



Office of the City Manager

39bACTION CALENDAR

May 25, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Lisa Warhuus, Director, Health, Housing and Community Services

Subject: Companion Report: Approve Funding Recommendation for Programs to Reduce Consumption of Sugar-Sweetened Beverages (SSBs)

RECOMMENDATION

Approve the SSBPPE Commission's recommendation for funding for Community Based Organizations (CBOs) and Berkeley Unified School District (BUSD) and adopt thirteen (13) Resolutions authorizing the City Manager or her designee to enter into contracts with the CBOs and BUSD to distribute a total of \$2,662,506 for FY 2022 and FY 2023 according to the schedule recommended by the SSBPPE. Uphold the City of Berkeley Public Health Division (BPHD) allocation previously approved through Resolution No. 69,669-N.S. by allocating \$399,374 during the same time period.

FISCAL IMPACTS OF RECOMMENDATION

City Council allocated \$2,662,506, a decrease from the prior funding period, from the General Fund on December 15, 2020 (Resolution No. 69,669-N.S.) for grants to BUSD cooking and gardening program and CBOs in FY 2022 and FY 2023; with 15% of funding allocated to the BPHD to coordinate and monitor the grant process, oversee the overall program evaluation, and produce an annual report that disseminates process and outcome data resulting from the SSBPPE funding program. The total amount of funding being allocated by the SSBPPE currently exceeds projected revenues from the tax on SSBs by approximately \$600,000. Additionally, since BPHD requires the full 15% allocated by Council to adequately support the commission's work, and since SSBPPE is recommending redistributing 5% of these funds to provide additional funding to the CBOs, an additional \$159,748 is being requested to address the BPHD funding gap and approve the SSBPPE community agency funding recommendations.

Further, the Finance Department currently anticipates that the revenue from SSBs will be \$990,210 in FY 2022 and \$1,010,014 in FY 2023. To bridge the gap in what has been allocated by City Council and anticipated revenues from the sugar sweetened beverage tax, city staff will be evaluating the potential to rely on the American Rescue Plan as a one-time measure to offset revenue losses that the City has experienced due to COVID-19 and shelter-in-place orders. Over the long-term, it is anticipated that revenues from the sugar sweetened beverage tax will continue to decline, which will

necessitate discussion about the type of programs that are funded and the level of resources that are available.

CURRENT SITUATION AND ITS EFFECTS

With the onset of the COVID-19 pandemic, sugar sweetened beverage tax revenues decreased significantly; reducing the overall allocation for Fiscal Years 2022 and 2023. Through Resolution 69,669-N.S., Council reduced funding for each of the funded groups: BUSD, CBOs, and BPHD, evenly across the board. This was a 58% reduction in funding over prior years. The SSBPPE’s subcommittee recommendation to further reduce the amount allocated to BPHD by 5% in order to provide increased funding to CBOs would constitute a 75% total reduction of funding to BPHD.

FY21 Budget Allocation (Resolution 68,914-N.S.)	\$475,000	
FY22 Budget Allocation (Resolution No. 69,669-N.S.)	\$199,687	58% reduction
FY22 Budget Allocation with additional reduction proposed by SSBPPE	\$119, 813	75% reduction

BPHD utilizes its portion of funding to carry out all of the activities mandated by the resolution; including managing all contracts, staffing the SSBPPE, and conducting other SSBPPE-related activities. BPHD is also mandated to fund an epidemiologist for program evaluation. In addition, with the passing of the Healthy Checkout Ordinance (No. 7,734-N.S.), BPHD is required to provide technical assistance and review activities to support implementation and sustainability, and will do so through funding a .20FTE Nutritionist to do this work. The reduction in funding through Resolution No. 69,669-N.S. poses a significant challenge to BPHD’s capacity to carry out all of these activities and the division has been working on finding solutions to manage this gap. With an additional 5% reduction, there is no path for BPHD to conduct all of these activities.

Furthermore, the BPHD has invested a portion of its previous allocations to purchase 23 hydration stations; nine have been installed and have improved accessibility to clean water for the community, particularly for vulnerable populations. Data collected on nine previously installed stations (by this funding source) shows the consumption of 849 gallons of water in the course of three months (one quarter), equaling a reduction of 6,432 plastic water bottles. This initiative is fully aligned with the purposes of the funding. With the reduction in funding, the installation of the 14 additional hydration stations would also be compromised.

Estimated annual costs for addressing minimum mandated activities.	Amount
Administrative Staff (estimated salary including benefits)	116,431
Epidemiologist @50% (estimated salary including benefits)	79,870
Nutritionist @ 20% (estimated salary including benefits)	29,130
Installation of hydration stations	30,000
Software Maintenance	5,500
Other Operational Expenses (i.e. supplies, printing, etc.)	3,514
Total	\$264,445

The Berkeley Public Health Division appreciates the work done by the SSBPPE in conducting a successful RFP process and making funding recommendations for 13 community agencies. BPHD also recognizes that it is important to honor these allocations now, so that contracts can be developed and ready by the start of FY 22. However, SSBPPE's recommendation (#14 in their report) that "indirect or administrative expenses not exceed 10% of the program budget for any entity" does not allow for BPHD to conduct its required administrative and programmatic activities. It also directly contradicts Resolution No. 69,669-N.S.

