Multi-Jurisdictional Public Bank Feasibility Study



The City of Oakland, City of Berkeley, City of Richmond, County of Alameda

Prepared by: Global Investment Company

June 15, 2018

Confidential to the City of Oakland
Submitted by: Global Investment Company
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TAB 24:	**ATTACHMENT 4:** Feedback/Comments/Questions to the Public Bank Feasibility Study Report.
TAB 25:	**ATTACHMENT 5:** Red line version DRAFT of the Multi-Jurisdictional Public Bank Feasibility Study Draft Dated May 8, 2018. Derived from the Preliminary Study Report presented to the Working Members Group.
TAB 26:	Agenda Report – 9/11/18 Meeting
TAB 27:	GIC Responses to Pages 4 to 8 of Agenda Report Executive Summary Presented to the Oakland City Council Finance and Budget Committee on 9/11/18. (Please Note - Hard Copies Prepared By GIC, With the Appendices Included, Were Never Distributed to Other Members of the Working Group by City of Oakland.)

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June 15, 2018

City of Oakland
Treasury Bureau Finance Department
150 Frank H. Ogawa Plaza, 5th Floor
Oakland, CA 94612
Attn: David Jones

Dear David Jones,

Thank you for the opportunity to submit our Multi-Jurisdictional Public Bank Feasibility Study.

In accordance with Oakland City Council Resolution No. 86905, which outlined a Scope of Work referenced in our Professional Services Agreement dated December 14, 2017, please find enclosed the Feasibility Study for Multi-Jurisdictional Public Bank for your review and distribution. The Feasibility Study has also been sent to you in PDF and Word formats. In addition, you may also access a digital GIC Brojure of the study with hyperlinks to the appendix at:
https://brojure.com/gic/multi-jurisdictional-public-bank-feasibility-study/.

If you have any questions, please do not hesitate to contact me. We are looking forward to working with you and the other MPB Study Working Group members in the event you decide to take any next steps.

GIC will be in attendance at the scheduled, July 15th City Council Finance and Budget Committee meeting to address any question the city may have regarding the Feasibility Study.

Thank you again for your business!

Sincerely,

Cathy Jackson-Gent, CEO, A.I.F.A.
Global Investment Company

Enclosure: Feasibility Study for Multi-Jurisdictional Public Bank

Cc: Katano Kasaine, Treasury
Dawn Hort, Treasury
Henry C. Levy, Treasurer-Tax Collector, Alameda County
Shari Hamilton, Manager, General Services, City of Berkeley
LaShonda Wilson, Senior Staff, City Council City of Richmond

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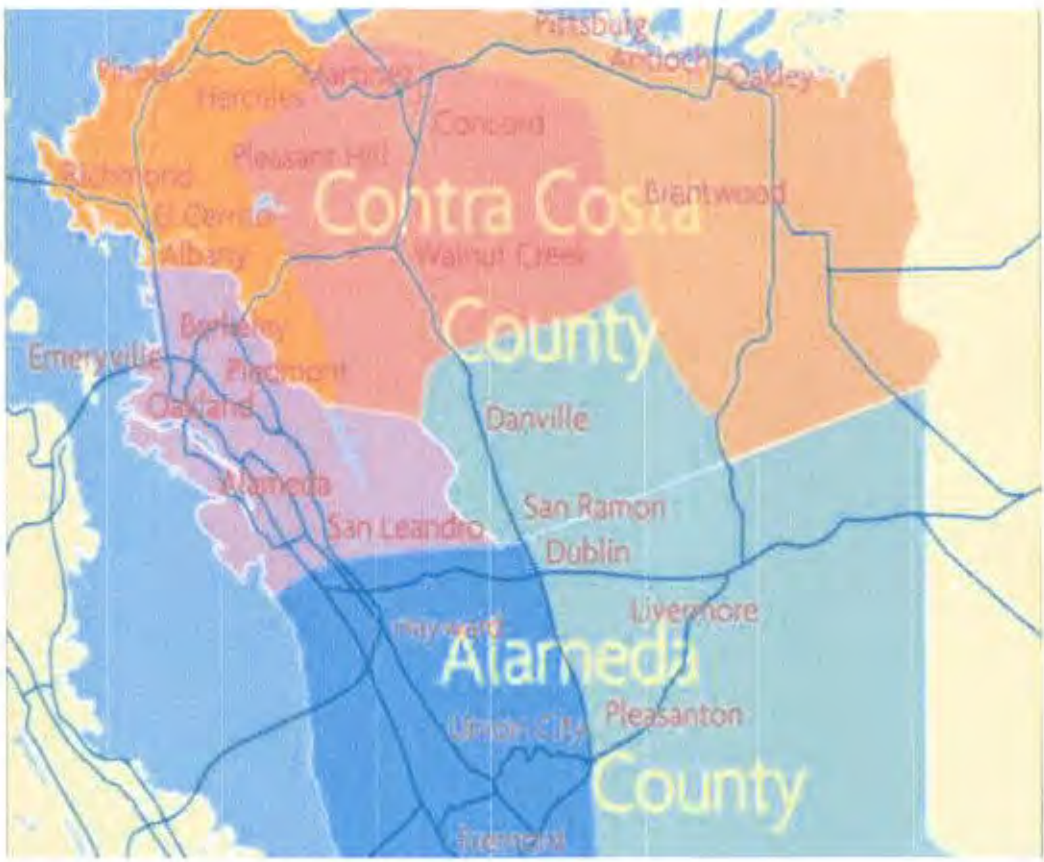
THE NECESSITY OF PUBLIC BANKS

INTRODUCTION

The City of Oakland, together with other neighboring jurisdictions, recognizes the **vital importance of financial institutions that serve society's emerging needs.**

The primary reasons for undertaking this feasibility study are to determine whether or not a public bank is feasible and to interview stakeholders. A public bank might offer viable ways to solve some the pressing financial challenges facing Bay Area communities.

MAP OF JURISDICTIONS



HISTORY

For the purposes of this document, the "Participating Governments" to the governments of the City of Oakland, City of Berkeley, City of Richmond, and the County of Alameda that have funded this feasibility study.

On November 26, 2016, demands by Oakland citizens and residents of other East Bay jurisdictions prompted the Oakland City Council to adopt a resolution (Resolution No. 86905) directing the City Administrator to prepare an informational report with cost estimates and funding options on the feasibility and economic impact of a public bank for or including the City of Oakland.

Subsequently, the Berkeley City Council authorized a financial contribution to the City of Oakland for the purpose of supporting Oakland's study. Shortly thereafter, the City of Richmond and the County of Alameda also approved support for the study. A consulting firm, Global Investment Company (GIC), was selected as the consultant to conduct the study.

A Public Bank structure can support two of local government's stated goals:

- Can a public bank provide solutions to the unmet financial needs of Bay Area households, businesses and governments?
- Can such an institution provide banking services to the cannabis industry?

COMMON GOALS FOR A PUBLIC BANK

Common goals for a public bank as articulated by the City of Oakland and other interested municipalities for this study, as well as the Oakland City Council and interested community members are:

- To have an institution that exists specifically for the purposes of keeping local control of assets and investment choices.
- To have an institution that is focused on supporting local business needs and needs of municipalities for financial services that are well-priced.
- To have an institution that frees local residents and municipalities of using mainstream financial service providers as their primary source so as to create better services for residents and municipalities.



METHODOLOGY

In conducting the study, Global Investment Company sought information from a variety of citizens, public officials and banking experts. This included city, county and state treasurers, citizens, affordable housing developers, banking and finance professionals, cannabis businesses and other small businesses. The greater majority of all of the respondents queried agreed that if a public bank were to be created they would support such an entity. This willingness to support a public bank, however, is not without conditions.

To determine what sorts of services a public bank should offer and whether, given existing federal and state laws and competitive conditions within the banking industry, we conducted:

- Analyses of financial reports of participating governments to determine whether and how a public bank might offer more solutions to cash and debt management problems.
- An examination of the history and performance of the single public bank in the U.S., Bank of North Dakota, as well as public banks in other countries.
- Research to identify statutory, policy and regulatory constraints—at both the state and federal levels that might impede the successful organization and operation of a public bank.
- Discussions with banking and finance experts to identify important competitive factors and industry trends likely to affect the operation of a public bank.

EXECUTIVE SUMMARY

ESTABLISHING A PUBLIC BANK

Formation of a public bank is feasible with few to no regulatory changes.

A public bank could be formed as a nationally chartered entity, subject to the oversight of the Office of the Comptroller of the Currency, or as a California State chartered entity, subject to the oversight of the California State Department of Business Oversight, Department of Financial Institutions Division.
There are several advantages to a California Public Bank Charter. Ownership and control of a public bank may be achieved through a bank holding company. California's Joint Exercise of Powers Act (JEPA) permits two or more public agencies to agree to jointly exercise powers common to each entity. The mission can be mandated legally. However, California law may limit the ability of a public bank to make cannabis-related investments.

Participating members have combined a $3.3 Billion in cash and investments at any given time. The financial resources exist to establish and maintain a multi-jurisdiction public bank. Furthermore, "integrated partners" might consider making deposits into a regional bank, if it were to exist and offered competitive rates. Participating members want to gain their independence from big banks and investment firms, as mandated by directives. It can take time and is a complex process. Yet, the potential for jurisdictions within the region to pool resources together, in a central bank could be an opportunity for the East Bay and neighboring jurisdictions. A centralized approach creates opportunity to better circulate dollars needed to impact communities key credit access problems a bank could help address. Therefore, each participating member must determine if public will exist to make a public bank happen. In addition, municipalities much consider the cost, time and staff efforts associated with transitioning to a new bank.

Building and financing the bank requires sources of capital, management and a transition plan. The bank must grow to an acceptable scale in order for participating members to want to transition bank services. The city of Oakland, for example, is looking to divest from current banking contracts within the next five to seven years based on recent city council meetings. Debundling services and accounts is a strategy currently being utilized by Berkeley and Oakland in order to

achieve independence from the big banks. Both of these cities have debundled their armored car and card services. Alameda County will be issuing a RFP for Banking Services in 2019.

In the event participating members decide to move forward with issuing a Request for Proposal (RFP) to create a business plan for implementation of a public bank, it is expected the transition time to a public bank to be 12-18 months. Innovative strategies and programs, such as, Bank Intermediaries (BIN's) could offer a wholesale bank long term lending partners and a source for deposits. A loan loss reserve could assist with risk management when considering lending policies for the BIN's (i.e. Bank Intermediaries Network.) as well as a Secured Letter of Credit Program to assist with financing.

A social mission is necessary to serve small business, the underserved and to further address the underlying issues of cities and counties related to public benefit. In order for the bank to not stray "off" course, the public bank's mission could be built into the bank charter, investment policy and governance policies.

An East Bay Regional Bank's access to low cost money will keep participating governments' borrowing costs to a minimum, reversing recent increases in debt service costs. This lower cost approach to banking will provide a stronger bottom line to the owners because of reduced debt service costs. Even more important, a public bank will be their asset that appreciates with every interest payment they make. The increase of affordable credit will make existing government institutions more effective and responsive. Consolidation of accounts will provide finance directors with a more comprehensive -- and convenient -- way for cash management and accounting.

LIABILITY

Separate and apart from legal requirements related to investment in a public bank and its lines of business is the question of liability for the City of Oakland and other entities that may wish to participate in the formation of a public bank.

Holding Company

One structure for shielding localities from liability which we have examined is the use of a JPA for the purpose of forming a public bank, a holding company for that bank, or both.

