Date: May 22, 2023
To: Budget and Finance Committee
From: Scott Ferris, Director, Parks Recreation and Waterfront
Re: Marina Fund: FY24 Fund Balance Gap
Division of Boating and Waterways $5.5M Loan for Replacement of D & E Docks

Marina Fund: FY24 Fund Balance Gap

BACKGROUND

Marina Fund History

In 1964, the Council passed a resolution creating the Marina Fund.[1] The purpose of the Fund was to receive a $1.8M loan from the State to build the Marina, including a breakwater, dredging, adding 600 new slips to the existing 200-slip marina, slip utilities, lockers, pilings, roads, parking lots, pathways, landscaping, Marina office building, restrooms, bait shop, and chandlery. The loan required that revenue from slips and future hotel and restaurant leases would cover the costs of debt service, maintenance and operations of the Waterfront.

In 1970, the City took on a second State loan to increase renovated slips to 1,000, complete the upland areas and sailing basin south of University Ave. In the 1970s and 1980s, the City completed Cesar Chavez Park (previously known as North Waterfront Park) using grant and other local funding. However, by the late 1990s, the Marina Fund showed signs of distress. Budget updates and fee reports continually described structural deficits threatening to exhaust Marina Fund reserves. For example, Council minutes from November 9, 1999 note:

> *"…The Marina is significantly under-funded and there is no current source of funds to implement core capital projects while maintaining existing Marina operations…Without a commitment by the Council to actively seek additional sources of ongoing funding beyond non-recurring grants, Marina infrastructure will continue to deteriorate..."*[2]

CURRENT SITUATION

Marina Fund Structural Issues

In recent years, the infrastructure at the Waterfront has experienced significant failures such as deteriorating dock systems, the closing of the Berkeley Pier, and crumbling roadways and parking lots. Due to insufficient revenues, a capital replacement fund for this infrastructure was never established. Instead, infrastructure replacement has been funded through a variety of grants, loans, the Marina Fund when possible, and most recently, one-time allocations from the General Fund and the T1 Bond Measure.

Additionally, the Marina Fund – technically an enterprise fund with an expectation that revenues cover expenses – has been expected to cover all aspects of the Waterfront including

[1] See Resolution 39,950-N.S. to Establish the Berkeley Marina Fund for Small Craft Harbor Loan, May 12, 1964.
[2] See p.2 of Waterfront / Marina Fund Update, April 12, 2018 for a summary of budget reports from 1999-2017.

recreational activities and park expenses at Cesar Chavez Park, Shorebird Nature Center and Park, Adventure Playground, and at the South Cove area.

Until recently, staffing reductions and deferral of capital and maintenance kept the Marina Fund solvent. But over the last several years, as capital infrastructure further deteriorated and staffing levels could not be further reduced, Marina Fund revenue could no longer to cover basic operational costs. This was exacerbated in 2019 with COVID-19, which significantly reduced hotel and restaurant lease revenue at the Waterfront.

General Fund support has been needed since 2021 to maintain Waterfront operations. The Council authorized transfers to the Marina Fund of $1.4M in FY22 and $1.15M in FY23 using American Rescue Plan funding to keep the Fund solvent. In addition, Council allocated $1.5M of CIP Fund over 2 years to the Marina Piling Replacement project ($850k in FY23; and $650k in FY24).[3] These transfers will still be needed in coming years to maintain operations and complete critical infrastructure projects.

Update on FY24 Marina Fund Fiscal Gap

In FY24, $800K is needed to maintain operations. This is reduced from last year's estimate of $1.5M because of increased occupancy, delayed debt service payments on the new loan, and recently approved fee increases. After FY24, there is a structural deficit of an average of $1M/year, (see fund forecast in Attachment 1). The Marina Fund will need further supplement in FY25-FY27 if no other revenue source or cost shifts are identified.

Prior Council Action to Address Marina Fund

On May 24, 2022, the City Council approved the Budget & Finance Committee's recommendation to consider allocating transient occupancy tax (TOT) generated at the Waterfront to the Marina Fund, and to consider as part of the budget process:

> *1. that Public Works consider including trash pick-up at the Marina in the 218 process; 2. that the Marina Fund be excluded from road work repairs within the larger marina territory; and 3. that $1.5M be allocated from the General Fund to the Marina Fund for operating expenses in 2024.*

On the first recommendation, staff have confirmed that trash pickup costs at the Waterfront cannot legally be incorporated into the 218 process. On the second recommendation, while there will be future road work repairs needed, there are none in the immediate workplan as staff have just completed the Marina Streets project.

On the third recommendation – that an allocation of $1.5M from the General Fund to the Marina Fund for operating expenses in FY24 should be considered as part of the budget process – the FY24 need has been reduced to $800k, but funding has not been identified.

