the City's taxpayers. Voters approve the City's ability to authorize debt. In that way, voters are speaking as to whether debt is affordable to them or not. However, voters are unlikely to have a perfect understanding of the long-term implications of debt for their tax burden. In the past, the City has developed measures that show the average tax burden for a City of Berkeley homeowner. It may be wise to develop the ongoing capacity to monitor and project tax burden, especially if the City plans to continue making use of GO bonds and tax measures. The scope of the GFOA Risk Model covers only City government finances, but the Risk Model does provide much of the information that the City would need to examine the tax burden placed on residents and businesses by future debt. For example, it gives the full range of principal and interest that would need to be covered by taxes every year of the 30-year analysis period. It also provides range of the potential size of the tax base.

Be Strategic about Debt Issuance

The City already has \$117 million in previously authorized debt that it plans to issue in the next few years. This is included in the Risk Model and in the information we've presented in this report. What the risk model doesn't capture is the City staff's capacity to manage the debt issuance and, critically, to manage

the projects that the debt is intended to finance. Prioritizing projects to make sure the City doesn't take on more than it can handle will not only make the best use of limited staff capacity it will help limit the total amount of debt the City takes on. The City has old debt that will gradually be paid down in the coming years. There is some opportunity to moderate the increase in the City's total debt burden by timing the issuance of new debt with expiration of old debt. That said, we must recognize that the amounts of new debt being contemplated do significantly exceed the amount by which old debt will decrease in the next number of years. So, a total increase in the City's debt burden would be inevitable under the assumption that there \$117 million would be issued along with some significant additional amount to support other projects including the Vision 2050 project.

Section 5 – Conclusion and Summary

In conclusion, the City's performance on the key financial indicators used in the Moody's scorecard appears to be robust under a variety of circumstances. That said, the final bond rating the City receives is not purely a function of these indicators. Human judgment, applied by bond ratings analysts, determine the final score. Their judgment could be swayed, negatively, by the risks posed by debt and pensions, which we described earlier in this report. We have outlined a number of opportunities for the City to take proactive measures to preserve and protect its bond rating and, thus, its capacity to borrow at favorable interest rates.

To conclude, let's recap the key take-aways from this report.

- The City has important strengths that bolster its ability to borrow, including a strong tax base, fund balances, and a history of balanced budgets. That said, the City's current policy identifies a limit on borrowing equal to 15% of assessed value. Borrowing this much would place the City at the equivalent of a Ba score or the second lowest score for the key financial indicator of debt compared to the value of property in the City. That would, of course, exert strong downward pressure on the City's bond rating. The City should develop a more locally appropriate debt limit, rather than relying on statutory limits (which are set without regard to local context). For example, debt equal to 4% of property value would still provide room for the City to issue more debt (the City is currently at less than 2%), while keeping that measure with the scoring tier equivalent to an A rating. The GFOA Risk Model can be used to "stress test" different policies.
- An unfavorable turn in the economic environment could impact the City's bond rating. The Risk Model can be used to simulate high interest rate environments and stagnant (or even declining) housing markets. Unsurprisingly, these conditions increase the chances that the key financial indicators we analyzed will slip into territory associated with a lower bond rating. This is important because some observers believe that a higher interest rate environment and stagnant or declining property market are real possibilities.
- Growth in the City's tax base supports borrowing and repayment of debt. Hence, the City should consider how it can use the City's land use planning capabilities to support the financial capacity of City government. Land use planning could be used to improve the revenue productivity of the land uses in the City's jurisdiction.
- The City's pension liabilities are a drag on the City and its capacity to borrow. Pensions are clearly the weak spot in the City's bond rating given how the pensions stand today. Some observers believe that the current discount rates assumed for the pensions' investments may be too optimistic. Lower discount rates would increase the size of the liability even further. This emphasizes the need for the City to find ways to manage its pension debt.
- The City can adopt certain financial policies to maintain good management practices. This will help make a positive impression on bond rating analysts. It is important to remember that even though our Risk Models shows the City is likely to perform consistently with an Aa rating in most scenarios: A) in many scenarios the City's position deteriorates from strong Aa to a weak Aa; and B) ratings are ultimately the product of the judgment of the bond ratings analyst. An analyst's

enthusiasm for the City's debt might dampened enough by this deterioration that the analyst decides on a ratings downgrade for the City.

- Though our analysis focused on the direct impact of debt on the finances of City government, the City should also be mindful of the burden on taxpayers. The Risk Model provides much of the information the City would need to estimate burdens on taxpayers under different scenarios.
- The City already has \$117 million in previously authorized debt that it plans to issue in the next few years. Given the City's interest in issuing more debt to support the Vision 2050 and other programs, the City should remain mindful of the City staff's capacity to manage new debt issuance and, critically, to manage the projects that the debt is intended to finance. Prioritizing projects to make sure the City doesn't take on more than it can handle will not only make the best use of limited staff capacity, it will help limit the total amount of debt the City takes on.
- By following a prudent borrowing strategy, managing pensions, and following other recommendations in this report the City should have a good chance of making a positive impression on bond ratings analysts and maintaining its ratings, all while preserving some additional capacity for the City to borrow.

Appendix 1 – Limitations of GFOA’s Analysis

This section highlights the most important limitations of our analysis.

Our analysis is not predictive. GFOA does not forecast bond ratings. Rather, our model generates hundreds or even thousands of different scenarios to show how the future could unfold. This helps the City think more broadly about risk so that it can be more prepared for whatever future event does eventually come to pass. Finally, it is important to note that low probability events are still possible events. Hence, even if our model says an event has a low probability, then that does not mean it won’t occur.

GFOA is not a risk management consultant. We worked with the City to find out which risks to bond ratings are most salient and then modeled those risks quantitatively to judge the potential impact. It is not our place to determine what the City’s attitude towards risk should be or to substitute GFOA’s attitude towards risk for the City’s. GFOA builds models to help you explore the questions, but ultimately you have to make the decisions.

Our analysis is based on historical records. Historical data is often a good way to model potential future outcomes. However, historical data will not be perfect.

Our analysis is not inclusive of every risk the City could possibly face. We examined the City’s past history and worked with City staff to identify the risks that posed the most clear and present danger to the City’s bond rating. However, it is possible that the City could experience a shock that no one was expecting or that the City could be impacted by a low probability, but high consequence event.