PURPOSE

The primary impetus behind the public banking movement is that major private banks sometimes do a poor job of providing needed services or tend to operate in a manner injurious to the public interest. The purpose of a public bank then is to offer an alternative to these banks. The section examines the question: *Can a public bank offer service that is inadequately provided by large banks and in doing so become a viable institution?*

In general, commercial banks[1] provide households, businesses and government agencies three services:

- *Deposit services* that offer their customers a safe repository for money in the form of Federally-insured demand and time deposit accounts.

[1] Wholesale banking refers to banking services between merchant banks and other financial institutions. This type of banking deals with larger clients, such as large corporations and other banks whereas retail banking focuses more on individual or small business. Wikipedia.

- *Payment services* that provide means for customers to transfer money to each other, mainly with checks, credit cards and debit cards.
- *Credit services* that provide loans, leases and other forms of financing.

In furtherance of the interests of Oakland, Berkeley, Richmond and Alameda County, a public bank might pursue two goals:

- To provide local governments a "socially responsible" source of deposit, and payment and credit services, thus reducing their dependence on large banks.
- To increase the availability and affordability of student, mortgage and business loans in the Bay Area.

To achieve these two goals, the public bank should adopt the following strategies:

- Purchase and participate in mortgages, small business and student loans originated by community banks and/or CDFIs (Community Development Financial Institutions).
- Use a "deposit sharing" program to allow the public bank to secure significant amounts of deposit funding from participating governments.

LEGAL AND REGULATORY ISSUES OF ESTABLISHING A PUBLIC BANK

FORMATION IS FEASIBLE

Formation of a public bank is feasible with few to no regulatory changes

A public bank could be formed as a nationally chartered entity, subject to the oversight of the Office of the Comptroller of the Currency, or as a California State chartered entity, subject to the oversight of the California State Department of Business Oversight, Department of Financial Institutions Division. Regardless of whether a charter is state or federal, there will be other ways in which state or federal laws could and will affect the day to day operations and oversight of a public bank. Deposit insurance is one key element. Most state-chartered entities, as well as federally chartered, rely on the Federal Deposit Insurance Corporation (FDIC) for that service. Another element of concern is access to Automated Clearing House (ACH) or EPN services, which would be necessary to serve some of the types of needs, identified by the City of



Oakland and other interested municipalities, as necessary for handling particular elements of the municipalities' financial needs.

Obtaining a state or national charter as a bank has some common themes. The chartering entity would review the quality of the business plan developed, evaluating its strength based on the reasonableness and achievability of its business objectives, whether those objectives fall within legal lines of business that can be authorized under a given charter, the quality and experience of proposed management, capitalization levels and sources of capital. Over time as regulators engage in oversight, which is typically frequent and extensive, regulators will review how much the newly formed entity has deviated from its business plan, if at all, and why, and whether it is hitting its key financial benchmarks.

Formation of a holding company as step one towards the formation of a public bank may make sense as a way of accelerating the ability to provide at least some services for which municipalities rely on mainstream banks, and as a structure for ownership of the public bank. Types of transactions that a bank holding company can engage in include, but are not limited to financial data processing, money transmittal and government securities underwriting.

The bank holding company could be formed as a municipal corporation in its own right that would then own the public bank. By establishing this type of structure, it is the holding company that would be subject to capitalization requirements established under the Basel Accords that have also been adopted by the FDIC.[2] The holding company would then have to be a member of the Federal Reserve System. Below, we will discuss ownership and internal governance further.

Alternatively, to avoid the time and effort necessary to establish a new bank charter, the City of Oakland and interested municipalities may want to consider purchase of an existing bank that could serve public bank purposes. Other advantages to purchase of an existing bank could include an established data system, trained staff, and other internal infrastructure that is experienced with and prepared to engage in banking activities and necessary reporting. The bank's charter may need to be tailored to meet the public bank's goals, and modifications would then require regulatory approval. It may be possible to acquire a bank with a broad enough charter, however, to not require charter modification but to require only restructuring of the business plan of the bank, which would also require regulatory approval.

CHARTERING UNDER EXISTING LAW

A public bank can be chartered under existing California law.

California does not have a specific "public bank" designation, but none is required for a state-chartered bank to be formed that could serve some or all of the goals articulated by the City of Oakland and other municipalities for their financial services' needs. **A state-chartered public bank could operate under a Commercial Bank Charter.**
Upon receiving an application for a Commercial Bank Charter, the Commissioner of the California Department of Business Oversight has wide discretion in granting or denying the charter.[3] The Commissioner is responsible for making

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[2] Beitel, Karl The Municipal Bank: Compliance, Capitalization, Liquidity, and Risk, (July, 2016), Roosevelt Institute at http://rooseveltinstitute.org/municipal-bank-regulatory-compliance-capitalization-liquidity-and-risk/

[3] *See* Cal. Code Regs. tit. 10, §§ 10.3159, 10.3160; See also, California Department of Business Oversight, Guide for Groups Interested in Chartering a State Bank in California, http://www.dbo.ca.gov/cacharter/guide.asp. See also Cal. Fin. Code §§99 et seq.

decisions as to whether to approve each application and will not approve an application until he or she has ascertained that:

- the public convenience and advantage will be promoted by the establishment of the proposed bank:
- the proposed bank will have a reasonable promise of successful operation
- the bank is being formed for no other purpose than the legitimate objects contemplated
- the proposed capital structure is adequate
- the proposed officers and directors have sufficient banking experience, ability and standing to afford reasonable promise of successful operation
- the name of the proposed bank does not resemble, so closely as to be likely to cause confusion, the name of any other bank or trust company transacting business in California or which had previously enacted business in California
- the applicant has complied with all of the applicable provisions.[4]

We want to note that **a credit union structure is also possible, though we do not see advantages.** The amount of time required for formation would be similar to a bank, and the same capitalization, collateral quality, deposit insurance and access to payment systems concerns would remain.

One of the challenges to a credit union model is the requirement that there be a common bond amongst members, and a suggested floor of 500 members. Though it is easy to imagine 500 municipalities in California wanting, ultimately, to participate, the time spent in assuring there is a common set of goals may delay formation. The State Department of Business Oversight (DBO) has previously interpreted the 500 members as a minimum.

Again it is not clear that there are advantages to the City of Oakland in formation of a public bank as a credit union. If one of the goals of a public bank is to be structured such that it is not directly supervised by a federal regulator, then a California State chartered credit union structure offers the possibility that our state DBO could approve use of private deposit insurance (there is only one insurer nationally who might be available—American Share Insurance), but there is no guaranty that DBO would find the insurance adequate. In addition, to the extent that some of the City of Oakland's business needs require access to the national electronic payment systems which, in turn, requires FDIC insurance, this requirement eliminates the possible state-chartered credit union advantage of potentially utilizing private instead of NCUA insurance. Credit Unions use the same exact ACH network.

ADVANTAGES VS. A COMMERCIAL BANK

A California Public Bank Charter could have advantages over use of the existing Commercial Bank Charter.

It is not legally necessary to have a new California law or regulatory framework for the formation of a bank to serve public banking purposes. However, there could be advantages to having a specific public bank charter authorized at the state level if that charter addresses some of the capitalization and deposit insurance concerns with which a public bank

[4] *See* Cal.Fin.Code, §1023.

formed under our state's existing commercial bank charter would have to comply. Our state legislature could create a public bank charter that eliminates the need for FDIC insurance, and it could also simultaneously address impediments in state law with regard to deposits by municipalities into the public bank as a non-FDIC insured institution. If the state were to move in this direction, however, the state would, ideally, facilitate access to an alternative deposit insurance structure (perhaps creating a state insurance structure or bringing in a significant new private insurance structure) that could be a viable alternative. The safety and soundness needs for localities and for the state necessitate a strong insurance structure.[5]

An alternative deposit insurance resource does not automatically cure the problem of needing FDIC insurance for access to electronic payment systems, however. We would encourage working with the state to engage our local Federal Reserve System in a discussion regarding whether an alternative insurance system could be used to support access to the system for electronic payments purposes. Alternatively, the City of Oakland and interested municipalities may want to pursue the possibility of using a public bank for all transactions other than those requiring the use of payment systems.[6]

ACCESS TO ACH

Access to the Federal Reserve's payment system is essential to a public bank's success.

Access to the Automated Clearing House (ACH) is a need of many if not all municipalities to support the electronic payments aspects of their banking business. Access to ACH services is governed by federal regulations[7] administered by The National Automated Clearing House Association (NACHA)'s ACH Rules. It appears that a financial institution that is not FDIC insured may be, technically, eligible for use of the system, however, only if it could be deemed eligible for FDIC membership.[8] Even if the State of California develops an alternative, state run deposits insurance entity, the impediment of non-eligibility of a participating entity for ACH access would remain. We are not sure whether private payments systems, such as Paymode-X, currently used by some municipalities as a vendor payment system, could be a viable alternative. We believe engaging our base of local financial technology (fintech) companies to address the payments systems concerns is a critically important next step for fully assessing options for the handling of this element of municipal financial needs.

USE OF A HOLDING COMPANY

Ownership and control of a public bank might be achieved through a bank holding company.

For purposes of ownership structure and to be able to more quickly roll out at least some services that the City of Oakland and other municipalities have prioritized in authorizing this feasibility study,



[5] *See* CA Gov't Code, Sec: 53600.3

[6] http://www.gfoa.org/sites/default/files/BankingServicesAGuideForGovernments.pdf, Exhibit 2.6, pg. 23

[7] See 31 CFR Part 210.

[8] The legality at the federal level of the types of deposits accepted by the public bank, such as cannabis related deposits, would probably affect a finding of whether or not the institution could be deemed eligible for FDIC membership.

formation of a bank holding company is a possibility. Downsides are the extent of federal regulation and duplication of oversight. Bank holding companies are federally regulated and are required to register with the Board of Governors of the Federal Reserve System.[9] A holding company would need to have its own business plan, and board of directors, separate and apart from the public bank, and it would need to register with the Securities Exchange Commission. Most banks with a smaller asset size are owned by a holding company. A problem for use of a Bank Holding Company structure, however, is a specific federal prohibition on having either a direct government investor or a corporate investor that is majority owned by a state.[10]

California state law also has its own regulations pertaining to bank holding companies and is written broadly to declare that any person or company (municipalities would probably be included) which directly or indirectly owns, controls or has power over 10% or more of bank stock in California or even indirectly has power or a controlling influence over the entity, is subject to State DBO oversight.[11] If a bank holding company were still deemed to be desirable, then it would be advisable for the City of Oakland to verify with State DBO whether it would be subject to examination as a bank holding company and, if so, what type of oversight and examinations it could expect.

PROTECTING MUNICIPAL ORGANIZERS WITH A JPA

A Joint Powers Authority (JPA) should be considered as a way of protecting municipal organizers of the bank from legal risk.

Separate and apart from legal requirements related to investment in a public bank and its lines of business is the question of liability for the City of Oakland and other entities that may wish to participate in public bank formation. One structure for shielding localities from liability which we have examined is the use of a JPA for formation purposes of a public bank, a holding company for that bank, or both.

California's Joint Exercise of Powers Act (JEPA), at CA Gov't Code, Section 6500.1, et seq. permits two or more public agencies to agree to jointly exercise powers common to each entity. The entities do not need to be located in the same geographic area.[12] The JEPA provides a procedure for creation of an entity separate from the parties to the agreement.[13] It also specifies that the parties to the agreement may help fund the purpose agreed upon by the parties, as follows:[14]

"The parties to the agreement may provide that (a) contributions from the treasuries may be made for the purpose set forth in the agreement, (b) payments of public funds may be made to defray the cost of such purpose, (c) advances of

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[9] *See* Bank Holding Company Act of 1956 (12 U.S.C. § 1841(a)(2)(A), and Regulation Y.