[3] This contract is fully executed and pre-construction has begun. Awarded scope included these FY24 CIP funds.

Current Marina Fund Projections
Attachment 1 includes an updated Marina Fund forecast, which reflects several improved conditions.

- Occupancy is improving. Marina berth occupancy has steadily increased, reaching 85.5% percent last month – a level not reached since 2015. Table 1 shows the average annual level of occupancy for the last 15 years. With this latest surge in berth rentals, we are projecting the 2023 average occupancy to reach 83%; and 2024 to increase to 86%. Each 1% is worth approx. $50K in Marina Fund annual revenues.

Table 1 - Berth occupancy rate (average of Jan and July for each year)

Years	Occupancy
2009	94%
2010	92%
2011	85%
2012	85%
2013	88%
2014	87%
2015	87%
2016	83%
2017	80%
2018	81%
2019	78%
2020	78%
2021	79%
2022	80%

- Capital investments are paying off. Over the past 15 years, there has been a surge of capital investment in the Waterfront, with more than $55M from loans, grants, local funds, and most recently $15M in a State earmark for Berkeley marina and pier projects.

- New fee increases were approved by Council. For the first time since 2015, the City is increasing slip fees – the largest source of revenue for the Marina. Fee increases were not deemed possible before due to safety, security and infrastructure problems. But safety and security efforts are making a difference, with security cameras in parking lots, increased presence of Waterfront monitor staff, and the Berkeley Police Department Traffic Bureau's move to the Waterfront office space at 125-127 University last year. And dock repairs and slipholder restroom renovations are addressing longstanding customer concerns. The new fees include 3% increases over each of the next 3 years; along with larger increases in high occupancy areas like dry storage.

- Lease revenue is improving as the Doubletree and Skates come out of Covid and percentage rent levels increase. If a 199 Seawall lease can be secured in the next year, these figures will grow.

- Debt service payments on the new loan are delayed a year. The projected first debt service payment of $342k on the new $5.5M loan must be made the August following the first disbursement. This was initially planned to occur in August 2023; but is now anticipated to be August 2024. This creates a savings in FY24 of $342k.

- Interest income increased. High interest rates in FY23 generated $110k more than the prior year.

Together, these conditions result in improved revenue projections, which reduce the level of deficit in each year. Latest projections show the annual deficit decreasing from $1.5M in FY25 to $500k in FY27.

Options for Solving FY24 Deficit
There are several options for closing the $800k projected deficit in FY24. These include:

- Reduction in capital projects.
    - Eliminating the South Cove West parking lot project would indirectly save the Marina Fund $450k. This project is currently funded by a grant from the State Coastal Conservancy; but that grant funding could be shifted to the D&E Dock project, which currently has $585k allocated in Marina Fund capital. However, $485k of the $585k is required to be spent on Marina Fund capital, since it is remaining funds from the $3M in Doubletree capital contribution to Marina Streets. Since there is only $350k planned in Marina capital for FY24, this action would eliminate a $900k capital project – and only save $450k in FY24 Marina Fund dollars.

    - Eliminate South Cove Dredging Planning project. This is a Council referral and priority, and was allocated FY23 CIP funds, but has not yet started. This would save $350k in CIP funds, which could instead be allocated to FY24 Marina capital.

- Reduction in staffing. There are 2 vacant career Assistant Recreation Coordinator positions in the Marina office. These have been reallocated from Marina Assistant positions and are currently filled by 2 hourly ARC staff. If they are cut, they would save $137.5k each in FY24, but would reduce Marina office staff by 30% and compromise our ability to maintain basic customer service levels.

- Cost shift Marina capital staff to CIP Fund. There are 1.25 FTE capital staff assigned to the Marina Fund. This would save $310k in FY24 Marina Fund.

- Cost shift Marina capital allocation to CIP Fund. This would save $350k in FY24 Marina Fund.

- Cost shift Marina Landscape staff costs to Parks Tax Fund. Cost shifting a Landscape Gardener, currently funded by the Marina Fund would save $133k in FY24 Marina Fund. Cost shifting 2 positions would save $267k.

California Division of Boating and Waterways Loan

BACKGROUND

The City has a long history (1964-$1.8M, 1971-$1.5M, 1985-$2.0M, 2001-$7.8M) of borrowing funding from the California State Division of Boating and Waterways (DBA) in order to build and renovate our Waterfront docks, parking lots, utilities, breakwaters, restrooms and complete dredging. Three of these four loans have been totally repaid by the Marina Fund, which has typically carried multiple loans at one-time. Currently, the Marina Fund is paying off the $7.8M loan authorized in 2001 (but not completely spent until 2010) and is scheduled to be paid off in 2040.