The calculation of the key indicators is subject to some interpretation. Though Moody’s does produce detailed documentation of their methods, there is still some interpretation required. For example, the measure of fund balance is supposed to include all “operating funds”. It is ultimately up to the analyst to decide which funds are operating funds and which aren’t. It could be that GFOA would have a different interpretation than Moody’s. That said, given that our Risk Model did duplicate the City’s current score, our interpretation should at least be close.

Good decisions do not always lead to good outcomes. Excel simulation tools can enhance one’s perception and understanding of uncertainty and risk.⁹ However, when dealing with uncertainty, even the best decision may not lead to a good outcome, if luck goes against you.¹⁰

⁹ “To survive in an increasingly unpredictable world, we need to train our brains to embrace uncertainty,” Emre Soyer, Quartz Magazine, January 9, 2017 <https://qz.com/879162/to-survive-in-an-increasingly-unpredictable-world-we-need-to-train-our-brains-to-embrace-uncertainty/>.

¹⁰ This is one of the primary lessons in: Annie Duke. *Thinking in Bets: Making Smarter Decisions When You Don’t Have All the Facts*. Portfolio. 2019.

CONSENT CALENDAR

August 3, 2022

To: Honorable Mayor and Members of the City Council
 From: Councilmember Ben Bartlett (Author), Councilmember Susan Wengraf and
 Councilmember Rashi Kesarwani (Co-Sponsors)
 Subject: Additional Allocation of Measure P Funding to “Step Up Housing” Project

RECOMMENDATION

Adopt a resolution allocating an additional \$114,660 per year for 10 years, from Measure P transfer tax receipts to support the increased costs for the lease and operation of a new permanent supportive housing project for the unhoused at the Step-Up Housing Project at 1367 University Avenue. In addition, refer to the next meeting of the Budget and Finance Policy Committee to confirm the availability of requested funding.

BACKGROUND

California has the highest real world poverty rate of any state, 17.2% over the previous three years and much higher than the national rate.¹ A major contributing factor to the state’s high poverty indices is that many California residents spend much of their income on housing due to high construction costs.² Throughout the state, many affordable housing development projects are stalled, burdened, and have incurred higher than the median costs for development.

For example, in Alameda, CA, Everett Commons, which is a low-income development that provides housing for only 20 families, costs \$947,000 per unit.³ The notoriously high price of land and the rising cost of construction materials are contributing factors. On the other hand, the Step-Up Housing Initiative uses an efficient and cost-effective modular construction model that provides 39 individuals with not only stable housing, but a safe and supportive environment where they can access critical employment, health, substance abuse, and community resources and services. Berkeley can help address the shortage of homes and effectively alleviate the City’s homelessness crisis through this innovative and practical project.

CURRENT SITUATION

On October 13, 2020 the Council unanimously passed Resolution # 69,586-N.S. to authorize use of \$900,000 a year to fund a new 39-unit Step Up Supportive Housing project at 1367 University Ave. (See attachment.) BOSS is the operator of the facility, and Panoramic Interests/Swinerton Builders would construct and furnish it.

Since then, dramatic increases in construction prices and materials, supply chain complications and dramatic increases in interest fees have caused the project construction costs to rise more than 50%. At current rents of \$1,400 per unit per month, the project is infeasible and cannot be financed. If, however, rents can be raised to \$1,645 per month, the project can proceed. The higher rents would justify a larger construction loan to finance the additional costs.

To cover these increased rents, additional Measure P funds of \$114,660 per year are needed, beyond the \$900,000 already allocated. This is an increase of 12.7%.

A RECAP OF THE PROJECT -

The project will include 39 fully furnished studio apartments, private bathrooms for each studio, a 400-square-foot community room, a community kitchen, two offices for support staff and services, permanent on-site property management, and 24/7 security. The building will be constructed with modular units built around an approximately 615-square foot private central courtyard.

BOSS will provide services for Step-Up Supportive Housing including connecting residents to mental health resources, substance abuse recovery services, employment, education, and legal services and will accompany them to service providers when appropriate. The program will ensure participants obtain health insurance coverage and connect them to primary care providers. Opportunities for socialization and peer support will be provided through the organization of on-site support groups, learning workshops, social activities, community meals, and service visits by outside providers. BOSS will also manage an on-site food pantry in collaboration with Alameda County Community Food Bank. These services will help residents maintain stable housing, improve mental and physical health, and decrease social isolation. On-site service hours will be provided Monday-Friday, 9 am-5 pm, but the case manager or designated staff will be on-call as needed at all times.

The program will be staffed by several employees, including a program manager, housing manager, property manager, cook, maintenance worker, and overnight monitor.

REVIEW OF EXISTING POLICIES AND PLANS

Berkeley voters overwhelmingly passed Measure P in November 2018 with 72% of the vote. The Measure raised the transfer tax on property sales over \$1.5 million from 1.5% to 2%, which is expected to generate approximately \$6-8 million annually. These funds were intended to be allocated towards various homeless services, including permanent housing, supportive services, and navigation centers.

Measure P also created an independent commission, the Homeless Services Panel of Experts, to provide recommendations on funding allocations to the City Council. In December 2019, the Homeless Services Panel of Experts published its first set of recommendations for initial investments from the General Fund to address homelessness in Berkeley. The Panel's recommendations prioritized certain categories of activities and set forth a percentage of funding for each category. Permanent housing was listed as the top priority, with 30% of the funds recommended to be allocated towards such projects. The remainder was recommended to be allocated towards shelter and temporary accommodations, immediate street conditions and hygiene, supportive services, flexible housing subsidies, and infrastructure. The City Council approved on June 30, 2020, Measure P allocations for FY 2020-21 that included \$2.5 million for permanent housing subsidy.

In 2017, the City Council also referred staff to create a 1000 Person Plan, which seeks to end homelessness for 1000 people in Berkeley. In 2019, City staff responded to this referral and concluded that the Council needed to provide up-front investments in targeted homelessness prevention, light-touching housing problem-solving, rapid rehousing, and permanent subsidies. This proposal to lease and operate the StepUp Housing initiative at 1367 University would help move forward the 1000 Person Plan and accomplish the Homeless Services Panel's top priority of providing stable and permanent supportive housing for individuals experiencing homelessness.

In addition, this project also fulfills the goals of the original StepUp Housing initiative, which passed unanimously on February 14, 2017.

CONSULTATION/OUTREACH OVERVIEW

Councilmember Bartlett's office collaborated with BOSS and Panoramic Interests to ensure the long-term success of this new permanent supportive housing project, the StepUp Housing initiative. By bringing together BOSS's expertise in the field of supportive services and Panoramic's efficient modular construction model, this project can be operational and begin providing stable housing to 39 individuals within twelve months of receiving this funding commitment, resulting in dramatic savings in costs and delivery time.