[10] *Id.*

[11] *See* CA Fin. Code, §§1280 et seq.

[12] *See* CA Gov't code, Sec. 6502.

[13] *See* CA Gov't code, Sec. 6503.5.

[14] *See* CA Gov't code, Sec. 6504. All funds would, of course, have to be strictly accounted for and reported on carefully. See CA Gov't code, Sec. 6505.

public funds may be made for the purpose set forth in the agreement, such advances to be repaid as provided in said agreement, or (d) personnel, equipment or property of one or more of the parties to the agreement may be used in lieu of other contributions or advances. The funds may be paid to and disbursed by the agency or entity agreed upon, which may include a nonprofit corporation designated by the agreement to administer or execute the agreement for the parties to the agreement."

Thus, if the public bank, or a holding company for the institution, or both were structured as non-profits, funds could go directly to that non-profit to help pay for its function. The above language is broad, without the restrictions on investments delineated in other parts of state law.

We are still investigating whether the JPEA language could be used to fund initial start-up costs of at least a bank holding company. Other regulatory requirements may make that difficult. The language would certainly not trump the more restrictive language regarding investments made by municipalities. The parties to the agreement would be required to designate a public officer or another officer (bonded) to have access to any property of the new entity or to have custody of new entities' resources and assures use of allocated funds in the ways to which parties have agreed.[15] Again, these requirements as written would seem on their face to create some challenges to use of funds for start-up costs for a municipal entity under a JPA. However, the terms of the act do specifically allow for the creation of a separate entity to serve the goals of the municipal parties, and that:

"...if the agency is one of the parties to the agreement but is a public entity ... authorized, in its own name, to do any or all of the following: to make and enter contracts, or to employ agents and employees, or to acquire, construct, manage, maintain or operate any building, works or improvements, or to acquire, hold or dispose of property or to incur debts, liabilities or obligations, ***said agency shall have the power to sue and be sued in its own name."***[16]

Under the JPEA, the entity formed by the participating municipalities can, in turn, have the authority to invest monies of the entity that are not needed for day to day operations.[17] If the new entity is a non-profit corporation, its investment rights are delimited to those of the investing agencies.[18] In terms of the power of participating municipalities to govern or provide oversight through the JPA, the JPA is authorized to issue shares of beneficial interest to participating public agencies representing a proportionate interest in any securities that the JPA may own.[19]

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15 *See* CA Gov't code, Sec. 6505.5.

16 *See* CA Gov't code, Sec. 6508.

17 *See* CA Gov't code, Sec. 6509.

18 *See* CA Gov't code, Sec. 6505.5.

19 See CA Gov't code, Sec. 6505.7. Note that there are additional requirements to be adhered to for compliance with this section.

In addition to the JPEA's clearly placing liability on the shoulders of the newly created entity, removing it from the shoulders of participating municipalities, JPAs may also be able to access insurance under one or more programs specific to ensuring such entities.[20]

There are examples of financing bodies in California that have been formed under a JPA, though not full-scale banks. One is the Golden State Finance Authority (GSFA), established in 1993 to support and provide affordable homeownership, which has functioned as an eleven county financial assistance program for homeowners and buyers in California. We have not had the opportunity yet to gather more information about its experience in having used the JPA to carry out its functions. Certainly, its functions are vastly limited compared to the type of operations that a public bank would carry out, and we are continuing our research on whether a JPA structure could make sense in the formation of a public bank by the City of Oakland and other interested municipalities.

The City of Oakland is a charter city, which gives it advantages over non-charter cities in terms of its legal authority to create laws regarding "municipal affairs" that may conflict with state laws. What is considered a municipal affair is partly a matter of definition under the California Constitution and partly decided on by way of precedent from litigation. Although California's Constitution does not define "municipal affair," it does list four categories that are deemed to be "municipal affairs." These are:

- regulation of the "city police force
- sub-government in all or part of a city
- conduct of city elections
- the manner in which . . . municipal officers [are] elected

Beyond this list, it is up to the courts to determine what is and is not a municipal affair.[21]

A JPA might shield localities from "Source of Strength" requirements. If a holding company owns the public bank, that holding company will be looked to as a source of financial strength for the bank. If municipalities own the public bank, they would certainly be looked to by federal regulators as a source of financial strength, meaning the municipalities have proven their ability to provide financial assistance to the bank in the event of financial need.[22] The FDIC could be a regulator of the public bank, even if state-chartered. The municipalities need to decide whether they want to form a state chartered bank or federally chartered. For a guide to basics of formation of a state bank, here's California's basic introduction: http://www.dbo.ca.gov/cacharter/guide.asp. The municipalities should work with their city attorney/county

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20 *See* services and programs of the California Joint Powers Insurance Authority at https://cjpia.org/protection/coverage-programs. A link to their members' agreement is available at http://www.gsfahome.org/admin/resolutions/UNSIGNED_JPA_for_new_members.pdf

21 See Charter Cities, A Quick Summary for The Press and Researchers, at https://www.cacities.org/Resources-Documents/Resources-Section/Charter-Cities/Charter-Cities-A-Quick-Summary-for-the-Press-and-R

22 *See* 12 U.S. Code § 1831o–1 - Source of strength

counsel offices to bring on any additional expertise necessary to complete forms and steps. Some of the challenges include establishing a public bank in a changing banking environment.[23]

SOCIAL MISSION

The public bank's social mission can be mandated legally.

A key component for the public bank is the maintenance of its purpose or mission.[24] The nature of the mechanisms used to preserve adherence to their stated mission stem in part from the type of institutional structure chosen. For an institution that is directly owned or managed by the City of Oakland and/or other municipalities, whether by way of a governing board or shares, the City could build social responsibility language into chartering documents, as well as into staff training, and any supervisory board or advisory board guidelines. Building in periodic public reports to participating local governments in open session may also help to preserve the mission of the entity, creating some transparency. The City of Oakland or other entities may wish to alter their charter to further preserve social responsibility requirements for a public bank, but that is still not a guarantee that it will stay on course. If the municipalities want to use their charters as an additional tool for trying to imbed a public purpose in the public bank, therefore, they might want to talk to their city attorney's office about adding language to their local charter to address that.

In light of the current climate at the federal level of antagonism towards some core values of the City of Oakland, Alameda , Richmond and Berkeley, which are also held by our state with regard to treatment of immigrants, the cannabis industry and other concerns, choosing a California state-charter and taking steps to limit federal regulation might be wise. Choosing to establish the bank as a Legal Benefit Corporation under California State law would further bake the public mission of the public bank into its formative documents.[25] Entities formed under this section must demonstrate to state regulators their commitment to whichever public benefit activities have been delineated in its incorporation materials.

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[23] See Appendix 16 - The Copernican Revolution in Banking.

[24] Appendix 12: A Social Mission: Divestment

[25] *See* CA Corp. Code, §§14600-14604.



MUNICIPALITIES CAN LEGALLY INVEST

Municipalities appear to have legal means to invest in a public bank.

For municipalities to invest in the public bank, one source of funds could be a one-time appropriation from the General Fund. Municipalities could become stockholders in the public bank, and, if the bank offers common shares, then municipal investments will qualify as Tier I capital, which is particularly important for capital sufficiency regulatory requirements. Share owners would be entitled to any dividends distributed in an amount equivalent to their total shares held. State restrictions on investments are a concern and are enumerated below. It may be possible to create different share structures to encourage investment by local businesses and/or residents as well, without sacrificing the public mission of the entity.

LIMITS ON CANNABIS-RELATED INVESTMENTS

California law may limit the ability of a public bank to make cannabis-related investments.

California state law provides that cities and counties may issue debt instruments as securities in which banks, fiduciaries and others can invest legally.[26] If localities or the State of California create a cannabis industry derived financial instrument (from streams of money from that industry), then a possibility to consider for the future is that a public bank could invest in those securities. One advantage to the public bank (and any other investor) in these securities is that such a debt instrument (including any transfer or income from the instrument) cannot be taxed by the state or by any municipality of our state.[27]

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[26] (27) See CA Gov't Code, Sec. 53595.45

[27] (28) See CA Gov't Code, Sec. 53595.50

As with all other cannabis-derived funding streams, the problem remains that this is a Schedule I, Controlled Substance under Federal law,[28] and accepting funds from or making investments in an instrument derived from cannabis funds runs the risk of being deemed an investment in an illegal enterprise. Such a finding could trigger account freezing or seizure by federal authorities, despite California's having legalized recreational and medical use of cannabis. However, should the federal environment change, creating and or investing in such instruments could be an option to support capitalization of the public bank. Notably, some banks are beginning to take cannabis dollars despite the risk, though we do not advise that for the proposed public bank.[29]

LIMITS ON RISKY INVESTMENTS

State law also limits the extent to which municipalities can make investments considered to be risky.

The State of California has embedded restrictions on investment by municipalities and public or municipal corporations in the Government Code, having specifically found that the solvency of localities (and/or particular departments in localities) is a matter of state interest.[30] As to matters of state interest, the fact that a municipality has charter status (like Oakland) does not protect it from the reach of state law on that particular matter. Thus, if, for example, the City of Oakland and/or partner municipalities were to decide to engage investments via a public bank that the state deemed to be too risky, that could be a violation of state law. That fact suggests that, in considering capitalization, or investments in cannabis, or cannabis derived instruments, the public bank, even if it is not closely related to the City of Oakland in terms of ownership or governance, could be deemed to be too risky for the City to conduct any business with such entities. We would suggest that the City discuss this concern with the appropriate offices of the State of California.

When it comes to the investment of public funds, California state law holds all governing bodies of local agencies as well as municipalities, public and municipal corporations, and those who are authorized to invest on their behalf, to the "prudent investor standard," as follows:

"...When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency. Within the limitations of this section and considering individual investments as part of an overall strategy, investments may be acquired as authorized by law."[31]

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[28] (29) See 21 U.S.C. §802(32)(A), and 21 U.S.C. §813

[29] For a quick summary of the current environment on cannabis acceptance by banks, see More Banks Are Welcoming Marijuana Businesses, Federal Data Shows (Jan. 2018), Forbes at https://www.forbes.com/sites/tomangell/2018/01/02/more-banks-welcome-marijuana-businesses-federal-data-shows/#6e9cfc727a64.

[30] See CA Gov't Code, Secs: 53600 – 53610, and specifically Sec. 53600.6.

[31] See CA Gov't Code, Sec: 53600.3

Specifically, "[when investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, the primary objective of a trustee shall be to safeguard the principal of the funds under its control. The secondary objective shall be to meet the liquidity needs of the depositor. The third objective shall be to achieve a return on the funds under its control.]"[32]

State law requires that investments by local agencies shall only be in "legal investments for savings banks in the State" unless, in the case of a county, there is a four-fifths vote by the board of supervisors to invest in something else.[33]Thus, a county could vote for an investment of its surplus in an alternative that is not a legal investment for a savings bank of the state. There is not a similar provision for cities. This raises another issue for discussion with appropriate State of California staff regarding whether or not there is a need to change this language at the state level to create an exemption of some kind for cannabis or other types of investments that are not presently legal investments. There is an additional set of state law requirements for "…all local agencies that pool money in deposits or investments with other local agencies that have separate governing bodies."[34]

To the extent that the City of Oakland, Alameda County, Berkeley, Richmond or other interested localities or municipal agencies may consider pooling their money in deposits or investments, they should be aware of a specific set of California State Law restrictions with regard to investment in commercial paper, delimiting the amount of investment permissible.[35]

STATE COMMUNITY INVESTMENT STANDARDS

A public bank will probably be subject to state community investment standards.