The City applied for the latest $5.5M DBW loan in 2019 to replace the D and E docks. This $8.26M project is 90% designed and will be funded by the DBW loan (repaid by the MF), T1 ($684k), the State Coastal Conservancy (SCC) grant ($1.5M), and the Marina Fund ($585K – portion from Double Tree Capital Contribution).

After a visit from DBW commissioners and staff in 2020, the $5.5M loan was granted and executed by the City Council on March 9, 2021 (see Attachment 2). This loan was issued with 4 requirements, 2 of them were economic ratios for operating income and expenses and debt service coverage ratio that needed to be met by the Marina Fund before construction loan funding was authorized. Staff believe that the 3rd condition, requiring a Council Resolution stating that the City would repay debt service from any legally available source would be sufficient to authorize construction funding.

CURRENT SITUATION

In last 6 weeks DBW staff have raised concerns that the language in our resolution does not adequately protect them from default and that our loan was in danger of being terminated given that all of these original requirements were not met. DBW has recently had loan repayment issues with the cities of Stockton, Martinez and Petaluma and has become increasingly worried about their liability in their entire loan program. They have noted that City's Marina Fund has continued to deteriorate in the last 2 years, raising their concerns about the City's ability to pay debt service not just on the new loan, but on the existing loan from 2001. Together these two loans will result in an over $800,000 annual payment from the Marina to DBW.

In lieu, DBW has proposed 5 potential options, 4 of them will allow this loan to proceed, (see Attachment 3). The options and staff comments are below:

Option A

Formalize a City financial process whereby a subaccount within the Marina Fund is established solely for the purpose of repaying all outstanding DBW loans. This subaccount must be fully funded with $2 million. Funding within the subaccount must only be used by the City for DBW loan repayments and the subaccount must be fully refreshed within 30 days of each loan payment. The subaccount must be fully funded each fiscal year before Marina Fund revenues are used for any other purpose. The subaccount shall remain fully funded until either this loan is fully repaid or until the City demonstrates to DBW for twelve (12) consecutive months that the Marina Fund has achieved the income/expense ratio and the debt service coverage ratio that DBW normally requires. The City agrees to maintain these ratios in the Marina Fund for the life of the loan. In the event of default, the subaccount may be utilized by DBW for loan payments and to cure any deficiencies in maintenance or operation.

The General Fund would be required to provide $2M to the Marina Fund. Benefits of this approach, as opposed to Option C, include: (1) the City has more control over the subaccount as DBW is not a signatory the use of the subaccount unlike the escrow account; (2) no cost to create a subaccount; (3) the City would still earn interest on the $2M in the subaccount. From a financial perspective, restricting $2M to Marina Fund until it meet the required ratio's limits the city's ability to use these funds elsewhere.

Option B

Formalize a City financial process whereby non-boating-related waterfront expenses will be paid from a specified source other than the Marina Fund, or establish an alternate revenue source (or sources) within the Marina Fund, not to include boating related revenues, to off-set all non-boating-related expenses. Loan funds would be made available after this process is implemented and once the City demonstrates to DBW for twelve (12) consecutive months that the Marina Fund has achieved the income/expense ratio and the debt service coverage ratio that DBW normally require. The City agrees to maintain these ratios in the Marina Fund for the life of the loan. ***Note***: The Loan agreement will not be extended beyond the funding availability, which currently expires June 30, 2026. To meet this deadline, the conditions noted above must be met, and loan funding requested no later than February 1, 2026.

This option requires an influx of General Fund or other revenues to the Marina Fund or the transfer of expenses to other funds. This option could delay the D and E dock replacement project by at least a year because of the 12 months period required to meet DBW ratios. The benefit of this option would be that it would address the long-standing financial issues related fund.

Option C

As a substitute for meeting the loan ratio conditions DBW normally requires, no later than March 31, 2024, the City shall establish an escrow account funded with $2 million in City funds.

The funds in this account shall be held in reserve to ensure payment of debt service on both the DBW loan currently in repayment and this new loan. The escrow account shall remain fully funded until either the loan is fully repaid or when the City demonstrates to DBW for twelve (12) consecutive months that the Marina Fund has achieved the income/expense ratio and the debt service coverage ratio that DBW normally requires. The City agrees to maintain these ratios in the Marina Fund for the life of the loan.

The General Fund would be required to provide $2M to a third-party escrow account which DBW would be a signatory on and would any use of escrow funds. This is the least desirable option as it requires that we establish an escrow account which limits interest, access and contains fees to establish. From a financial perspective, restricting $2M to Marina Fund until it meets the required ratio's, limits the city's ability to use these funds elsewhere.