BOSS was founded in Berkeley in 1971 to serve severe and persistent mentally ill homeless individuals and their families, and has since expanded to serve over 3,000 families and individuals per year across Alameda County, including persons experiencing homelessness, mental illness, former incarceration/justice system involvement, domestic or community violence, unemployment, and other crises. BOSS has 49 years of experience serving the target population, and 45 years of experience operating emergency, transitional, and permanent housing programs. Panoramic Interests has been building high density infill development projects in the Bay Area since 1990. Its work in downtown Berkeley and San Francisco includes 15 projects, adding more than 1,000 new units of housing, and 100,000 square feet of commercial space. From 1998-2004, Panoramic built seven new mixed-use apartment buildings in downtown Berkeley. During this time, Panoramic housed more than 80 Section 8 tenants, making it the largest private provider of Section 8 housing in the city.

This collaborative effort between the city, the service provider, and the developer can serve as a regional model for future permanent supportive housing projects in Berkeley and throughout the Bay Area.

RATIONALE FOR RECOMMENDATION

The City committed to funding a Step-Up Supportive Housing facility in October of 2020. The project was expected to be completed sometime in 2021-2022 but saw escalating prices, supply chain complications and rising interest rates as the final budgets were established.

The additional project costs rose by more than 50% making the project infeasible, at the original rents of \$1,400 per unit per month. (See attached documents.)

The City's additional funding commitment will enable the project to be completed as planned. It will help the homelessness crisis by allowing for the long-term and stable housing of 39 individuals experiencing homelessness as well as the provision of on-site services to help those individuals retain housing, improve their mental and physical health, connect with employment and education opportunities, and decrease social isolation. In addition, this project will serve as a regional model for other jurisdictions to consider when dealing with the homelessness crisis in their cities.

FISCAL IMPACTS

The new permanent supportive housing project, known as the Step-Up Housing at 1367 University

is requesting an additional \$114,660 per year for 10 years to cover an increase in the rental rate from \$1,400 per unit per month to \$1,645 per unit per month. The \$114,660 allocation represents a 12.74% increase from the original allocation of \$900,000 per year.

ENVIRONMENTAL SUSTAINABILITY

The project itself was determined by the Planning Department to be categorically exempt from the provisions of the California Environmental Quality Act pursuant to Section 15332 (In-Fill Development Projects) of the CEQA Guidelines.

CONTACT PERSON

Councilmember Ben Bartlett

510-981-7130

James Chang

jchang@cityofberkeley.info

ATTACHMENTS AND MATERIALS

1. Proposed Resolution
2. Letter from Donald Frazier, Exec. Dir. BOSS to Mayor Arreguin, 6-6-22
3. Budget from Swinerton Builders, June 3, 2002 showing cost increases of \$3M+.
4. Past Resolution NO. 69,586-N.S. October 13, 2020
5. Articles: “Soaring material prices, supply chain delays spook owners and developer.” Construction Dive, 4-12-21. “Mortgage rates spike to their highest level in nearly 13 years.” Washington Post, 5-5-22. Step Up Housing Council Item from February 14, 2017:
6. Additional Links
 - a. <https://www.census.gov/content/dam/Census/library/publications/2020/demo/p60-272.pdf>
 - b. <https://www.sacbee.com/article245815115.html>
 - c. <https://www.latimes.com/homeless-housing/story/2020-04-09/california-low-income-housing-expensive-apartment-coronavirus>
 - d. <https://drive.google.com/file/d/1sUgEAKJfpRaNMBAzSFdd9ajV9CA06HOe/view?usp=sharing>

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

ALLOCATING AN ADDITIONAL \$114,660 ANNUALLY FOR 10 YEARS OF MEASURE P FUNDS TO LEASE AND OPERATE THE NEW PERMANENT SUPPORTIVE HOUSING PROJECT FOR THE HOMELESS AT 1367 UNIVERSITY AVE.

WHEREAS, the City Council passed unanimously the original Step Up Housing Initiative introduced by Councilmember Bartlett, Councilmember Wengraf, Councilmember Kesarwani, and Mayor Arreguin on October 13, 2020; and

WHEREAS, Measure P was passed by Berkeley voters in November 2018 to raise the transfer tax on roughly the top-third of properties from 1.5% to 2% and allocate those funds towards various homeless services, including permanent housing, supportive services, and navigation centers; and

WHEREAS, Measure P designated the Homeless Services Panel of Experts to advise the Council on expenditures for homeless services; and

WHEREAS, in December 2019 the Homeless Services Panel of Experts published their recommendations for initial allocations under Measure P, including highlighting permanent housing as the City's top priority and recommending 30% of Measure P funds be allocated to permanent housing; and

WHEREAS, the City Council approved on June 30, 2020 Measure P allocations for FY 2020-21 that included \$2.5 million for permanent housing subsidy; and

WHEREAS, the Berkeley Zoning Adjustments Board approved the permanent supportive housing development project at 1367 University on July 9, 2020.

WHEREAS, construction costs, materials costs, and interest rates have increased dramatically in the past 18 months, making the project infeasible at the current rent of \$1,400 per unit per month

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the following be approved for the StepUp Housing at 1367 University Ave:

- A reservation of approximately an additional \$114,660 year in ongoing funds annually for 10 years for the leasing and operation of the proposed project, with funding adjusted annually based on the Consumer Price Index for Oakland-Hayward-Berkeley, CA.
- In the event BOSS is unable to perform its function as the service provider, an alternative qualified service provider may operate the project with the review and approval of the City Manager, or her designee.
- Further, the City's commitment is contingent upon the funding of the balance of the project.

BE IT FURTHER RESOLVED that the City Manager, or her designee, is hereby authorized to execute all original or amended documents or agreements to effectuate this action; a signed copy of said documents, agreements, and any amendments will be kept on file in the Office of the City Clerk.



June 6, 2022

Mayor Jesse Arreguin
2180 Milvia St.
Berkeley, CA 94704

Re: Permanent supportive housing at 1367 University Avenue, Resolution No. 69,586-N.S.

Dear Mayor Arreguin,

I am writing to request an additional **\$245 per unit, per month**, for our permanent supportive housing project for the homeless at 1367 University Ave.