Any public bank that is formed would have to meet additional restrictions in terms of community investment performance, which suggests that perhaps the City of Oakland and other interested municipalities would have to structure investment in the public bank at the start-up phase in a way that did not trigger this provision, or the City would want to discuss this provision with the State of California as another matter of law to be revamped. Municipalities and public corporations in California are also subject to a general restriction on where they can deposit any money in their custody, including a requirement that the depository entity has received a rating of "satisfactory" or better by its regulator as to its community investment performance in California.[36]

Given the wide variety of revenue streams or funds managed by the City of Oakland and other interested localities, we want to flag that particular types of monies may have restrictions particular to them. For example, the City of Oakland's Charter sets forth the types of entities and instruments in which retirement funds can be invested by the Police and Fire Retirement Board. Although the charter provides that the list is not intended to be exclusive, the City may want to

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[32] *See* CA Gov't Code, Sec. 53600.5

[33] *See* CA Gov't Code, Sec. 53602

[34] *See* CA Gov't Code, Sec. 53601, referencing CA Gov't Code, Sec. 53635

[35] *See* CA Gov't Code, Section 53635.

[36] *See* CA Gov't Code, Section 53635.2.

consider the possibility of adding a provision that specifically permits investment in a public bank and/or that also addresses the issue of investment in cannabis or institutions that bank or otherwise handle cannabis funds.[37]

FDIC INSURANCE

To accept municipal deposits, the public bank will probably need FDIC insurance.

Another state restriction on investment may need to be addressed prior to or simultaneous to the formation of a public bank if the City of Oakland decides to proceed forward with that effort. Municipalities that have the authority at the local level to invest funds must invest at a nationally or state chartered financial institution, and all deposits made by the municipality at that institution **must be FDIC or National Credit Union Administration insured,** and are restricted to depositing 30% of the agency's funds.[38] To the extent that a public bank formed would probably not qualify for FDIC insurance if cannabis-related businesses or investments were banked there, localities may want to explore with the state changing the current restriction under state law.

Please note that another California state restriction on municipal investments comes in the form of a requirement that municipal deposits above the FDIC insurance limit be collateralized.[39] How this collateralization takes place, or ways in which the state could support collateralization, should be part of the City of Oakland and other municipalities' discussions with the state.

State law also contains a provision permitting deposits at a state or federal credit union guaranteed by the California Credit Union Share Guaranty Corporation, or insured per Section 14858 of the Financial Code provided no member or person with decision making authority at the agency also serves in a key role at that credit union.[40]

However, the CCUSGC dissolved some years ago. California Financial Code Section 14858 permits the Commission heading the Department of Business Oversight to decide that alternative forms of insurance are acceptable, at its discretion. This would seem to leave room for non-federal insurance, perhaps developed under the umbrella of the State of California, to cover any proposed public financial institution if structured as a credit union instead of as a bank, perhaps avoiding the need for and restrictions of FDIC insurance. Alternatively, such an insurance fund could perhaps be developed to support a state chartered bank, in lieu of qualifying for FDIC insurance.

FDIC CAPITALIZATION REQUIREMENTS



alifornia - Code of Ordinances, THE CHARTER OF THE CITY OF OAKLAND, ARTICLE XXVI - Added By: Stats. 1951; POLICE
t System, at
icode.com/ca/oakland/codes/code_of_ordinances?nodeId=THCHOA_ARTXXVIADST1951POFIRESY

Code, Section 53635.8. The code permits insured deposits at a credit union but has some additional deposit insurance verification

Code, Section 53652.

Code, Section 53648.

To accept municipal deposits, the public bank will probably need FDIC insurance.

In 2014, the FDIC issued interim capitalization rules based on the outcome of the Basel III Committee Accords.[41] Capitalization adequacy has long been a focus of the Basel Committee meetings, and higher capital standards for banks globally resulted were adopted in December of 2010 under Basel III.[42] More specifically, the FDIC's final rule incorporated into its Prompt Corrective Action requirements "... a revised definition of regulatory capital, a new common equity tier 1 minimum capital requirement, a higher minimum tier 1 capital requirement, and, for FDIC-supervised institutions subject to the advanced approaches risk-based capital rules, a supplementary leverage ratio that incorporates a broader set of exposures in the denominator."[43]

The final rule also, for FDIC-supervised entities, adopted requirements regarding capital distributions by FDIC-supervised entities, certain bonus payments, and revised how risk-weighted assets are to be calculated.[44] Though so-called non-advanced approaches banks[45] are exempt from some of the Basel III requirements, they are not exempt from all.[46] For example, there are minimum capital requirements for all FDIC-insured entities and capital adequacy requirements, with specific methodologies required for calculation of compliance,[47] as well as a minimum liquidity standard from Basel III (the Net Stable Funding Ratio) which took effect January 1, 2018, and a liquidity coverage ratio (LCR) which has been phasing in since 2015, with its final stage to take effect on January 1, 2019. In determining possible impacts on a new public bank, we will examine the effects of these rules.

Even if an insurance alternative to the FDIC is created, any public bank formed by the City of Oakland and/or partner municipalities is likely to still be subject to FDIC rules related to capital quality and adequacy adopted pursuant to Basel III that apply to "Community Banks," which is defined to mean banks with consolidated assets of less than $10 billion that are not deemed systemically important. Two types of capital ratio requirements are applicable to all banks, including

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41 Basel III is the latest of international accords by a committee of Central Banks and Banking Supervisors of 28 jurisdictions (originally named the Committee of Banking Regulations and Supervisory Practices, established in 1974 to stabilize currency and markets through improving bank supervision).

42 *See* Basel III: International framework for liquidity risk measurement, standards and monitoring at https://www.bis.org/publ/bcbs188.htm

43 *See Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Capital Adequacy, Transition Provisions, Prompt Corrective Action, Standardized Approach for Risk- weighted Assets, Market Discipline and Disclosure Requirements, Advanced Approaches Risk-Based Capital Rule, and Market Risk Capital Rule,* 55340 Fed. Reg. 78 (Sept. 10, 2013), FDIC, at https://www.fdic.gov/news/board/2013/2013-07-09_notice_dis_a_res.pdf

44 *Id.*

45 Non-advanced approaches banking organizations have less than $250 billion in consolidated assets or less than $10 billion in consolidated on-balance sheet foreign exposures.

46 For highlights of key Basel III requirements, see *U.S. regulatory capital Basel III final rules, Key takeaways and highlights for U.S. banks,* (July, 2013), Deloitte, at https://www2.deloitte.com/content/dam/Deloitte/us/Documents/risk/us-aers-basel-III-final-rule-highlights-v8-final-112714.pdf

47 *See* 12 CFR, Sec. 324.1 et seq.

community banks: a risk-based capital ratio and a leverage ratio. Some key takeaways for community banks under Basel III rules are:

"On top of the tougher new minimum capital ratios, community banks must maintain a common equity capital conservation buffer of greater than 2.5% of risk-weighted assets (RWAs) to avoid restrictions on dividends, redemptions and executive bonus payments. "Compared with existing capital rules, U.S. Basel III will require community banks to deduct much more mortgage servicing assets (MSAs) and deferred tax assets (DTAs) from their common equity capital, shrinking their capital base. "Community banks can opt out of including accumulated other comprehensive income (AOCI) in their common equity capital. In other words, they can elect to keep the existing AOCI filter. "U.S. Basel III retains the existing capital treatment of residential mortgages and certain other types of exposures."[48]

Please note that a bill currently pending in Congress with bipartisan support would relax some of the above rules for community banks was updated on April 19, 2018.[49]

In addition to the above, the Basel Committee finally released, in December of 2017, a set of capital standards for banks that grew out of Basel III. Issues addressed in this recent release include:

- a revised standardised approach for credit risk, which will improve the robustness and risk sensitivity of the existing approach
- revisions to the internal ratings-based approach for credit risk, where the use of the most advanced internally modeled approaches for low-default portfolios will be limited
- revisions to the credit valuation adjustment (CVA) framework, including the removal of the internally modeled approach and the introduction of a revised standardised approach
- a revised standardised approach for operational risk, which will replace the existing standardised approaches and the advanced measurement approaches
- revisions to the measurement of the leverage ratio and a leverage ratio buffer for global systemically important banks (G-SIBs), which will take the form of a Tier 1 capital buffer set at 50% of a G-SIB's risk-weighted capital buffer
- an aggregate output floor, which will ensure that banks' risk-weighted assets (RWAs) generated by internal models are no lower than 72.5% of RWAs as calculated by the Basel III framework's standardised approaches. Banks will also be required to disclose their RWAs based on these standardised approaches.[50]

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[48] *See Final Basel III Capital Rule—Less Impact on Community Banks* (2013), St. Louis Federal Reserve Board, at *https://www.stlouisfed.org/Publications/Central-Banker/Summer-2013/Final-Basel-III-Capital-RuleLess-Impact-on-Community-Banks.* See also *U.S. Basel III: Guide for Community Banks* (2013), Davis Polk & Wardwell, LLP, at https://prod.davispolk.com/files/Davis-Polk-Basel-3-Guide-for-Community-Banks.pdf.

[49] *See Economic Growth, Regulatory Relief and Consumer Protection Act* (2017) available at https://www.banking.senate.gov/public/_cache/files/96d07158-bf57-4f2e-9bfe-888db5dad6ab/7EC24EE731A96E317839101D6AE8FF34.sil17981.pdf For a summary of bill requirements, see *Bipartisan Senate Bill Would Provide Welcome Relief to Regional and Community Banks* (Nov. 2017), Davis Polk & Wardwell, LLP, at https://www.usbasel3.com/single-post/2017/11/20/Bipartisan-Senate-Bill-Would-Provide-Welcome-Relief-to-Regional-and-Community-Banks.

[50] Governors and Heads of Supervision finalise Basel III reforms (December 2017), Bank for International Settlements at https://www.bis.org/press/p171207.htm.

These revised standards will take effect January 1, 2022, with phase-in provisions.
Should the City of Oakland decide to seek private deposit insurance instead of FDIC insurance, or if the State of California were to provide deposit insurance, it is uncertain what the capitalization standards would be of such an insurer. However, it seems likely that any non-FDIC insurer would still look to FDIC requirements as a set of best practice requirements and may not deviate from them.

THE RISK OF CANNABIS

Current federal law makes banking the cannabis industry a highly risky choice for depositories.

The SOW for this study includes an examination of banking cannabis related funds and offers commentary to the report on the topic issued by California's State Treasurer in November of 2017.[51] The report identifies that a key stumbling block to the banking of cannabis-related funds is that cannabis is still deemed a Schedule I controlled substance under federal law. As we have discussed earlier, banks accepting cannabis derived funds are subject to the possibility of criminal action against them by the federal government under the Bank Secrecy Act and US Patriot Act, which could result in the freezing and/or seizure of bank funds and, potentially, the closure of the financial institution.[52] Under the prior federal administration, the Justice Department's 2013 "Cole Memorandum" narrowed the enforcement priorities of the department vis-a-vis cannabis, but it did not change its status as an illegal controlled substance under federal law. Since the time when the Treasurer's report was issued, the new federal administration and the Justice Department specifically have built on its already demonstrated hostility towards the cannabis industry by withdrawing the Cole Memo.[53] Though this act flies in the face of the significant legalization momentum that the cannabis industry has across many states, including California, this is, in fact, the current reality. Thus, as much as there is a demonstrated will at the local and state level in California to bank industry funds, such activity by a financial institution exposes it to significant risk of enforcement activity by the federal government.