Option D
As a substitute for meeting the loan ratio conditions DBW normally requires, no later than March 31, 2024, the City shall obtain a surety bond naming DBW as its beneficiary. The City shall bear all expenses and other obligations associated with obtaining and maintaining the surety bond. The surety bond shall be in the amount of the outstanding principal and shall remain fully funded until either the loan is fully repaid or until the City demonstrates to DBW for twelve (12) consecutive months that the Marina Fund has achieved the income/expense ratio and the debt service coverage ratio that DBW normally requires. The City agrees to maintain these ratios in the Marina Fund for the life of the loan.

Staff estimate that this one-time fee for the surety bond will be an additional $250-$375K. This option requires the least amount of cash upfront and could be the least expensive in the long-term if we are unable to meet the required ratios in Marina fund over the next several years.

Option E
Cancel existing loan due to the City's inability to meet previous conditions.

DBW staff have shared that they are required to provide this option to their Commission as the City has not yet met the requirements of their loan. Informally, DBW staff has shared that the state is facing significant budget shortfalls and $5.5M could help offset DBW reductions or reduce the need for fee increases.

DBW staff are recommending that the loan be approved by using one of alternatives A-D. These options will go to their Commission on Friday, 6/23 for further advice and then DBW staff will make the final decision over the next few weeks.

An alternative to the loan from DBW is to borrow the $5.5M from an existing City fund and to pay the loan back with Marina Fund generated revenue with the time and interest rate to be determined. A lower than 4.5% rate would save the Marina Fund significant debt service costs as the DBW loan is estimated to cost $4.5M in interest over the life of the loan. An additional benefit might be that another City fund would benefit from this interest.

Attachments:
1 – Marina Fund Forecast, June 2023
2 – DBW Loan Council Resolution, March 2021
3 – DBW Summary Report, June 2023