Since the Resolution was signed in October of 2020, construction costs have skyrocketed. Our development partner has experienced a 65% increase in construction costs since we signed our master lease with them 3 years ago. Additionally, interest rates for construction loans have almost doubled. In order to keep this housing project moving ahead, we are requesting that an additional \$245/unit/month be made available to BOSS as an amendment to Resolution No. 69,586-N.S.

1. \$245/unit/month: $\$245 \times 39 \text{ units} \times 12 \text{ months} = \$114,660/\text{year}$
2. Exhibit 1: Actual construction costs are on the following page (produced by Swinerton)
 - a. 2019: Construction costs = \$5,929,731
 - b. 2022: Construction costs = \$9,860,277
3. Exhibit 2: Resolution No. 69,586-N.S. is included for your reference
4. Exhibit 3: Recent news clippings about construction costs and interest rates

Please let me know what else you need from us to make this amendment to the Resolution.

Most Respectfully,

A handwritten signature in blue ink, appearing to read 'Donald Frazier', is written over a light blue circular stamp.

Donald Frazier
Executive Director

Cc: Colleen Chawla, Alameda County Health Care Service

Exhibit 1

2022-05 1367 University Ave - GMP

1367 University Ave, Berkeley CA

Berkeley

Panoramic Development June 03, 2022

SWINERTON



| Description | Quantity | 2019 | 2022 |
|--|----------|--------------------|--------------------|
| <small>Division 2 - Mechanical</small> | | | |
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| Total | | \$5,929,731 | \$9,860,277 |

Exhibit 2

RESOLUTION NO. 69,586-N.S.

ALLOCATING APPROXIMATELY \$900,000 ANNUALLY FOR 10 YEARS AND A ONE-TIME AMOUNT OF APPROXIMATELY \$32,975 OF MEASURE P FUNDS TO LEASE AND OPERATE THE NEW PERMANENT SUPPORTIVE HOUSING PROJECT FOR THE HOMELESS AT 1367 UNIVERSITY AVE.

WHEREAS, the City Council passed unanimously the original Step Up Housing Initiative introduced by Councilmember Bartlett on February 14, 2017; and

WHEREAS, Measure P was passed by Berkeley voters in November 2018 to raise the transfer tax on roughly the top-third of properties from 1.5% to 2% and allocate those funds towards various homeless services, including permanent housing, supportive services, and navigation centers; and

WHEREAS, Measure P designated the Homeless Services Panel of Experts to advise the Council on expenditures for homeless services; and

WHEREAS, in December 2019 the Homeless Services Panel of Experts published their recommendations for initial allocations under Measure P, including highlighting permanent housing as the City's top priority and recommending 30% of Measure P funds be allocated to permanent housing; and

WHEREAS, the City Council approved on June 30, 2020 Measure P allocations for FY 2020-21 that included \$2.5 million for permanent housing subsidy; and

WHEREAS, the Berkeley Zoning Adjustments Board approved the permanent supportive housing development project at 1367 University on July 9, 2020.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it approves the following for the project at 1367 University Ave:

- A reservation of approximately \$32,975 in Measure P funds for start-up costs associated with the project.
- A reservation of approximately \$900,000 in ongoing funds annually for 10 years for the leasing and operation of the proposed project, with funding adjusted annually based on the Consumer Price Index for Oakland-Hayward-Berkeley, CA.
- In the event BOSS is unable to perform its function as the service provider, an alternative qualified service provider may operate the project with the review and approval of the City Manager, or her designee.
- Further, the City's commitment is contingent upon the funding of the balance of the project.


BE IT FURTHER RESOLVED that the City Manager, or her designee, is hereby authorized to execute all original or amended documents or agreements to effectuate this action; a signed copy of said documents, agreements, and any amendments will be kept on file in the Office of the City Clerk.

The foregoing Resolution was adopted by the Berkeley City Council on October 13, 2020 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

DEEP DIVE

Soaring material prices, supply chain delays spook owners and developers

The rising cost of many materials and increased sourcing headaches have project owners rethinking their return to normalcy and threaten to derail construction's expected resurgence.

Published April 12, 2021



Joe Bousquin
Senior Reporter



The Washington Post

Mortgage rates spike to their highest level in nearly 13 years

The 30-year fixed average hasn't been this high since August 2009



By Kathy Dorn

May 5, 2022 at 10:12 a.m. EDT





Energy Commission

ACTION CALENDAR

November 3, 2022

To: Honorable Mayor and Members of the City Council
 From: Energy Commission
 Submitted by: Bentham Paulos, Chairperson, Energy Commission
 Subject: Recommendation on Climate, Building Electrification, and Sustainable Transportation Budget Priorities for Fiscal Year 2023 and 2024

RECOMMENDATION

The Energy Commission recommends that the Berkeley City Council prioritize and include in the City's budget for the Fiscal Years Ending (FYE) 2023 and 2024 several staff positions, pilot projects, investments in electric vehicles and charging infrastructure, and other measures to ensure that the City's budget is aligned with and provides adequate and needed funding to implement the City's adopted Climate Action Plan, Electric Mobility Roadmap, Building Emissions Saving Ordinance, 2019 ban on gas in new construction, and the Existing Buildings Electrification Strategy.

POLICY COMMITTEE RECOMMENDATION

No action was taken by the Budget & Finance Committee. Item is automatically returning to the Council agenda pursuant to the 120-day time limit for items referred to policy committees.

SUMMARY

In this memo, the Energy Commission (which disbanded March 31, 2022, and was merged with the Community Environmental Advisory Commission in April 2022) provides details on specific budget and funding priorities for: staffing an Electric Mobility Coordinator and the Green Buildings Program Manager; fully funding the Building Electrification and Just Transition pilot project (especially to avoid risking loss of state funding); accelerate funding for the City's delayed fleet replacement with electric vehicles, residential electric vehicle charging infrastructure, and electric bike parking infrastructure; expanding public engagement and outreach; leveraging street maintenance budgets to incorporate and promote low-carbon mobility; and adopting policies and creating incentive programs to advance transportation and building electrification such as using the Transportation Network Company (TNC) User Tax General Fund revenue to fund bike and pedestrian projects and using a portion of the Transfer Tax to create an incentive program for residential building electrification.

FISCAL IMPACTS OF RECOMMENDATION

The specific fiscal impacts are detailed in the budget recommendations below. At least one of our priority budget recommendations – to fully fund the Building Electrification and Just Transition pilot – is urgent and time-sensitive and cannot wait until the June

budget process. Any delay risks Berkeley losing access to substantial state funding that could support this pilot.