The Treasurer's study also correctly identifies that, as a result, accessing FDIC insurance for needed deposit insurance, or membership in the Federal Reserve Board for access to its electronic payments system (Automated Clearing House- ACH) is probably impossible if a new public bank is engaged in banking cannabis money in some fashion.[54]

Even if a public bank were chartered by the State of California, and were able to obtain private deposit insurance or to partner with the state in some fashion to acquire state-funded deposit insurance, banking cannabis funds would still subject a new public bank to the possibility of criminal enforcement activity by federal authorities.

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[51] (52) BANKING ACCESS STRATEGIES FOR CANNABIS-RELATED BUSINESSES A Report From the State Treasurer's Cannabis Banking Working Group (Nov. 2017), California State Treasurer at http://www.treasurer.ca.gov/cbwg/resources/reports/110717-cannabis-report.pdf

[52] *Id. at 7.*

[53] *Exclusive: U.S. Justice Department blindsided banking agency on pot policy flip - sources* (Jan. 11, 2018), Reuters at http://mobile.reuters.com/article/amp/idUSKBN1EZ2Y8.

[54] *Id. at 8.*

That current reality does not mean that the City of Oakland should assume that banking cannabis money would always remain highly risky. It is unclear whether the current federal administration will retain its control of Congress after 2018 elections, and seems unlikely that it would retain control in the next Presidential election cycle. Thus, thinking of a public bank as a possible venue for banking cannabis money when federal policy changes would seem a prudent course of action.

In the meantime, with significant public safety concerns created by the lack of access to banking services for the cannabis industry, the California State Treasurer's Office suggested non-banking strategies that localities could take for making tax and fee collection from this industry safer.[55] The report then goes on to encourage support of the industry's accessing banking services through supporting bank compliance with the now-withdrawn Cole Memo. Even when the Cole Memo was in force, it was never a law, but only a set of internal enforcement priorities for the federal Department of Justice, and thus it was always uncertain, at best, for entities to rely on the Cole Memo as a "safe harbor" for banking cannabis funds. Now, even that internal guidance has been retracted.

While the remainder of the Treasurer's memo discussed the possibility of the state of California forming a public bank, either just to bank cannabis funds or to also fund infrastructure and other needs, the memo reiterated that it would be unlikely that an institution to bank cannabis could successfully obtain a banking charter, much less access to deposit insurance of the ACH system.

55 *Id. at 11-15. (See FinCen.)*

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THE NEED FOR A PUBLIC BANK AS A FINANCIAL ENTERPRISE



THE NEED FOR A PUBLIC BANK AS A FINANCIAL ENTERPRISE

The nation's only public bank, the Bank of North Dakota, was organized in 1919, well before most of the nation's current apparatus for supporting and regulating depository institutions was in place or well-established. In 1919, the Federal Reserve was only six years old and operated in far different fashion from today's Fed. The FDIC did not exist.[5657]

Nevertheless, our research makes clear that a public bank can be organized under current state and federal law. In short, a depository institution owned by one or more public entities and providing loans and other banking services that further the purposes of these entities is legally feasible.

However, **the real impetus behind the public banking movement is that major private banks do a poor job of providing needed services, or tend to operate in a manner injurious to the public interest. The purpose of a public bank then is to offer an alternative to these banks.** The section examines the question: *Can a public bank offer services that are inadequately provided by large banks and in doing so become a viable institution?*

Our research and interviews with businesses, local residents and local government officials suggest that commercial banks generally do an acceptable job of providing these services.[5859] There are, however, exceptions to this rule. Specifically—

- Certain business, student and mortgage borrowers find bank loans either difficult to obtain or unaffordable.
- Local and state laws often force municipal government to employ deposit and services from large banks whose lending and business practices may be out of alignment with the values of their municipal customers.
- Current municipal finance practices appear to result in higher fees and interest costs than a more efficient and innovative public finance market would produce.
- The cannabis industry is generally unable to obtain conventional banking services because marijuana remains illegal under federal law.

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56 Appendix 8: Relevant Market and Participating Members Information, Ron Surrat, 2018

57 Appendix 1: Private and Public Banking

58 Student Loan Hero, December 2016

59 Mercury News, February 2018

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The following table shows what we found:

	HOUSEHOLDS	BUSINESSES	GOVERNMENTS
DEPOSIT	No complaints about demand or time deposit account offerings. Depositors have a wide range of choices	Businesses have wide variety of deposit options from large number of competing banks in the Bay Area	Governments typically have a large number of deposit accounts. Fees may be higher than desirable but represent a small percentage of assets and budgets. However, questionable lending and business practices of large banks has spurred movement for municipalities to sever ties with these institutions
PAYMENT	Banks offer a wide range of checking, debit and credit card products. Credit card competition, among banks, is particularly robust	Businesses of all sizes have a wide range of payment options, especially from larger banks	Large banks provide a wide range of services, including debit and credit cards, sweep accounts and overdraft services upon which local governments depend. Again, many Bay Area cities are under pressure to sever relationships with large banks
CREDIT	Although credit is available evidence suggests that student and homebuyer concern about high debt service costs	Small businesses, especially those owned by people of color, complain about the unavailability of financing. Many have turned to emerging fintech lenders	Muncipal bond market dominated by large players. Room exists for new entrants and new technology to lower fees and interest rates

These findings suggest that a public financial institution can play a role in:

- Making student, mortgage and business loans more affordable and available.
- Providing governments an alternative—and socially responsible—source of deposit and payment services.[60]
- However, the cash handling needs of cannabis businesses cannot appropriately be handled by a public bank, given the risk involved. Instead, a non-bank structure might be feasible, though we still not recommend that neither, localities or a public bank have any ownership interest in or affiliation with this alternative structure given the legal risks.

60 The Atlantic, 2014

KEY CREDIT ACCESS PROBLEMS A PUBLIC BANK COULD HELP ADDRESS

STUDENT LOAN REPAYMENT

Student loans are a repayment headache for many borrowers:

- According to Goldman Sachs, the value of outstanding student loans has reached $1.3 trillion. Graduates in the Bay Area have student debt balances of between $15,000 and $24,000.[61]
- Some borrowers have much larger amounts of accumulated debt. During our interviews, we learned about an Oakland resident who owes $137,000 in student debt on which he pays $583 every month—in interest alone. On a salary of $42,000, another resident pays $700 monthly on $80,000 in student loans.
- Beyond monthly debt service burdens that borrowers face, mounting student loan debt poses broader problems to the Bay Area economy. According to one analysis,[62] high student debt stifles spending, slows the housing market, and reduces business formation.
- The emergence of marketplace lender such as SoFi and Credible allows borrowers with solid credit scores and relatively high earnings to refinance their loans—often at substantial monthly savings.
- However, for other borrowers—those with less stellar credit scores and lower earnings, refinancing at market rates is simply not an option.



SUMMARY: Most borrowers can obtain student loans. For lower-income residents, especially, the problem is not availability; it's the relative lack of affordability

61 San Francisco Federal Reserve Bank

62 Student Loan Hero, December 2016

MORTGAGE LOANS

Available mortgage loans often fail to meet borrower needs:

- The median price of housing in the Bay Areas is now around $750,000.[63] While median income is also up—to about $97,000—the income required to buy the typical house may be as high as $180,000.
- For middle-income homebuyers, insufficient income is not the only problem. Inadequate savings is an equally large barrier to homeownership.
- Here's one reason. The current ceiling for 3 percent FHA loans is about $680,000—about $70,000 less than the area's median house price. This means that families buying the typical home may need to come up with the difference in the form of a larger down-payment—perhaps $100,000 or more.
- Of course, the cost of homes in the outer reaches of the Bay Area—places like Antioch—is often under current FHA ceiling. The good news is that this allows lower-income families to buy homes under the FHA's 3 percent down program. The bad news is that the median home price in Antioch—about $432,000—still requires an annual income of almost $77,000. This is less than 80% of the Bay Area median, but more than 30 percent above the median for the area.

In the U.S., most mortgages have a maximum term of 30 years. Yet, there appears to be no reasonable explanation for this limit.

- The underlying collateral has an economic life far longer than 30 years.
- The median age of first-time homebuyers in the U.S. is about 32.[64] These borrowers can expect to live to be older than 62.
- Total interest payments on a 50-year mortgage would be substantially higher than those on a 30-year loan—if the loans were outstanding for their full term. However, the typical mortgage is paid off in less than 10 years. (Borrowers tend to refinance or move.)
- At one time, both Japan and Switzerland offered mortgages with terms as long as 100 years. Before the financial crisis of 2008, several California banks had begun experimenting with 50-year mortgages. Now might be a good time to re-introduce this idea through a public bank.
- As the following table shows, a $400,000, 4% mortgage with a 50-year term will have 20% lower debt service costs than a 30-year loan.

63 Mercury News, February 2018

64 The Atlantic, 2014

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	CONVENTIONAL	EXTENDED TERM
MORTGAGE AMOUNT	$400,000	$400,000
INTEREST	4.00%	4.00%
TERM	30	50
MONTHLY DEBT SERVICE	$1,910	$1,543
MONTHLY SAVINGS	$367	

Note: Interest is tax deductible to borrowers.

SUMMARY: Given the benefits that an extended term mortgage provides borrowers, it makes sense for a public bank to make such loans available through intermediaries.

SMALL BUSINESS LOANS

Small businesses often have difficulties obtaining loans.

- Alameda and Contra Costa Counties are home to about 230,000 small firms, almost half owned by members of minority groups.
- While it is unclear how many of these firms may have applied for loans, what is certain is that a significant percentage of their loan requests to banks will have been declined. The following table shows the small business loan approval rate by type of lender:

BIG BANKS	SMALL BANKS	INSTITUTIONS	ALTERNATIVE LENDERS	CREDIT UNIONS
25.0%	49.0%	64.0%	57.0%	40.0%

Source: Biz2Credit Small Business Lending Index, March 2018

Almost all research on small business lending shows that these fairly high loan denial rates have **three principal causes:** the borrower has poor or no credit history, the firm has insufficient cash flow to repay the requested loan, and the borrower has inadequate collateral to provide the lender a secondary source of repayment.

All three problems increase credit risk— the likelihood that a borrower will be unable or unwilling to repay a loan according to its terms.

Most states and localities operate programs to mitigate credit risk by operating programs that either make or guarantee small business loans. Two of the largest in California are—

- The California Capital Access Program (CalCAP): CalCAP is a small business insurance loan portfolio that works as follows. Whenever a bank makes a loan, the bank and borrower make a specified contribution to a loan loss reserve account in the bank's name. Typically, the borrower and the bank contribute from 3% to 7% of the loan amount; the state then matches the borrower/bank contribution with an additional 3% to 7%. Amounts in the bank's account are available to finance any losses incurred in its portfolio of enrolled loans. For example, where the lender and borrower each make a 1.5% loan-loss contribution, the loan-loss account balance for a $10 million portfolio of enrolled loans could be 6% or $600,000 (3%, in total, from the bank and borrower, 3% from the state). Amounts in the bank's account can typically be used to finance any combination of losses equaling $600,000. While CalCAP works as designed it lacks scale. According to its most recent report, only fifteen lenders use its portfolio insurances program.

- Small Business Loan Guarantee Program (SBLG): The SBLG Program is California's version of the SBA Loan Guarantee Program. SBLG guarantees are provided through a network of non-profit "financial development companies" that issue guarantees of up to 80 percent of loans made by commercial banks. The program's virtues are its simplicity and flexibility. Documentation requirements are limited and guarantees can generally be structured to meet a lender's specific needs.

- However, SBLG has two major disadvantages. Like CalCAP it lacks scale. The federal government backs SBA's guarantees. By contrast, SBLG is backed only by a dedicated reserve fund. (State law prohibits the pledging of the state's credit on behalf of private interests.) This means that SBLG can grow only as fast as its reserve fund. An equally important limitation is that SBLG guarantees cannot be sold. Many SBA lenders generate a significant share of their small business loan earnings by selling the guaranteed portion of their SBA loans to investors. SBLG Program guarantees are not similarly saleable, making them somewhat less attractive to lenders.