Attachment 1

Department of Parks, Recreation & Waterfront

5-Year Financial Plan - Marina Fund (825) - With Fee Increases

06/14/23

Description / Account	2018	2019	2020	2021	2022	2023 Adopted	2023 Revised	2023 Projected	2024 Projected	2025	2026	2027
Beginning Fund Balance (825-9701-399.99-01)	**3,998,848**	**3,058,152**	**3,503,847**	**3,151,380**	**5,461,419**	**4,411,407**	**4,520,961**	**4,520,155**	**723,877**	**(771,687)**	**(2,300,391)**	**(3,259,460)**
Revenues												
Dmg to Cty			396	18								
Short and Over (825-3302-360.05-01)	0	(25)	(1,078)	(112)	(20)	0	0		0	0	0	0
Interest Invest Pool (825-3302-361.30-01)	45,562	73,621	42,706	802	9,266	2,000	2,000	120,000	25,000	25,000	25,000	25,000
Marina Benches / Trees (825-5902-368.20-01)	10,200	20,400	3,400	0	27,200	6,800	6,800	13,600	6,800	6,800	6,800	6,800
Sewer Service/Marina (825-5903-344.20-41)	3,975	3,748	3,750	3,850	3,974	4,045	4,045	4,045	4,146	4,250	4,356	
Live Aboard Fees (825-5903-347.41-38)	250,924	261,215	259,664	256,143	266,631	262,547	262,547	244,215	269,111	273,690	280,533	280,533
Launch Ramp (825-5903-347.60-02)	76,671	102,724	129,657	121,220	95,360	80,000	80,000	80,000	84,000	82,000	84,050	86,151
Dry Storage (825-5903-347.60-07)	87,596	104,421	105,928	105,671	109,737	108,313	108,313	108,313	169,513	169,513	173,751	173,751
Charter Boat Fees (825-5903-347.60-11)	137,057	111,993	113,012	66,935	98,469	82,000	82,000	89,229	84,050	86,151	88,305	90,513
Locker Rentals (825-5903-347.60-03)	16,369	17,879	9,523	20,773	24,609	21,292	21,292	21,292	21,824	22,370	22,929	23,502
EV Charging Stations (825-5903-347.60-05)	2,839	3,268	2,380	1,946	3,686	3,280	3,280	3,280	3,362	3,446	3,618	3,799
Miscellaneous (825-5903-347.60-99)	24,857	49,855	37,304	105,389	29,916	30,922	30,922	36,369	40,507	41,317	41,317	43,383
Fines & Penalties (825-5903-353.47-01)	78,524	71,087	76,835	64,319	66,758	64,319	64,319	64,319	64,319	64,319	64,319	64,319
Marina Leases	1,990,306	2,478,754	1,806,344	1,186,077	1,583,795	2,129,170	2,129,170	2,097,074	2,118,045	2,332,766	2,731,077	3,028,388
Berth Rentals (825-5903-347.60-01)	3,470,525	3,426,173	3,420,177	3,443,688	3,493,497	3,443,688	3,443,688	3,500,000	3,622,831	3,801,977	4,100,034	4,364,472
Special Event Parking (825-5903-368.99-99)	55,126	82,325	101,626	0	0	75,000	75,000		0	0	0	0
Special Event / Filming Fees (825-5901-347.60-99)								7,000	25,000	75,000	75,000	75,000
Playground Svc Fees (825-5904-347.30-04)	30,398	30,136	8,848	(605)	105	35,000	35,000	25,000	35,000	35,000	35,000	40,000
Nature Center Fees (825-5904-347.39-12)	14,737	13,565	9,240	0	0	15,000	15,000	13,000	15,000	15,000	15,000	20,000
Donations (825-5904-368.20-99)	867	352	284	0	0	1,500	1,500					
Insurance Claims (825-5903-360.99-25)								15,977				
Other Revenue (825-5904-368.22-99)	0	0	1,830	0	0	0	0		0	0	0	0
Misc Fees (Doubletree Capital Payment)				3,000,000								
Transfer from ARPA Fund					1,400,000	1,150,000	1,150,000	1,150,000				
Subtotal, Revenues	**6,296,532**	**6,851,491**	**6,131,825**	**8,376,115**	**7,212,983**	**7,514,876**	**7,514,877**	**7,592,713**	**6,588,507**	**7,038,600**	**7,751,089**	**8,325,611**
	-											
Expenditures												
Personnel	3,619,415	3,579,940	3,142,775	3,220,688	3,352,407	4,262,025	4,262,025	3,916,530	4,253,438	4,338,506	4,425,277	4,513,782
Non-Personnel (excludes debt svc & capital)	1,982,484	2,111,462	1,930,250	1,841,572	2,120,261	2,509,625	2,480,109	2,590,109	2,744,915	2,801,078	2,857,163	2,914,309
Capital Projects	1,149,602	228,675	782,038	345,016	2,038,295	650,000	4,020,853	4,020,853	350,000	350,000	350,000	350,000
Minor Maintenance			143,510	173,082	156,760	250,000	375,781	375,781	250,000	250,000	250,000	250,000
Principal Payment (825-5903-450.82-10)	165,036	172,633	180,579	188,059	197,546	305,391	305,391	197,546	216,150	319,871	335,225	350,553
Interest Payment (825-5903-450.82-25)	320,683	313,086	305,140	297,660	288,173	522,328	522,328	288,173	269,569	507,848	492,494	477,166
Subtotal, Expenditures	**7,237,220**	**6,405,796**	**6,484,292**	**6,066,076**	**8,153,441**	**8,499,369**	**11,966,487**	**11,388,992**	**8,084,071**	**8,567,303**	**8,710,158**	**8,855,810**
Operating Income / (Loss)	**(940,687)**	**445,695**	**(352,467)**	**2,310,039**	**(940,458)**	**(984,493)**	**(4,451,610)**	**(3,796,278)**	**(1,495,564)**	**(1,528,704)**	**(959,069)**	**(530,199)**
Ending Fund Balance	**3,058,161**	**3,503,847**	**3,151,381**	**5,461,419**	**4,520,961**	**3,426,914**	**69,351**	**723,877**	**(771,687)**	**(2,300,391)**	**(3,259,460)**	**(3,789,659)**

Reserve Rate	49%	51%	51%	65%	63%	46%	1%	10%	-12%	-33%	-42%	-46%

Notes:
1) FY21 operating income appears high because $3M Doubletree payment for Marina streets was received as revenue, but the $3M in capital spending on that project happened in FY22-23. Actual operating loss was approx. -$700k in FY21.
2) ARPA funding received in FY22 ($1.4M) and FY23 ($1.15M) will generally carry the Marina Fund through FY23. Approx. $800K is needed to keep the Fund solvent through FY24. After that, there is a structural deficit of approx. $1M/year.
3) Berth rentals expected to remain flat in FY23; increase 2.5%/year starting in FY24 with annual fee increases; and increase an addl 2.5% in FY26 after D&E dock replacement.
4) Marina lease revenue est. began recovery in FY22, but not expected to return to baseline levels until FY25. 4% growth in leases is projected in FY25 and FY26 (to reflect potential 199 Seawall $180k base by FY26), falling to 1% growth after that.
5) Full staffing projected in FY24 and beyond. FY24 Personnel is reduced by 1 project-based FTE.
6) Non-Personnel projected escalates by 5% to reflect inflation-related cost increases. Personnel and Non-Personnel escalate by 2% starting in FY25.
7) Starting in FY25, assume additional $342K in annual payments for $5.5M DBAW loan at 4.5% interest rate, 30-year term.
8) Includes baseline of $350k/year in capital; $250k/year in minor maintenance.