CURRENT SITUATION AND ITS EFFECTS

Berkeley has been a world leader on climate change and building electrification, as well as on zero waste. The City has already adopted an ambitious climate action plan and greenhouse gas (GHG) emission reduction goals.¹ Between our Building Emissions Savings Ordinance², 2019 ban on gas in new construction, the 100% renewable option with East Bay Community Energy, and the Existing Buildings Electrification Strategy³ (BEBES), approved by the Council last year⁴, we continue to lead the world with our thoughtfulness and action.

However, the task in front of us is daunting. With 60% of the City's emissions coming from the transportation sector and 36% from the building sector,⁵ we must redouble our efforts to reduce climate emissions from transportation and buildings through electrification of buildings and transportation, sustainable low- and zero-carbon transportation modes, and other efforts. With the upcoming budget processes, we have ample opportunity to take necessary next steps to reach our zero emissions goals.

The Energy Commission has identified the following priority items related to climate, buildings, and transportation in the City's Fiscal Year (FY) 2023 budget to ensure that

¹ In 2006, voters overwhelmingly passed ballot Measure G and established Berkeley's goal to *Reduce our entire community's greenhouse gas emissions by 80% below 2000 levels by 2050*. Since then, the City has adopted a Climate Action Plan (2009).

On June 12, 2018, the Council passed item 30 which adopted a resolution establishing the goal of becoming a Fossil Fuel-Free City. Of the recommendations in the resolution, one was that "All future City government procurements of vehicles should minimize emissions and set a goal of transitioning the city's vehicle fleet to all electric vehicles."

Also, on June 12, 2018, the Council passed item 49 "Declaration of a Climate Emergency" which refers "to the Energy Commission to study and report back to Council on a path for Berkeley to become a "Carbon Sink" as quickly as possible, and to propose a deadline for Berkeley to achieve this goal" ideally by 2030.

² <https://www.cityofberkeley.info/BESO/>

³ https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Energy_and_Sustainable_Development/Berkeley%20Existing%20Bldg%20Elect%20Strategy_Final_102021.pdf

⁴ https://www.cityofberkeley.info/Clerk/City_Council/2021/12_Dec/Documents/2021-12-14_Item_06_Minutes_for_Approval.aspx

⁵ https://www.cityofberkeley.info/Clerk/City_Council/2022/02_Feb/Documents/2022-02-08_Presentations_Item_17_Pres_Planning_pdf.aspx

the budget aligns with the City's adopted climate action plan and greenhouse gas (GHG) emission reduction goals.

At least one of our priority budget recommendations – to fully fund the Building Electrification and Just Transition pilot – is urgent and time-sensitive and cannot wait until the June budget process. Any delay risks Berkeley losing access to substantial state funding that could support this pilot.

At its meeting of February 23, 2022, the Energy Commission voted to send this recommendation to the City Council by a vote of 6-0-0-1 [Moved Tahara, Second Paulos. Ayes: Paulos, Wolf, Tahara, Moore, Guliasi, Zuckerman. Noes: None. Abstain: None. Absent: de Tournay Birkhahn].

Budget Priorities Recommended by the Energy Commission

I. Budget Priorities to Increase Staff Capacity to Implement the City's Established Climate, Transportation, and Clean Energy Policies and Priorities

- 1. Fund and Hire Staff to Implement the Electric Mobility Roadmap.** The City had previously approved the hiring of an Electric Mobility Coordinator within the Public Works Department⁶ to assist with implementation of the Berkeley Electric Mobility Roadmap adopted in July 2020⁷; but, at the time of writing, no position has been posted, now a year and a half after approval of the Roadmap.

The Council has been a leader in adopting resolutions acknowledging the need for a prompt transition away from fossil fuels and strategies for how to do so.⁸ But, without additional staff capacity, and exacerbated by recent staff departures and necessary pandemic re-assignments, the City has not been able to make adequate progress on implementing initiatives to reduce global warming pollution from the transportation sector, which is the largest emitter of global warming pollution in Berkeley.⁹ Existing staff's capacity is simply inadequate to lead implementation of the groundbreaking, transformative Roadmap in addition to their current responsibilities, and relying only on existing staff to implement will continue to cause unacceptable delays. **To**

⁶ Budget Referral from Councilwoman Harrison, March 30, 2021. The Energy Commission's understanding is that this position was included in the FY21-22 Budget to commence half-way through the fiscal year or as an "unfunded council referral," which was supposed to be funded via savings from other cuts or delayed expenses.

https://www.cityofberkeley.info/Clerk/City_Council/2021/03_Mar/Documents/2021-03-30_Item_25_Budget_Referral_Allocate_Funding.aspx

⁷ On July 21, 2020, the Council passed item 1, adopting the [Berkeley Electric Mobility Roadmap](#).

⁸ *Ibid.*

⁹ 59% of GHG emissions in Berkeley come from transportation, followed by 39% from buildings..

https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/2020-07-21_Special_Item_05_Climate_Action_Plan_pdf.aspx (July 21, 2020).

implement the Electric Mobility Roadmap, it is critical that the City fund and hire additional staff beginning in the FY 2023 budget.¹⁰

- 2. Increase Staff Necessary to Implement the Berkeley Existing Buildings Electrification Strategy, and Ensure Durable Funding for Critical Staff Positions.** In addition to the Electric Mobility Coordinator position, the Energy Commission believes it should also be a priority for the City to enhance staff capacity for implementing other climate and clean energy initiatives, such as, but not limited, to the Berkeley Existing Building Electrification Strategy¹¹ and Climate Equity Action Fund.¹²

City staff has and continues to do impressive work with limited staff. However, the scope of the task ahead of us is massive. As laid out by the BEBES, there are no fewer than 57 policy actions (Table 3-5, BEBES) that the City should take in order to decarbonize the building sector by 2045, let alone by 2030, which the science demands of comparatively wealthy municipalities such as ours. Many of these actions involve substantial education and regulatory initiatives, which can only be achieved with the addition of dedicated, skilled staff.

Although we defer to staff with respect to the specifics of what additional positions might be most useful, some critical actions include:

- Ensuring durable, long-term funding for the Green Buildings Program Manager. Although hiring has only recently begun, this role was approved as part of the 2019 gas ban,¹³ and its extension will be critical in helping to develop future code

¹⁰ This single staff person will have an outsized impact, as they will be responsible for establishing and coordinating the Electric Mobility Roadmap Implementation Working Group as called for in the Roadmap. This Working Group was supposed to be convened within six months of the Roadmap's approval, but in the absence of staff capacity, it still has not been done. The Working Group's mandate includes tracking and evaluating Roadmap implementation progress. Without the Working Group, there is no accountability for the City to deliver against its stated electric mobility plans.