Again, small business loan denials occur because lenders fear loans won't be repaid according to their terms—because they're perceived to be risky. Both CalCAP and SBLG are designed to mitigate this risk. Unfortunately, their dependence on public subsidies prevents them from achieving the scale needed to have an appreciable impact on the availability of small business finance.

What might a public bank do? In addition to guarantees and insurance, lenders can protect themselves against credit risk by selling all or parts of their small business loans. This is a strategy that the Bank of North Dakota has used successfully and one that we believe can be successfully employed by a public bank to increase the availability of small business loans.[65][66]

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[65] Under the Federally-funded State Small Business Credit Initiative, the California State Treasurer's Office operates a loan participation program and a collateral support program. Both are designed to reduce lender risk—the first by reducing a bank's risk exposure, the second increasing the amount of security the lender has for its loans.

SUMMARY: Students and homebuyers can generally obtain loans; the problem is that debt service payments are often onerous. Small businesses, by contrast, have difficulty securing bank credit at any cost.

MUNICIPAL GOVERNMENT FUNDING

Cities are facing pressures that make it necessary to consider new ways of financing affordable housing, infrastructure, renewable energy and other long-term investments.



- Recently, the credit rating agency, Moody's Investors' Services, announced its intention to downgrade cities that lack adequate plans for dealing with the long-term problems stemming from climate change. This means that Bay Area cities will have to increase their borrowing for infrastructure repair and improvement.
- However, at the same time, recent tax law changes—such as reducing the corporate tax rate—threaten to make tax-exempt municipal bonds less attractive to corporate investors.
- Moreover, according to a recent credit rating agency report, Oakland's debt burden is relatively high. As a result, additional bond issuance could result in a downgrade of the city's credit rating. [67][68]

SUMMARY: Among the possibilities that the city might consider is that debt incurred by the public bank—for capital projects that the city would otherwise finance—would not be considered municipal debt and thus avoid triggering a possible downgrade.

The Public Bank would be able to package smaller loans into pools of loans that back asset back securities. This would allow the bank to increase the return on its loan portfolio and achieve a higher degree of liquidity.

CURRENT LENDING PROGRAMS

Oakland and its neighbor governments, as well as the state of California and the federal government, have long recognized many of the credit market gaps that exist, and established lending programs to address them. Different varieties of affordable housing lending and small business lending are mainstays of government lending programs, and have been for decades, even if significant gaps remain in both those areas.

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[66] Appendix 8: Relevant Market and Participating Member Information. Ron Surratt.

[67] The Smart Path: Solving for Zero Assets with Blockchain Technology, 4/29/18. Brett Bartlett, Berkeley City Council

[68] https://bnd.nd.gov/credit-rating. BND has maintained a quality credit rating despite its community exposed loan portfolio.

The City of Oakland, for example, once offered a "Shared Appreciation Mortgage" in cooperation with local banks, as well as an Access Improvement Program and an Emergency Home Repair program, all of which were used to supply borrowing needs for affordable and low-income housing. The city currently offers loans to larger developers, and proceeds from the recent bond KK is available for land acquisition in Oakland itself.[69] Similar programs are on offer from virtually all the municipal governments in the study region, though budget shortfalls have curtailed many of the programs. Here are some sample loan programs:

- Homebuyer Programs:
  - First Time Homebuyers Mortgage Assistance
  - Shared Appreciation Mortgage
  - CalHome Program
  - Public Safety Employees - Teachers Downpayment Assistance
- Home Repair/Rehab Programs:
  - Access Improvement Homeowner (Owner-occupied)
  - Access Improvement Rental Property Owner
  - Emergency Home Repair
  - Home Maintenance & Improvement Loan
  - Lead Control / Paint Programs
  - Minor Home Repair Program
  - Neighborhood Housing
  - Rehabilitation Program

- Development:
  - Affordable Housing New Construction & Substantial
  - Rehabilitation Loan Program
  - Predevelopment Loan Program

- Linked Banking:
  - Linked Banking Ordinance:

"Pursuant to Ordinance No. 11067 M.S. the City has established a Linked Banking Service Program. This reference applies to depositories for both the City of Oakland and the Port of Oakland banking needs. Depositories are defined within the Ordinance as "all banking services utilized by the City including the Port of Oakland operating fund, with the exception of investments made through investment banks and broker/dealers." Depositories providing services to the City and the Port of Oakland must provide to the City, annually, the information enumerated under Section 3 of the Ordinance."

Credit Unions and local banks must also meet the ordinance in order to do banking business with some participating members.

SUMMARY: Notably absent are any loan programs for small business, students and infrastructure.

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[69] See the Oakland Housing and Community Development web pages for more.

LACK OF CREDIT AND THE COMMUNITY REINVESTMENT ACT

In order to more fully understand the lack of credit available in the East Bay, a contrast needs to be made; something that can help focus this issue more clearly. There's is no better way to do this than to take a cursory look at Bank of North Dakota's (BND) loan programs. As one would expect, loan programs are central to BND, the nation's only public bank. A review of the BND website shows loan programs of all different types for homeowners, students, municipalities and businesses. In fact, BND has thirteen business lending programs, all listed here:

- Accelerated Growth Loan
- Bank Participation Loan
- Bank Stock
- Beginning Entrepreneur Loan
- Business Development Loan
- Export Enhancement
- Flex PACE for Affordable Housing
- Flex PACE
- Match Program
- PACE Program
- SBA Guaranteed Loan Purchase
- USDA Government Loan Purchase
- Venture Capital Fund



In 2016, a series of 40 meetings were held with business and finance leaders across the state, resulting in new ways to address "financing gaps in economic development". The press release announcing the result of those meetings, a portion of which is captured in Appendix 6.

UNBANKED AND UNDERBANKED

"The United States is among the richest countries in all of history. But if you're not a corporate or political elite, you'd never know it. In the world working people inhabit, our infrastructure is collapsing, our schools are laying off teachers, our drinking water is barely potable, our cities are facing bankruptcy, and our public and private pension funds are nearing collapse. We – consumers, students, and homeowners – are loaded with crushing debt, but our real wages haven't risen since the 1970s. How can we be so rich and still have such poor services, so much debt and such stagnant incomes? ***The answer: runaway inequality – the ever-increasing gap in income and wealth between the super-rich and the rest of us."***

-- Les Leopold, President, TheLabor Institute

Oxfam, a nonprofit focused on alleviating poverty, recently released its World Inequality Report 2018. Central is the increasing disparity between the top 1 percent of income earners who claimed four-fifths of the wealth created in 2017,

and everyone else. "Last year saw the biggest increase in billionaires in history, one more every two days. This huge increase could have ended global extreme poverty seven times over. 82% of all wealth created in the last year went to the top1%, and nothing went to the bottom 50%," the report says. Moreover, "Income inequality is worsening across the globe, which has a corrosive impact on social institutions, the standard of living for the poor and near-poor, and is linked to political unrest. The dangers of inequality aren't a new rallying point, yet despite a lip service lawmakers and the rich pay to it, the wealthy continue to pull away from the poor and middle class."

"In the last year, there has been a new billionaire created every two days, and of the wealth that got created, the top 1 percent got 82 percent of it, and the poorest half got nothing," said Paul O'Brien, vice president for policy and advocacy at Oxfam America, "That means 3.7 billion people got nothing of that new wealth.'

Wealth is increasingly concentrated with a small number of people.

Compounding wealth inequality is the very large percentage of people in California who are either underbanked (those with an underused bank account) or unbanked. The 2015 FDIC National Survey of Unbanked and Underbanked Households showed that, in California, over 25% of households are either unbanked or underbanked:

According to the 2015 Bank Status by State report, there are 14,484,000 Californian households. 6.2% of these households are unbanked, 19.1% are underbanked, 68.2%are fully banked and 6.5% are unknown.

In May 2017, the Federal Reserve issued a report that found that "about 25% of American adults can't cover all of their monthly bills, and 44% say they don't have enough savings to cover an unexpected expense of $400. Nearly a quarter said they had paid an unexpected medical expense over the last year, and more than 40% of those — representing about 24 million Americans — said they were still paying debt related to those expenses."[1]

There are more Pay Day loan and Lending services in the US than there are Mcdonalds. California has over 577 locations. One of the highest saturated locations is the East Bay area.

What do many people do in order to pay unexpected bills? According to the state Department of Business Oversight, in 2009, Californians took out $214 million in installment loans of between $2,500and $5,000, what is now the most common size of loan without a rate cap. In 2016 the volume was $1.6 billion. The LA Times states that "loans with triple-digit rates accounted for more than half, or $879 million -- a nearly40-fold increase since 2009.

SUMMARY: With 82% of the new wealth generated in 2017 being directed to the top 1%, with over 25% of California households being under or unbanked, with 44% of all American adults unable to meet an unexpected expense of $400, and with the California legislature unwilling to stem the high cost of the high end of payday

lending (loans of $2,500 or more), all while people are still recovering from the halving of their wealth because of the Great Recession, inequality is proving to be an intractable fixture of the economic landscape.[70]

WEALTH INEQUALITY

What does this mean for city or county with a public bank?

There are **many systemic approaches that remedy income and wealth inequality. These include a living wage, free higher education, divestment and re-investing locally, and single payer healthcare.** A public bank can be added to the list of these systematic approaches because it helps to level the playing field - it addresses some of the inequalities (most notably, lack of access to capital) inherent in our capitalist system. So, the bottom line is that the promise of a democratically governed public bank is to use the public's credit to remedy wealth inequality.

By placing government deposits into a public bank and releasing capital (in the form of loan programs) that fund new initiatives like East Bay Community Energy, overlooked renewable energy projects, capital starved worker-owned cooperatives, small businesses, affordable housing, student loans, and infrastructure, a public bank ends the cycle of wealth extraction. The Bank of North Dakota, the nation's only public bank, has over $6,300 per capita in loans outstanding. All things being equal, that would be the equivalent of $2.6 billion injected into the Oakland economy as low-cost credit, with the generated profits staying local. Even just a fraction of this credit would go a long way to alleviate income and wealth inequality in Oakland and the neighboring jurisdictions.

THE PUBLIC BANKING SOLUTION: LENDING

LENDING

Buying and participating in solid loans is the way to go.

Though banks claim that they provide loans to "every creditworthy borrower," there are important exceptions—mainly borrowers whose loans banks cannot remain on their books for regulatory or interest rate risk reasons. Examples include:

- **Solid small business loans where the borrower lacks adequate collateral:** Many of today's growing small firms are "asset-light"; their principal assets are people and software—neither of which can collateralize a loan. Such firms may have trouble securing credit even with solid credit histories and adequate cash flows, because they cannot offer the bank a secondary source of repayment—collateral in the form of real estate, equipment, inventory or a personal residence.
- **Mortgage loans that exceed 30 years:** Banks are often reluctant to make and retain long-term loans that they must fund with short-term deposits. Though large banks can make and securitize these loans, smaller banks have insufficient volume to do so.

70 Appendix 23: The Winner Takes (almost all)

- **Loans exceeding the lenders' legal lending limit:** All banks have limits on the amount they can lend to a borrower. For example, national banks supervised by the Office of the Comptroller of the Currency, have a limit of 15% of the bank's capital and surplus. So a bank with $10 million in capital would be limited to loans no larger than $1.5 million. If a customer needs a loan that exceeds this limit, the bank must decline the request or find another lender to participate in the loan.
- **Loans that pose concentration risk:** Small banks tend to make the most of their loans in one geographic area and/or specialize in making one or two types of loan. While specialization gives the bank a competitive advantage in competing for some customers, it exposes the institution to significant loss should downturns in its favored communities or industries occur.