RESOLUTION NO. 69,746-N.S.

LOAN AGREEMENT WITH CALIFORNIA DEPARTMENT OF BOATING & WATERWAYS FOR REPLACEMENT OF D & E DOCKS AT THE BERKELEY MARINA

WHEREAS, the State Department of Boating and Waterways provides loans to cities, counties and districts for the development of small craft harbor facilities; and

WHEREAS, the City of Berkeley needs to replace D & E Docks at the Berkeley Marina in order to meet the needs of the boating public in Berkeley and the surrounding area and to make these facilities comply with the access requirements of the Americans with Disabilities Act; and

WHEREAS, the City has conducted a feasibility study which has found the proposed project to be feasible and economically justified; and

WHEREAS, the City of Berkeley has requested, and the State Department of Boating and Waterways has approved a $5,500,000 loan; and

WHEREAS, the annual debt service payments will be made from the Marina Fund (Fund 608). However, in the event the Marina Fund cannot fulfill its repayment obligation for this loan in any fiscal year, the City shall supplement that year's repayment from any legally available source, for every year until the loan is fully repaid.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to sign the loan agreement for $5,500,000 and accept the loan for the replacement of D & E docks at the Berkeley Marina.

The foregoing Resolution was adopted by the Berkeley City Council on March 9, 2021 by the following vote:

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

Noes: None.

Absent: None.

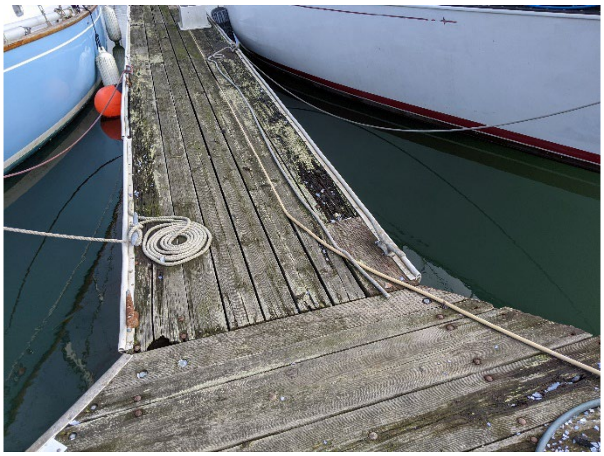
Jesse Arreguin, Mayor

Attest:

Mark Numainville, City Clerk

Attachment 3

BERKELEY MARINA LOAN
FEASIBILITY REPORT
UPDATE SUMMARY



Dock D

Dock E

City of Berkeley

$5,500,000 Loan

SUMMARY

The Department of Parks and Recreation, Division of Boating and Waterways (DBW) asks the Boating and Waterways Commission (Commission) to provide advice and comment on amending conditions that the Commission previously advised DBW to require for a $5.5 million loan from the Harbors and Watercraft Revolving Fund (HWRF) to the City of Berkeley (City) for demolition and replacement of Docks D and E at Berkeley Marina. DBW previously presented this project to the Commission for advice and comment on February 14, 2020. Since then, the City has not met three of the four conditions that the Commission advised DBW to include in the loan agreement. These conditions can be found in the full Feasibility Report Update.

The subject loan would fund design and construction of new docks, concrete piles, utilities, and necessary related infrastructure for these two docks.

There are no engineering, permitting, stakeholder or public access issues associated with this project. However, the Marina Fund, responsible for repaying the proposed loan, has a structural deficit which the City has annually supplemented with the City's General Fund.

Since DBW made its last loan to the City for the Marina in 2005, expenses have outpaced revenues. Although boating-specific revenues appear to be sufficient to offset boating expenses, overall waterfront revenues are consistently below overall waterfront expenses and are not projected to improve under the current framework.

DBW seeks Commission advice and comment on this existing $5,500,000 loan to the City of Berkeley in light of the ongoing issues described in the June 23, 2023 Feasibility Report Update to the February 14, 2020 Feasibility Report.

Cost Estimate

Based on the March 2023 engineer's cost estimate, the estimated total project cost has increased from $5.9 million in 2020 to $7.9 million today. This total project cost includes construction, escalation, construction contingency, engineering, construction management, and inspection. The City believes it has identified additional funding sources to pay for this funding gap.

The Marina Fund

Over the years, the Marina Fund's resources have become strained as land adjacent to the marina has been developed for parks, other non-boating recreation, and special events. Marina Fund resources have been used to bear these expenses, which cities typically pay for with general funds or special assessments. Marina Fund revenues have not kept up with the added expenses and a significant proportion of the Marina Fund's revenues support non-revenue-generating activities. This is not how enterprise funds are typically used. Generally accepted accounting principles require state and local governments to use enterprise funds to account for "business-type activities" – activities similar to those found in the private sector. Business-type activities include services primarily funded through user fees.