¹¹ On November 30, 2021, the Council passed item 13, adopting the [Berkeley Existing Building Electrification Strategy](#). Phase 1 (2021-2025) actions for the Berkeley Existing Building Electrification Strategy will lay the groundwork to support wide-spread transition to electrified buildings in Berkeley. Policies included in Phase 1 will involve continued community engagement, pilot projects, education campaigns to demonstrate the benefits and feasibility of electrification, collaboration with labor and workforce organizations to advance inclusive high road jobs, alignment of existing programs and incentives, and the development of additional incentive programs as well as larger scale funding and financing programs such as tariffed on-bill financing. The City of Berkeley will work with partners such as East Bay Community Energy and Pacific Gas & Electric to develop larger scale Phase 2 projects. There will also be a need to collaborate with regional and State partners to align State policies to support Phase 2 actions. (Berkeley Existing Building Electrification Strategy, p. 95.)

¹² The City recently issued an [RFP](#) for the Climate Equity Action Fund. but existing staff do not have the capacity to maximize program impact and collect lessons learned from this innovative fund.

¹³ https://www.cityofberkeley.info/Clerk/City_Council/2019/12_Dec/Documents/2019-12-03_Supp_2_Reports_Item_24_Supp_Arrequin_pdf.aspx

amendments and help to reduce permitting overhead, improve compliance, and address the myriad other regulatory questions identified in the BEBES.

- Supporting and expanding staffing across the City for programs related to tenant protections and anti-displacement, such as those listed in Appendix C of the BEBES. As we electrify our existing building stock, we will need to evolve and augment our existing policies to protect marginalized communities at risk of displacement (CC-9, BEBES). We cannot afford for these policies to lag behind the pace and scale of electrification measures in the city.
- Supporting and expanding OESD staff to facilitate updates to the 2009 Climate Action Plan as appropriate and programs to facilitate Berkeley's ambitious new greenhouse gas limit goals. For example, last year the Council passed a Resolution establishing a 2030 emission reduction target that reflects Berkeley's fair share of the 50% global reduction in CO₂e – 60.5% from 2018 levels by 2030.¹⁴ Council is also actively considering more stringent and binding targets across its sector-based and consumption inventories. These new initiatives will have significant implications for the City's approach to building decarbonization. While we fully support these ambitious targets, efforts to implement them have been largely unfunded and understaffed. Achieving these targets will require a significant expansion of the City's climate staff capacity.

II. Budget Priorities to Advance Clean Transportation in Berkeley

1. **Fund City Fleet Electrification and Charging.** On June 29, 2021, the City adopted item 25 approving the recommendations in the City Auditor's report "Fleet Replacement Fund Short Millions"¹⁵, which directed staff to adjust the fleet replacement funding model and budget, ensuring that the City's transition to electric vehicles (EVs) aligns with its adopted GHG emissions goals. On September 14, 2021, the Council adopted the recommendation from item 27 "Recommendations for Fleet Electrification Policy and Financing",¹⁶ made by the Energy Commission, which referred to the City Manager to update the Municipal Fleet Electrification Assessment and EV charging funding priorities to respond to the City Auditor's Report and align with the objectives stated in the Electric Mobility Roadmap and prioritize municipal fleet modal shift to electric bicycles and other forms of zero-emissions mobility where feasible.

¹⁴https://www.cityofberkeley.info/Clerk/City_Council/2021/11_Nov/Documents/2021-11-30_Item_14_Cities_Race_to_Zero_Campaign__2030_emission_reduction_target.aspx

¹⁵ Fleet Replacement Fund Short Millions, Berkeley City Auditor, June 29, 2021.

https://www.cityofberkeley.info/Clerk/City_Council/2021/06_June/Documents/2021-06-29_Supp_2_Reports_Item_25_Supp_Auditor_pdf.aspx.

¹⁶ Recommendations for Fleet Electrification Policy and Financing, From Energy Commission, Sept 14, 2021.

https://www.cityofberkeley.info/Clerk/City_Council/2021/09_Sep/City_Council__09-14-2021_-_Regular_Meeting_Agenda.aspx - Item 27

The Fleet EV Plan identified 32 vehicles to replace with EVs in FY 2021, requiring an estimated \$1.16 million; but, as of June 2021, Public Works had only \$747,000 to replace 29 vehicles scheduled to be replaced with EVs in FY 2021. The Energy Commission's recommendation noted that delaying replacement of these vehicles in 2021 would result in greater GHG emissions:

“For example, per the Fleet EV Plan, if the City does not replace light-duty internal combustion cars with EVs as scheduled in 2021, it will produce an estimated additional 10.6 MT of GHG emissions in 2021; if not replaced as planned in 2022 an additional 19.5 MT of GHGs would be emitted in 2022; and so on.” (page 4).

It is the Energy Commission's understanding that East Bay Community Energy (EBCE) has offered to provide substantial investments in the City of Berkeley for EV charging infrastructure, which would support progress on the City's fleet electrification and free up City funds that would otherwise have been spent on EV charging infrastructure. The Energy Commission urges the Council to resolve the budget gaps identified in the Auditor's report and explore additional funding sources so that the City can accelerate its purchases of EVs and the associated EV charging infrastructure in FY 2023.

A global microchip shortage resulting in prolonged supply chain delays and long wait times for the delivery of EVs is compounding the necessity for the City to take immediate action on fleet replacement. These delays are being exacerbated by the recent surge in demand for EVs. As more municipalities similarly pass electrification plans, Berkeley will see increasing competition for the same vehicles. The City must thus plan and order ahead if it wants to have a smooth fleet transition. The City should also commence its purchase of e-bikes for the years ahead, as replacements to existing City vehicles where appropriate. E-bikes are both highly cost effective and may not face the same supply chain delays as electric cars and trucks. The Energy Commission recommends that the Council prioritize these municipal fleet EV replacements, along with the associated EV charging infrastructure, in the FY 2023 budget.