Community banks, local banks and/or CDFI's ability to make loans that its customers need—and have the demonstrated ability to repay— imposes a cost on both the bank and the borrower. The borrower can't finance the expansion of a business or home purchase; the bank risks losing both a customer and an earning asset.



The public bank can use a four-part strategy for its loan purchase program:

- Establish underwriting criteria for loans that it will purchase or in which it will participate. For example, small business borrowers might be required to have an "acceptable" credit score; and three years of successful operating history.
- Create a network of community banks and/or CDFI's to sell loans and loan participations. Participating governments can create an incentive for banks to join the network by offering to make low-cost deposits in participating institutions.
- Aggregate purchased loans into a homogeneous but geographically diverse pool. (Homogeneity would be achieved by ensuring all loans have similar credit scores and cash flow histories.)

- Give participating institutions bonds or notes collateralized by the pool of loans as payment for their loans.

EXAMPLES

The public bank's proposed loan purchase/participation program would provide participating banks several benefits:

- It would allow them to honor more of their customers' loan requests.
- It would increase the likelihood of retaining a valued customer relationship.
- It would provide an attractive earning asset (the collateralized bond) in exchange for a loan that it might otherwise have to decline.

Here are two examples of how actual transactions might work:

- Five years ago, Franco resigned his job at Google and started a company processing digital payments. The company has done well. After a rocky couple of years, it now has solid cash flow and is growing—so much so that Franco needs a $200,000 loan to expand the business. Unfortunately, Franco's company has almost no collateral—no buildings and very little valuable equipment. Franco himself, like so many in the Bay Area, has been unable to buy a house, so he can't pledge a personal residence as collateral. It's not his credit history. He has a FICO score of 770. He simply can't afford the cost. If it weren't for the lack of collateral the bank wouldn't hesitate to make the loan. To solve the problem, the public bank agrees to purchase the entire loan from Franco's bank. The public bank pools Franco's loan with 100 similar loans from other banks and gives Franco's bank back a bond collateralized by the pool of loans. (e.g. asset backed securities.)
- Melanie is a recent college graduate and middle school teacher who's struggling under her burden of $40,000 in student loans—high for California and for her personally. The monthly payments on her 10-year, 6% loan are almost $450 a month. She's got a good credit score and hasn't missed a payment in three years. Nevertheless, she'd like to lower the monthly payment to something more manageable. Based on the public bank's purchase commitment, her bank agrees to make a 15-year, 5% loan. Because the loan is for a longer term, meaning the principal will be outstanding for an extended period, the loan structure includes a 5% loan-loss reserve payment. However, even with the loan-loss reserve, the refinancing will lower her monthly payment to $332 from $450, a reduction of 25 percent. Again, in exchange for the loan, the bank takes back bonds collateralized by a pool of similar student loans.

GOVERNMENT LENDING

A public bank may be able to meet local governments' short-term borrowing needs.

In addition to financing small business, housing and student loans, the public bank may also be able to play a limited role in financing the short and long-term needs of participating governments:

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- If permissible under California law, deposit funding from one local government could be used to finance the purchase of short-term notes from another, saving the borrowing local governments interest and fee costs. Say for example, Oakland has made a deposit of $10 million in the bank secured by $11 million in Treasuries. The public bank might sell the treasuries and purchase $11 million in short-term notes issued by Berkeley.
- As explained later, we believe that the public bank should have more capital than required under current banking regulations. Its excess liquidity could be invested in long-term bonds of participating localities, once again reducing their fees and interest costs. Assume, for example, that the public bank has $10 million in its reserve account at the Federal Reserve but needs only $5 million under current regulations. It might use the $5 million in excess liquidity to purchase $5 million in bonds from one of the participating governments.[71]

BENEFITS

Collectively, the budget for the governments of The City of Oakland, City of Berkeley, City of Richmond, and the County of Alameda total **over $3.3 billion in cash and investments and almost $9 billion in total liabilities, with a percentage of these budgets spent on servicing the combined $5 billion in long term liabilities.** A public bank with a lending capacity could be formed, and use of this credit to refinance existing bond obligations could be worth millions of dollars annually to this county and these cities in reduced debt service. Furthermore, the debt service payments would provide a positive cash flow to the public bank from the outset, allowing it to bypass the startup losses that are usually part of a bank's early history, thereby reducing overall risk. And, finally, because these participating governments will each own a share of the public bank, the interest payments they make will add to the value of their share. In essence, the interest they pay would be turned into an asset by being credited to their own fund balance. Clearly, being your own credit holder is strategically advantageous, with both near and long term benefits.

Other quantifiable benefits from these participating governments owning a public bank include opportunities to[72]:

- Determine if the profits from public bank operations are held as retained earnings by the public bank or returned to the participating governments.
- Access affordable lines of credit during times of disaster recovery.
- Access bank letters of credit at reasonable rates not available through other banks, thereby helping the participating governments to engage in infrastructure and other projects.
- Access low-cost funds from the regional Federal Home Loan Banks through the public bank.
- Increase the availability of local commercial credit by creating an after-market for local business lending, buying participation in loans made by existing financial institutions.

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[71] Appendix 7: Benefits

[72]

One of the main benefits of a public bank is the hard dollar cost savings from reducing debt service costs. After all, issuing your own debt is an essential role of a public bank. Moreover, even though a public bank has multiple value propositions, debt service reduction is the most distinct and quantifiable. But this benefit, of course, cannot be overplayed. The obvious risk is abuse of fiduciary duty by running up too much debt, but constraints can be put in place to prevent this from happening. These can include setting a limit to the percentage of the loan portfolio allocated for any one participating government and working with regulators to ensure that this limit is set in accordance with accepted banking standards that prevent too much concentration of the loan portfolio in any one sector.

COST

The challenge, of course, is how best to obtain these benefits without the investment of too much capital or the burden of excessive operating costs. Building this capacity so that profitability is realized sooner rather than later and so that capitalization is reasonable, but will be a challenge and can be better understood with pro formas (which are outside the scope of this study) that model alternative revenue and expense scenarios and with sources of capital clearly identified with written (and conditional) commitments.



Because the public bank would have a relatively small number of municipal customers, it could be effectively run by a fairly small staff, with technology applications and platforms outsourced. Important functions like check processing and account record keeping can be accomplished using bank and financial industry vendors, allowing the operation to be run with a minimum of staffing overhead, real estate expense, and other operating costs. On the credit side, the idea would be to rely on other institutions like Community Development Corporations (CDCs), nonprofit check cashing organizations, and revolving loan funds to make credit available to the public. The public bank would provide funds to capitalize or expand these programs and, because it would be a bank where the owners, depositors, and loan recipients were largely one and the same, the ability to manage profitability will be fairly straightforward.

Each county and city that participates in the bank will benefit from the investment made possible by extending low-cost lines of credit to CDCs, land trusts, and similar community organizations. These organizations are very low credit risks, but are generally unable to find short-term credit, except at high rates. As one example, lack of access to quick capital prevents CDCs from participating in short sales and

tax sales and frequently forces them to sit on the sidelines as bargains are snapped up by others. Long-term financing for large projects is commonly provided by multiple banks acting as partners and who determine the terms. The public bank will have the capacity to become one of the partners for large housing construction projects and will be able to have a determinate role in setting terms.

In conclusion, the public bank's access to low cost money will keep participating governments' borrowing costs to a minimum, reversing recent increases in debt service costs. This lower cost approach to banking will provide a stronger bottom line to the owners because of reduced debt service costs. Even more important, a public bank will be their asset that appreciates with every interest payment they make. The increase of affordable credit will make existing government institutions more effective and responsive. Consolidation of accounts will provide finance directors with a more comprehensive -- and convenient -- way for cash management and accounting.

Because the initial customer base is, by and large, the same participating governments that own the bank, the risk of bank revenues not materializing is minimal, as is the risk of unwieldy operating costs. Because access to lower cost of money will be used to reverse the increasing debt service costs, positive cash flow is even more certain. Because affordable credit provides increased affordable housing opportunities, the value provided by the public bank will be an important way to address this shortage and will positively impact government employees, veterans, and other population segments needing affordable housing in the communities in which they work. And, finally, because banking is fundamental to our economy and, as such, is a business model that has been proven both in the private and public sector, with the limitations of banks in both sectors well understood, the risk of starting and successfully operating this kind of a public bank appears to be something that can be well-managed with clear policy direction and proper oversight provided by the governing board and with experienced and effective bank operating management.

For these reasons and more, the idea of a public bank for the Oakland area is eminently feasible.

THE PUBLIC BANKING SOLUTION: DEPOSITS

DEPOSITS: GOVERNMENTS, AGENCIES AND OTHERS

Collateralized and Safe Investments

- Participating members, agencies, other governments and others could make deposits into the bank to sustain revenue. Short term investments maturing in 9-12 months provide adequate liquidity necessary for participating members.
- For example, the County of Alameda could deposit $100 million from existing funds earmarked for deposits into local banks. In addition, the City of Oakland from existing funds earmarked to impact community or to reduce liabilities could make deposits and earn 2% interest.

CD'S - Community Focused

Buy CD's offered by the Public Bank. An example from Alameda County Treasurer, Henry Levy, is to match a purchase of a CD with what the depositor wants to achieve. In other words, a "community purpose linked-CD." The public bank

deposits funds into these banks and other intermediaries who are taking out financing for low-income construction or affordable housing.

Criteria

Criteria must be established as a part of bank investment policies. Criteria for community-linked CD's should include the CRA (Community Reinvestment Act) rating, CRA enforcement and other important information related to the predetermined criteria embedded in the public bank governance policy, such as, a respectable CRA Rating.

Tax Deposits

The public bank could accept tax deposits on behalf of other jurisdictions for a reasonable fee. The deposit process could include data collection as a part of the service.

Fintech

Fintech companies provide some innovative solutions for managing data. For example, NCS (National Compliance Services), a Fintech company, assist with the data platform for some California counties. The platform aggregates data from multiple sources including track and trace, point of sale, taxation and socioeconomic data.[73] [74]

The California Cannabis Authority (CCA) created a Joint Powers Authority between counties with cannabis regulation or taxing authority.

DEPOSITS: SAFETY

Safe, sound and quality investments offered by the public bank could inspire participation by others.

GENERAL CREDIT QUALITY

It is important for participating members to maintain a quality credit rating. Short- term debt shall be rated at least "A-1" by Standard & Poor's Corporation, "P-1" by Moody's Investor Service, Inc. or "F-1" by Fitch. Long-term debt shall be rated at least "A" by Standard & Poor's Corporation, Moody's Investors Service, Inc., or Fitch.

The minimum credit requirement for each security is further defined within the Permitted Investments section of the investment policy for the city of Oakland. Neighboring jurisdictions abide by similar criteria.

[73] Appendix: 29- Fintech Collaboration and Outreach

[74] Appendix 15: CCA

If securities which are purchased for the Fund are downgraded below the credit quality required by the Fund, the Treasurer, in consultation with the Treasury Manager, will determine whether to retain or to sell the security. Evaluation of divestiture of securities will be determined on a case-by-case basis.