Given that the funds allocated through Resolution No. 69,669-N.S. already exceed projected costs due to the impacts of COVID-19 and the shelter-in-place orders, and given that this loss will likely rely on the American Rescue Plan as a one-time measure to offset these revenue losses, it is recommended that Council adopt the allocations and resolutions recommended by SSBPPE and also restore the 5% that SSBPPE is recommending be taken from BPHD's allocation and moved to CBO allocations, and add these additional costs (159,748) to the overall effort to restore all lost SSBPPE revenues through the American Rescue Plan as a one-time measure.

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 BPHD to support the development and oversight of SSBPPE community agency contracts, provide secretary support for the SSBPPE, conduct program evaluation activities, and support any programmatic initiatives that were aligned with the purpose of Measure D. For every fiscal year up to FY 21, this funding has been sufficient to cover these costs to administer this program as intended.

In addition, previous funding has allowed for the purchase of 23 hydration stations (indoor and outdoor units) to increase hands-free access to water for the Berkeley community (in light of COVID concerns), to vulnerable populations, and City run facilities that function as cooling shelters during extreme heat emergencies. Only nine of the 23 stations have been installed so far.

ENVIRONMENTAL SUSTAINABILITY

Upholding the funding recommendations of Resolution 69,699 would allow for the implementation of 14 remaining pre-purchased hydration stations. Data collected on nine previously installed stations (by this funding source) indicated a consumption of 849 gallons of water in the course of three months equaling a reduction of 6,432 plastic water bottles.

With the installation of the remaining 14 hydration stations, there is a potential decrease of an additional 3,335 plastic water bottles per month, and the consumption of potentially 440 gallons of water per month.

Without restoring the 5% of funding to BPHD that the SSBPPE's recommends re-distributing to community agencies, the remaining installations will not be possible and the environmental impacts will not be realized.

RATIONALE FOR RECOMMENDATION

Clarify information regarding SSBPPE funding and programs in order to continue the good work of the commission and maintain funding to BPHD to allow for ongoing work on these important public health issues.

ALTERNATIVE ACTIONS CONSIDERED

Approve the SSBPPE's current recommendation for a 75% decrease in general fund associated with Measure D compared to FY 21 for the PHD and maintain administrative support of the SSBPPE Commission and contract management activities only. Eliminate the evaluation and reporting activities, eliminate installation of hydration stations and find storage for hydration stations until funding is available, and eliminate Public Health's ability to support the Healthy Checkout Ordinance.

CONTACT PERSON

Janice Chin, MPH, Public Health Division Manager, HHCS, (510) 981-5121

Attachments

1. Resolution No. 69,669-N.S.
2. Resolution No. 68,914-N.S.
3. Healthy Checkout Ordinance No. 7,734-N.S.

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

RESOLUTION NO. 68,914-N.S.

TOTAL FUNDING ALLOCATION OF \$950,000 FOR FY 2020 AND FY 2021 TO THE CITY OF BERKELEY PUBLIC HEALTH DIVISION TO SUPPORT AND ENHANCE THE HEALTHY BERKELEY PROGRAM

WHEREAS, the consumption of Sugar-Sweetened Beverages (SSBs) in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, the City Council is committed to decreasing the consumption of SSBs and mitigating the harmful impacts of SSBs on the population of Berkeley; and

WHEREAS, on January 22, 2019 (Resolution No. 68,746-N.S), the City Council allocated \$4.75 million for FY 2020 and FY 2021 for the purpose of reducing consumption of SSBs and addressing the effects of SSB consumption on health with the following recommendation: direct the City Manager to utilize 20% of the allocated funds to support the City of Berkeley Public Health Division (BPHD) to coordinate and monitor the grant process; evaluate and enhance the Healthy Berkeley Program; produce an annual report that informs the public and disseminates outcome data; and manage a comprehensive and sustainable media campaign with 10% of the BPHD allocation; and

WHEREAS, the BPHD allocation of Healthy Berkeley Program funding shall not supplant any existing funding and shall be used solely in support of or to enhance the Healthy Berkeley Program; and

WHEREAS, the costs attributed to the Healthy Berkeley Program funding shall not exceed amounts allocated by City Council per fiscal year for this program; and

WHEREAS, the net increase of funding for BPHD is \$405,000 for FY 2020 and FY 2021, the BPHD shall use these additional funds on policy, system, and/or environmental (PSE) strategies, as suggested in Exhibit A of the corresponding Council Report, to support and enhance the Healthy Berkeley Program while collaborating with local CBOs and working in partnership with the SSBPPE Commission in a transparent and open manner; and

WHEREAS, funds in the amount of \$950,000 to BPHD for two years (July 1, 2019 – June 30, 2021) are to be disbursed in two equal amounts of \$475,000 each in FY 2020 and FY 2021; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or her designee, is authorized to disburse to the BPHD in the amount not to exceed \$950,000 for the two-year period of July 1, 2019 to June 30, 2021.

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 May 14, 2019 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

EXHIBIT A:

BEST USE EXAMPLES FOR POLICY, ENVIRONMENTAL AND/OR SYSTEMS
CHANGES

Best use examples for policy, environmental and/or systems changes recommended by the SSBPPE Commission for the City of Berkeley Public Health Division include the following:

- Healthy retail strategies to support local retailers in efforts to sell healthier beverage options including but not limited to: changing marketing in windows and at checkout; offer only healthy drinks at checkout; increase the percentage of healthy beverages in the store.
- Establishing a stand to sell healthy beverages to Berkeley High School and B-tech students at lunch.
- Increasing free, clean drinking water access in parks, schools and shopping areas of Berkeley and adding drinking fountains or incentivizing businesses to offer free drinking water to customers and non-customers.
- Increase the budget for the media campaign above the 10% directed in the Council Action item #27A (1/22/19).

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