2. **Expand Infrastructure for Residential EV Charging and E-Bike Parking.** The City should prioritize funds to address solutions for residential curbside EV charging. The City's Residential Curbside EV Charging Pilot Program¹⁷ sunset in 2020. The development model the pilot used – private ownership of a charger on the side of a public street – was not successful. While 62 residents applied for the program, only four on-site and seven curbside chargers were installed - high permitting fees, restrictive engineering requirements, lack of control of the parking space adjacent to

¹⁷ https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Energy_and_Sustainable_Development/Manual%20with%20attachments%2012-1-14.pdf

the charger, and poor access to electrical supply resulted in high costs.¹⁸ Given the number of Berkeley residents who do not have access to a driveway or garage, the Electric Mobility Roadmap identified as a high priority the need to deploy curbside charging for electric cars, particularly in neighborhoods with high rates of multifamily and rental housing. The next phase of curbside charging will incorporate lessons learned from the Pilot, investigate alternative strategies, identify state and federal funding sources, and explore partnerships with EBCE and EV charging companies.

The City should also investigate the potential to provide public secure parking for other types of fossil fuel-free vehicles, namely e-bikes and cargo bikes, for apartment dwellers. E-bikes and cargo bikes tend to be larger and heavier than regular bicycles, making them difficult to carry up steps. A paid, public parking system, such as the BikeLink lockers at BART stations, may be adapted to street parking near apartment buildings.

The Council should allocate funds in the budget for an electric mobility staff person who would oversee new projects — research other cities' approaches, evaluate Berkeley's codes, standards, and permitting processes, and conduct feasibility studies — along with funds for the pilot projects themselves.

3. **Incorporate Low-Carbon Mobility into Street Maintenance Budget.** While Council is considering a bond measure that would make capital investments in our transportation system, the City should also revisit how the maintenance budget can be used to promote low-carbon mobility.

The Council has approved multiple plans to promote safe, equitable, and low-carbon mobility for all. These “complete streets” concepts are captured in the Bicycle Plan, Pedestrian Plan, Vision Zero Action Plan, and analysis of Safe Routes to School.¹⁹ But many of the measures in these plans have been implemented slowly, if at all. The Council should direct the Public Works Department to follow these plans to the letter, and integrate all low-cost and rapidly deployable concepts from the plans into their ongoing maintenance. The timing of deploying higher cost measures may necessarily depend on funding.²⁰

¹⁸ https://www.cityofberkeley.info/Clerk/City_Council/2018/02_Feb/Documents/2018-02-27_Item_16_Residential_Curbside_Electric.aspx

¹⁹ See [Bicycle Plan](#), [Pedestrian Plan](#), [Vision Zero Action Plan](#), [Safe Routes to School](#).

²⁰ A related concept is that the Council should consider giving a more formal policy status to Bicycle Boulevards. While the Boulevards serve as a useful wayfinding tool for cyclists, their designation does not give the streets a meaningful status, and no prioritization when it comes to City planning or operations. For example, places where Bicycle Boulevards cross busy streets, such as at California/Dwight or Channing/San Pablo, face years of delay before safe crossing solutions can be implemented. Numerous Bicycle Boulevards suffer from extremely poor pavement condition. Stop signs often favor cars instead of the Boulevards, and lighting can often be sub-standard. All of these factors undermine achievement of City plans, threaten public safety, and lock in carbon pollution. Direction from the Council to staff could

On January 18, 2022, the Council adopted item 19, referring a budget item to use Transportation Network Company (TNC) User Tax General Fund revenue to build and maintain protected bicycle lanes and crossings, pedestrian street crossings, and quick-build public transit projects under the Street Repair Program. The Energy Commission recommends that the Council follow through on its plan to use this revenue to benefit transportation projects in Berkeley.

III. Budget Priorities and Financial Incentives to Advance Building Decarbonization in Berkeley

1. **Fully Fund the Building Electrification and Just Transition Pilot Project.** In the December 2021 Annual Adjustment Ordinance (AAO) budget process, the Mayor declared, and the Council approved, that the Building Electrification and Just Transition pilot (“the pilot”)²¹ be a first priority to be funded in the May 2022 AAO.²² Consistent with the City’s “targeted universalism” approach to building electrification,²³ the pilot intends to kick-start electrification among affordable housing and low income (LMI) communities through incentives, and develop high-road jobs through labor standards and contractor prequalification.

Funding for this item in the May AAO is critical, and cannot wait until the June budget process. Any delay risks losing access to substantial state funding that could multiply the reach and impact of the pilot. The California TECH initiative, an \$120 million initiative established by SB 1477, recently began offering incentives for heat pump space and water heating that can defray nearly \$10,000 of cost per home,²⁴ including the cost of an electric panel upgrade. These incentives are accessible to contractors via the BayREN Home+ programs, which will simplify administration of the pilot due to its use of pre-qualified contractors.

There is additional urgency as well. The Bay Area Air Quality Management District (BAAQMD) is looking at phasing out the sale of NOx-emitting appliances by the end of the decade,²⁵ which will significantly affect the availability of non-electric space

take the form of a formal designation of the Boulevards as a category of street, just as Public Works delineates “arterials” and “collectors” when it comes to planning and operations.

²¹ https://www.cityofberkeley.info/Clerk/City_Council/2021/11_Nov/City_Council_11-30-2021_-_Regular_Meeting_Agenda.aspx

²² https://www.cityofberkeley.info/Clerk/City_Council/2021/12_Dec/Documents/2021-12-14_Supp_2_Reports_Item_44_Supp_Mayor_pdf.aspx

²³ According to the BEBES: “Targeted Universalism is the practice of setting a universal policy goal...while identifying targeted strategies and actions specifically for marginalized communities to ensure that those communities can benefit from the policy goal.”

²⁴ For single-family homes (up to 4 units), including “enhanced” incentives for HPWH. See: <https://energy-solution.com/wp-content/uploads/2021/12/TECH-Single-and-Multifamily-Incentives.pdf>

²⁵ <https://www.baaqmd.gov/rules-and-compliance/rule-development/building-appliances>

and water heating. However, BAAQMD recognizes that such a rule can only be effective if there is sufficient financial support for disadvantaged communities and a robust installer network (things the BEBES also calls out) so that everyone can reap the benefits of zero-pollution appliances without facing substantial costs. **These costs cannot be borne by cities alone, but Berkeley can lay the groundwork to leverage state and federal money with its pilot and thus significantly contribute to the regional effort to improve air quality and GHG emissions.**

2. **Use Transfer Tax Revenues to Provide Incentives for Electrification.** With soaring home prices, the transfer tax represents a durable source of funds that the City should leverage to accelerate our building electrification goals. There are two potential models to consider.