Recent Support from General Fund

The City's General Fund has historically been financially stable, and in recent years it has transferred funds to the Marina Fund to offset annual structural imbalances. However, these transfers are discretionary. The City recently transferred American Rescue Plan funds to the Marina Fund in 2022 (amount of $1.45 million) and 2023 (amount of $1.1 million) to address operating deficits in that fund.

Because this practice is discretionary and not guaranteed for future years, DBW's financial analysis cannot assume the City will continue to provide General Fund resources to the Marina Fund. According to City staff, General Fund transfers and other one-time solutions have been providing similar support to the Marina Fund for the last several years. The City is not legally obligated to do this, and if other budgetary priorities were to become higher, the Marina Fund could fall further into deficit, putting loan repayments and marina maintenance in jeopardy.

Existing Conditions to the Loan

In February 2020, the Commission advised DBW to include the four conditions of the original loan agreement. Three of the four conditions have not been met. Two of the three conditions included the Marina Fund reaching financial ratios that proved its solvency. The third condition related to permitting which has been delayed, in part, because of the ongoing financial issues. Condition Four (4) in the existing loan agreement states:

- The Berkeley City Council shall adopt a resolution accepting the loan funds. The language of the resolution shall acknowledge the Marina Fund does not currently meet the income/expense ratio required by DBW and is not forecasted to do so, and the language of the resolution must further state that in the event the Marina Fund cannot fulfill its repayment obligation for this loan in any fiscal year, the City shall supplement that year's repayment from any legally available source, for every year until the loan is fully repaid. This condition may be withdrawn if and when the City demonstrates meeting the required income/expense ratio and debt service coverage ratio for five consecutive years.

This condition has been met. However, the available source that would be used to repay the loan has not been disclosed.

Revenue

DBW forecasts Marina Fund revenues of $7.3 million in 2026, the first full year after construction of the new docks, if the City raises slip fees now and if occupancy rates for the new slips meet DBW's expectations.

Expenses

DBW estimates the Marina Fund's operational expenses in 2026 will be $7.7 million, before debt service is factored in.

DBW estimates that the annual debt service for the proposed $5.5 million loan will be approximately $342,000. The interest rate will be 4.5%, compounded continuously. The final payment on a prior DBW loan is expected to be due on August 1, 2044. Total debt service each year, including both this loan and a prior DBW loan, to the Marina will be $828,000.

Together, using DBW's adjustments to the City's original forecast, operating expenses and debt service are projected to be $8.6 million in 2026, which is $1.2 million more than operating revenues.

FINANCIAL MEASURES

Income Expense Ratio

Since 2009, in consultation with and upon recommendation of the Boating and Waterways Commission, it has been DBW's practice to require a 1.2:1 income to expense ratio. Income/expense ratio is the operating revenue divided by operating expenses. In 2020, the Commission advised DBW to waive this requirement if the conditions noted earlier were met. To date, those conditions have not been met.

This project would have an income/expense ratio of 0.95 in 2026, the first year after construction is complete. This ratio stays throughout the loan repayment period, based on the assumption that total operating revenues and expenses will grow at approximately the same rate (which the City's original projections included).

Because the income expense ratio is below 1.2, it does not meet the Commission's minimum requirement.

Debt Service Coverage Ratio

The debt service coverage ratio (DSCR) is a measure of an entity's capacity to not only maintain operations, but also to afford debt. DSCR is the net operating income divided by total debt service. The minimum DSCR established by the Commission at its May 2009 meeting was 1.25 for public marina loans. The DSCR for this loan is negative.

Alternative analysis: Separating Boating Activities from Non-Boating Activities

During preparation of this report, the City gave DBW a list of current year Marina Fund expenses, and estimated the percentage of each expense category that is related to boating operations at the Marina. Based on DBW's analysis, operating expenses specific to boating represent about 45% of all operating expenses coming out of the Marina Fund this year. Other operating expenses go to various activities like park maintenance, building maintenance, and non-boating-related personnel expenses.

After receiving this data, DBW conducted a second financial analysis that excluded all non-boating revenue (such as waterfront leases and special event fees) and all non-boating expenses. Using this approach, the income/expense ratio is above 1.2 throughout the loan payback period, and the DSCR goes above 1.25 in 2025 and continues to increase throughout the payback period.