First, would be to model a rebate program after the Seismic Retrofit Refund Program²⁶ that would rebate a percentage of the transfer tax with a value up to the cost of a typical electrification package for electrification measures completed within one year of transfer. This would incentivize electrification at a time when there is large access to capital, and could lay the groundwork for an ultimate requirement to retrofit at time of sale. OESD staff have already provided Council with a draft ordinance and indicate that each year on average 800 units would qualify through this mechanism.²⁷

The Energy Commission recommends that Council move forward with this ordinance but with a cap on the amount of eligible homeowner rebates per year. These rebates are critical to the City's long-term strategy of phasing in potential electrification mandates as feasible.

At the same time, as a diverse and majority renter city, it is critical that electrification subsidies are also available for units occupied by rent controlled or below market rate tenants. As a second model option, a percentage of the transfer tax refund program (for example, the difference between the reserved and actual rebate amounts) might be simultaneously allocated to expand electrification work among those LMI and minority communities most affected by inequality, pollution, climate change, or at risk of displacement. This could come in the form of expanding the Building Electrification and Just Transition pilot and Climate Equity Fund to reach more households, or other incentive programs targeted at those same communities.

3. **Adopt Policies to Promote Implementation of Low-cost, Partial Electrification measures.** In addition to enacting full retrofit programs, we recommend that the Council consider low-cost, partial electrification measures to maximize the

²⁶ https://www.cityofberkeley.info/Finance/Home/Real_Property_Transfer_Tax_Seismic_Refunds.aspx

²⁷ https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/2020-07-21_Special_Item_03_Referral_Response_Ordinance_pdf.aspx

immediate climate and health impacts of electrification measures. For example, a requirement that any AC installation instead be a heat pump (TR-7, BEBES) could be coupled with a subsidy for LMI communities to pay for the cost difference between an AC and an equivalent heat pump model, which is estimated to be between just \$200 and \$500 wholesale.²⁸ An installer subsidy of \$676 alone could be enough to nearly double heat pump market share even absent a mandate²⁹. Other low-cost measures might include the purchasing and distribution of portable heat pumps to provide cooling to households on our increasing number of hot days (newer inverter models offer substantial energy savings over traditional portable ACs³⁰), portable induction units as both a gateway into electric cooking and a mechanism to reduce indoor NOx pollution that has been demonstrated to cause asthma in small children,³¹ as well as weatherization work to make homes safer, more comfortable, and to reduce energy use. Council might also consider rebates for electrification at time of replacement, or provide access to equipment purchased under bulk purchasing agreements as part of the Building Electrification and Just Transition pilot program.

IV. Budget Priorities to Educate and Engage Berkeley Residents in Implementing Transportation and Building Electrification

- 1. Expand Sustainability Outreach Events.** In conjunction with implementation of the Electric Mobility Roadmap and Existing Building Electrification Strategy, it is appropriate for the City to continue and expand public engagement on alternative transportation and green building solutions.

Increasing electric mobility awareness and education is a key strategy in the Electric Mobility Roadmap for achieving the City's zero net carbon goals. Berkeley has already organized four highly successful annual Ride Electric events, which brought the public together to learn about and, in certain cases, test drive EVs and e-bikes. The City has also partnered successfully with other local groups to organize in-person and virtual green building tours that feature clean energy, energy and water conservation, gray water, electric appliances, and garden features.

As technologies and incentives evolve, more members of the public consider adopting electric mobility and building electrification technologies, and as the City increases its e-mobility expertise through additional staffing, these events can and should continue to play an important role in getting Berkeley residents to transition away from fossil fuels. The Roadmap states that the City will expand electric mobility

²⁸ <https://www.clasp.ngo/research/all/3h-hybrid-heat-homes-an-incentive-program-to-electrify-space-heating-and-reduce-energy-bills-in-american-homes/>

²⁹ *ibid*

³⁰ <https://www.midea.com/us/air-conditioners/portable-air-conditioners/midea-duo-smart-inverter-portable-air-conditioner-map12s1tbl>

³¹ <https://cfpub.epa.gov/ncea/isa/recordisplay.cfm?deid=310879>

education and outreach activities, with a goal of increasing awareness of electric mobility options and incentives.³² To deliver on this commitment, the City must allocate funds for these events in its next budget.

With its recent adoption of the Existing Building Electrification Strategy, the Council must expand funding for sustainability outreach events to also address needs identified in the Strategy. For example, the Strategy identified a need for education to address the steep learning curve and cultural sensitivity around cooking with electric stoves, as cooking is a cultural asset and many feel strongly about cooking with gas stoves.³³ While the City has hosted building electrification events, including loan programs for residents to try out electric induction cooktops, it will need to do more to engage residents in adopting electric heat pumps, induction stoves, and other technologies.

BACKGROUND

The City has existing mandated climate goals and emissions reductions commitments, and already-adopted strategies, such as the Electric Mobility Roadmap and the Existing Buildings Electrification Strategy. Furthermore, the City has already approved certain staff positions and investments, such as an Electric Mobility Coordinator position and commitments to replace the City's vehicle fleet with electric vehicles on a schedule. The City is falling behind in hiring and filling needed positions and in executing on needed investments. The budget recommendations proposed by the Energy Commission in this memo seek to ensure the City stays on track to meet its goals.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

If the Council further delays investments or doesn't include our recommended priorities in the upcoming budget, it puts at risk the health and safety of Berkeley's residents, the City's achievement of its adopted and mandated climate, clean energy, and transportation goals, and its national and global leadership on addressing climate change in innovative ways.

RATIONALE FOR RECOMMENDATION

The Energy Commission commends the Council for its many years of leadership to reduce Berkeley's global warming pollution and to advance clean energy solutions for the transportation and building sectors. Our budget is a declaration of our values. We have a tremendous opportunity to accelerate building decarbonization while improving equity through targeted universalism, and we must seize the moment to secure a safer, healthier, more resilient future.

However, if the Council further delays investments in staffing, fleet electrification and electric vehicle charging infrastructure, building maintenance and retrofits, and public

³² Berkeley Electric Mobility Roadmap, p. 43.

³³ Berkeley Existing Building Electrification Strategy, p. 42.

education in the FYE 2023 and 2024 budget, it puts at risk the health and safety of Berkeley's residents, the City's achievement of its adopted and mandated climate, clean energy, and transportation goals, and its national and global leadership on addressing climate change in innovative ways. The Energy Commission thus urges the City Council to incorporate the above stated priorities into its FYE 2023 and 2024 budget.

ALTERNATIVE ACTIONS CONSIDERED

We did not consider excluding these items from the budget.

CITY MANAGER

The City Manager recommends that the content and recommendations of the Commission's Report be referred to the budget process.

CONTACT PERSON

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