While this analysis is more encouraging, it also highlights the magnitude of the City's reliance on the Marina Fund to support non-boating activities. The boating/non-boating expense breakdown the City shared was an informal report prepared at DBW's request, which the City Council has not had an opportunity to review and potentially shift non-boating expenses to strengthen the Marina Fund. Classifications of the expenses are imprecise since some expenses are not strictly boating or non-boating. For example, some City staff work on both boating and non-boating activities, while some staff work on site at the Marina and others elsewhere, so personnel expenses and their related overhead can only be allocated between boating and non-boating activities by using estimated workloads.

Based on the expense breakdown the City reported, and with DBW staff's historic experience with marinas and borrowers across the state, DBW believes the Berkeley Marina generates more than sufficient revenue from boating activities to cover the projected debt service for this loan. However, because the City uses a significant proportion of Marina Fund resources for non-boating activities throughout the waterfront, there would be a perpetual and sustained liability on the Marina Fund, and potential liability on the City's General Fund or other applicable special funds. As DBW has seen in previous loans that had developed similar imbalances, this could degrade investments in marina maintenance and operations, which may cause the marina loan repayments to be subject to a delinquent status.

CONCLUSION

DBW's analysis indicates that this project is feasible from engineering, permitting, stakeholder, and public access perspectives. However, the Marina Fund responsible for repaying this loan cannot sustain repayment as currently structured. Further, the City has not restructured revenues and expenses to ensure the Fund is sustainable for the term of this loan.

ADVICE AND COMMENT

DBW seeks Commission's advice and comment on the potential alternatives for addressing the current challenges associated with this loan. Prior to loan disbursement:

A. Formalize a City financial process whereby a subaccount within the Marina Fund is established solely for the purpose of repaying all outstanding DBW loans. This subaccount must be fully funded with $2 million. Funding within the subaccount must only be used by the City for DBW loan repayments and the subaccount must be fully refreshed within 30 days of each loan payment. The subaccount must be fully funded each fiscal year before Marina Fund revenues are used for any other purpose. The subaccount shall remain fully funded until either this loan is fully repaid or until the City demonstrates to DBW for twelve (12) consecutive months that the Marina Fund has achieved the income/expense ratio and the debt service coverage ratio that DBW normally requires. The City agrees to maintain these ratios in the Marina Fund for the life of the loan. In the event of default, the subaccount may be utilized by DBW for loan payments and to cure any deficiencies in maintenance or operation.

B. Formalize a City financial process whereby non-boating-related waterfront expenses will be paid from a specified source other than the Marina Fund, or establish an alternate revenue source (or sources) within the Marina Fund, not to include boating related revenues, to off-set all non-boating-related expenses. Loan funds would be made available after this process is implemented and once the City demonstrates to DBW for twelve (12) consecutive months that the Marina Fund has achieved the income/expense ratio and the debt service coverage ratio that DBW normally require. The City agrees to maintain these ratios in the Marina Fund for the life of the loan. ***Note***: The Loan agreement will not be extended beyond the funding availability, which currently expires June 30, 2026. To meet this deadline, the conditions noted above must be met, and loan funding requested no later than February 1, 2026.

C. As a substitute for meeting the loan ratio conditions DBW normally requires, no later than March 31, 2024, the City shall establish an escrow account funded with $2 million in City funds. The funds in this account shall be held in reserve to ensure payment of debt service on both the DBW loan currently in repayment and this new loan. The escrow account shall remain fully funded until either the loan is fully repaid or when the City demonstrates to DBW for twelve (12) consecutive months that the Marina Fund has achieved the income/expense ratio and the debt service coverage ratio that DBW normally requires. The City agrees to maintain these ratios in the Marina Fund for the life of the loan.

D. As a substitute for meeting the loan ratio conditions DBW normally requires, no later than March 31, 2024, the City shall obtain a surety bond naming DBW as its beneficiary. The City shall bear all expenses and other obligations associated with obtaining and maintaining the surety bond. The surety bond shall be in the amount of the outstanding principal and shall remain fully funded until either the loan is fully repaid or until the City demonstrates to DBW for twelve (12) consecutive months that the Marina Fund has achieved the income/expense ratio and the debt service coverage ratio that DBW normally requires. The City agrees to maintain these ratios in the Marina Fund for the life of the loan.

E. Cancel existing loan due to the City’s inability to meet previous conditions.

Before any alternative listed above can be incorporated into the loan agreement, City staff must seek approval from the City Council. City staff has expressed a desire to give the Council multiple alternatives from the above list to consider. All of the alternatives above would protect State interests, and providing flexibility would help the City identify an effective solution that it would be likely to implement.

DBW recommends that the loan be approved to move forward using any solution from alternatives A, B, C, and D listed above.

COMMISSION ADVICE AND COMMENT

DBW seeks Commission advice and comment on this existing $5,500,000 loan to the City of Berkeley in light of the ongoing issues described in the June 23, 2023 Feasibility Report Update to the February 14, 2020 Feasibility Report.