> *"Permitted Investments: U. S. Treasury Securities , Federal Agencies and Instrumentalities, Banker's Acceptances, Commercial Paper, Asset –Backed Commercial Paper, Local Agency Pooled Investment & Deposit, Commercial Paper Limits, Medium Term Notes, Negotiable Certificates of Deposit, Repurchase Agreements, Reverse Repurchase Agreements/ Secured Obligations and Agreements, Certificates of Deposit, Money Market Mutual Funds, State Investment Pool (Local Agency Investment Fund), Local City/Agency Bond, State of California Bonds, Other Local Agency Bonds[75] Private Placements are also an option.[76]"*

The public bank investment in treasury securities is one way to meet the quality investment criteria and, possibly the State of California, Department of Business Oversight requirements for insurance and/or collateral. In May, GIC met with Commissioner Jan Lynn Owen and the Department of Financial Institutions. As a result, of our interview, it was determined that treasury securities might be possibly be considered as an option for meeting collateral and insurance. More legal research would need to be completed to determine if it's feasible. It appears that without an application submission for a bank charter, by the participating members, there's not much need to explore such a concept on behalf of the DBO.

"RISK-FREE" INVESTING: U.S. TREASURY BONDS

The U.S. Treasury issues lots of different kinds of debt securities. Savings bonds, which can be purchased for small amounts and come in certificate form (making for nice bar mitzvah and birthday gifts), are just one of many kinds of investment options.

When investment people speak of Treasuries, they usually are not talking about savings bonds. Rather, they're talking about larger-denomination bonds known formerly as Treasury bills, Treasury notes, and Treasury bonds that are issued only in electronic (sometimes called book-entry) form.

All U.S. Treasury debt securities, whether a $50 savings bond or a $1,000 Treasury note, share four things in common:

- Every bond, an IOU of sorts from Uncle Sam, is backed by the "full faith and credit" of the United States government and, therefore, is considered by most investors to be the safest bet around.
- Because it is assumed that any principal you invest is absolutely safe, Treasury bonds, of whatever kind, tend to pay relatively modest rates of interest — lower than other comparable bonds, such as corporate bonds, that may put your principal at some risk.
- Although the United States government is very unlikely to go bankrupt anytime soon, Treasury bonds are nonetheless still subject to other risks inherent in the bond market. Prices on Treasury bonds, especially those with long-term

[75] Treasury Division, Financial Services Agency Adopted by the City Council and Oakland Redevelopment Agency On June 15, 2004

[76] Local%20Agency%20Investment%20Guideline.pdf1.pdf

maturities, can swoop up and down like hungry hawks in response to such things as prevailing interest rates and investor confidence in the economy.
- All interest on U.S. government bonds is off-limits to state and local tax authorities (just as the interest on most municipal bonds is off-limits to the Internal Revenue Service). But you do pay federal tax.

Differences Between Treasury Bills, Notes, and Bonds

The financial media often mentions three different terms relating to government bonds: Treasury bills, Treasury notes, and Treasury bonds. These securities are similar in that each is issued by the United States to fund its debt, and each is also backed by the full faith and credit of the U.S. government.

Two key differences exist between the three types of U.S. Treasuries:
- their maturity dates
- the way that they pay interest.

The variance in maturities of the three types of Treasury securities helps differentiate them. Treasury bills (or "T-bills") are short-term bonds that mature within one year or less from their time of issuance. T-bills are sold with maturities of four, 13, 26, and 52 weeks, which are more commonly referred to as the one-, three-, six-, and 12-month T-bills, respectively. The one-, three-, and six-month bills are auctioned once a week, while the 52-week bills are auctioned every four weeks. Since the maturities on Treasury bills are so short, they typically offer lower yields than those available on Treasury notes or bonds.

Treasury note issues have maturities of one, three, five, seven, and 10 years, while Treasury bonds (also called "long bonds") offer maturities of 20 and 30 years. **In this case, the only difference between notes and bonds is the length until maturity.**

The 10-year is the most widely followed of all maturities; it is used as both the benchmark for the Treasury market and the basis for banks' calculation of mortgage rates. Typically, the more distant the maturity date of the issue, the higher the risk of payback to investors, and so the higher the compensating yield.

INVESTING; U.S. TREASURIES

In contrast, both Treasury notes and bonds pay a traditional "coupon," or interest payment, every six months. When these securities are auctioned, they may sell at a price that translates to a yield to maturity higher, or lower, than that of the coupon. Investors can purchase bonds directly from the U.S. treasury, through its TreasuryDirect website. The Treasury's site explains how the interest rate and price of a bond are determined at auction.

Price Fluctuation

Once T-notes and T-bonds are issued, their prices fluctuate, so their yields remain linked to market prices.

For example, say the government issues a 30-year bond with a yield of 10 percent when interest rates are high. In the next 15 years, prevailing rates fall significantly, and new long bonds are being issued at 5 percent.

Investors will no longer be able to buy the older T-bond and still receive a yield of 10 percent; instead, its yield to maturity will fall, and its price will rise. In general, the longer time until the bond matures the greater price fluctuation it will experience. In contrast, T-bills experience very little in the way of price fluctuation since they mature in such a short amount of time.

U.S. Treasuries continues to be a prudent, safe and sound vehicle for investors.

One option to move funds from treasures to stakeholders is to establish a Secure Letter of Credit Program to back the loans issued to BIN's. (i.e. a group if intermediaries.) who distributes those funds based on the; public bank's criteria into the community and integrated partners. This strategy is common in the utilities space and public works. For example, the State Water Resource Board sets aside a percentage and builds up an in order fund to guarantee more loans. They created a loan loss reserve. Grants might also be created to also move funds after the sale of treasuries from the bank portfolio.

BUILDING AND FINANCING THE BANK

Beyond the need to serve large municipal customers, there are other reasons why a public bank, in particular, needs scale. One is that a larger bank is better able to diversify and manage risks.

First, what criteria are needed to assess a bank's ability to diversity risk?

Small bank loan portfolios are often concentrated in one geographic area or include a large percentage of one type of loan. For example, a community bank's portfolio might contain large numbers of commercial real estate loans to firms in Contra Costa County. The lack of diversification exposes the bank, to an unhealthy degree, to any downturn in the Contra Costa economy or in the commercial real estate industry. By contrast, a larger bank is more likely to have loans to different industries and borrowers all over the Bay Area. Downturns in one county or industry are much less likely to affect its financial health.

Second, big banks and small banks manage credit risk in entirely different ways.

As we pointed out earlier, small banks tend to be low-volume lenders and manage risk on a loan-by-loan basis. That is, they want to make sure that for each loan (a) the borrower has enough income to make required payments and (b) if something goes wrong, the collateral posted by the borrower will allow the lender to recover the outstanding principal.

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Big banks, by contrast, tend to be high volume lenders and manage risk on a portfolio basis. Say, the bank knows that in a portfolio of 1,000 loans, the default rate will be 5%. It doesn't have to know which of the 1,000 will default. All it has to do is price its loans so that loss of any 50 of them will be completely covered by the income from the remaining 950.

This difference gives larger banks two important advantages:

- Because the performance of a large portfolio of geographically diverse loans tends to be more predictable than the performance of individual loans, large banks can more easily sell their loans for profit or liquidity reasons.
- The unit costs of servicing a large portfolio of loans is much lower than those of servicing a smaller portfolio. This means that, all other things being equal, larger banks are likely to have higher earnings on their portfolios.

Size also matters on the liability side of a bank's balance sheet. A large bank is much more likely to have the infrastructure and systems needed to provide deposit and payment services to larger customers such as municipal governments.

The final reason that scale is important is a simple one. Big banks simply can make a bigger difference in their communities than small ones. A bank with $3 billion in loan assets has ten times the impact of one with only $400 million in loans on its books.

According to some banking experts, the minimum amount of capital required to launch a new bank is $30 and $50 million.[77] Even though it will be chartered as a commercial bank, the public bank's unusual purpose and strategies may create the perception that it is somewhat riskier than other "de novo" banks and thus requires a larger than normal capital cushion.

SOURCES OF CAPITAL

Discussing the creation of a bank will always move to the source of the capital with which it is to be founded. The quantity and form of capital required to open the Public Bank will depend crucially on the purpose behind the bank. The purpose will suggest the size, and that will set a certain requirement for capital. Furthermore, some purposes will allow capital to come in the forms of performing loans or other assets, or even goodwill, while other purposes will require the capital to be real cash. **The capital can come in the form of permanent investments that might pay a dividend, or in the form of loans.** The capital requirements will become clear through the bank design, but it is worth considering the potential assets that could be applied to the purpose.

Though its border is fairly subjective, there are around two dozen cities within the study region, along with a comparable number of school districts, and at least two county governments. Collectively, they control well over $6.5 billion dollars in cash at any one time, along with notes, CDs, and other investments. This does not count funds held in trust or pension funds, only the cash and equivalents on hand, typically held in bank accounts and bond funds.

77 Dinsmore & Shohl, LLP December 2017

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In addition to these, there are public and non-profit agencies working in the area that might have an interest in seeing a public lending institution with which to ally. For example, the California Housing Finance Fund might be an organization to approach for capital in the form of a swap of performing loans for bank stock, since it is reasonable to think they might value the presence of another low-cost source of housing loans in the Oakland area. There are philanthropic organizations, too, that might be persuaded to contribute in a similar fashion

In addition to the capital, it is important to consider the liabilities that will compose the bank's balance sheet: the deposits from which loans will be made. The sections that follow will consider a few of the different potential sources of deposits, but it is possible to imagine a structure that can accommodate short-term investments from other sources, for example from one of the many cash-rich corporations in the area who might have an interest in ameliorating some of the affordable housing crunch they have participated in creating

We believe that any strategy for raising the required equity should include:[78]

- **Avoid seeking a large investment of existing public funds.** To most people in the Bay Area, a public bank represents a useful—but not urgent—use of public funds. Competing against more urgent demands would undermine the bank's limited support.
- **Aim at large investors with an appetite and capacity for risk.** The public bank is an untested idea. The impact investment market has now reached $300 billion and comprises large institutional investors looking to achieve social—rather than purely financial—returns. An investment in the nation's first urban public bank may have significant appeal.

CAPITALIZATION

Stock and Debt Equity

- Any revolving loan fund that can be replaced with credit. Specifically, existing loan programs that are funded with revolving loan funds.
- Existing pools of money that have been set aside for affordable housing and other programs that could use credit instead of hard dollars.
- Rainy day funds that could be replaced with an Emergency Loan program for cities and counties.
- Issue a state bond.
- Duplicate the Green Bay Packers ownership model, where constrained capital stock is issued to the public.
- Crowd-fund the bank with donors identified as "Founders" of the Public Bank of Charter City.
- Public Bank of Charter City issues corporate debt.
- Issue a Private Placement
- Public employee pension funds for long-term investing.

MANAGEMENT OF THE BANK

The public bank could be managed either by its own team or under management contract.

[78] Appendix I – Private and Public Banking

The public bank could be managed either by its own team or under management contract—the expertise of the management team and FinTech companies strategies developed will operate both the commercial public bank. The "debundling process", will take at least a year for staff to be positioned to transition bank services and accounts.

DEBUNDLING

Public banking is a movement throughout the nation in response to the need for responsive and responsible banking to the community.

The City of Berkeley and the City of Oakland have already begun to "debundle" services. For example, Oakland has separate contract for armored car and card services from JP Morgan Chase. Due to the complexity of their banking structure, staff concerns primarily include keeping the core credit card and depository services within the same bank. Investments, on the other hand, are one believed to be easier to transition by some staff.

Debundling banking services is similar to debundling large procurement contracts issued by municipalities. These large contracts are broken up into smaller contracts, so the small business can better compete for services. It's a way to support small business growth.

The other benefits of "debundling" s include:

- Creating local jobs
- Reaching divestment goals
- Placing money into local credit unions and small banks
- Establishing new banking criteria with a social mission
- Cost savings could supplement affordable housing and a programs

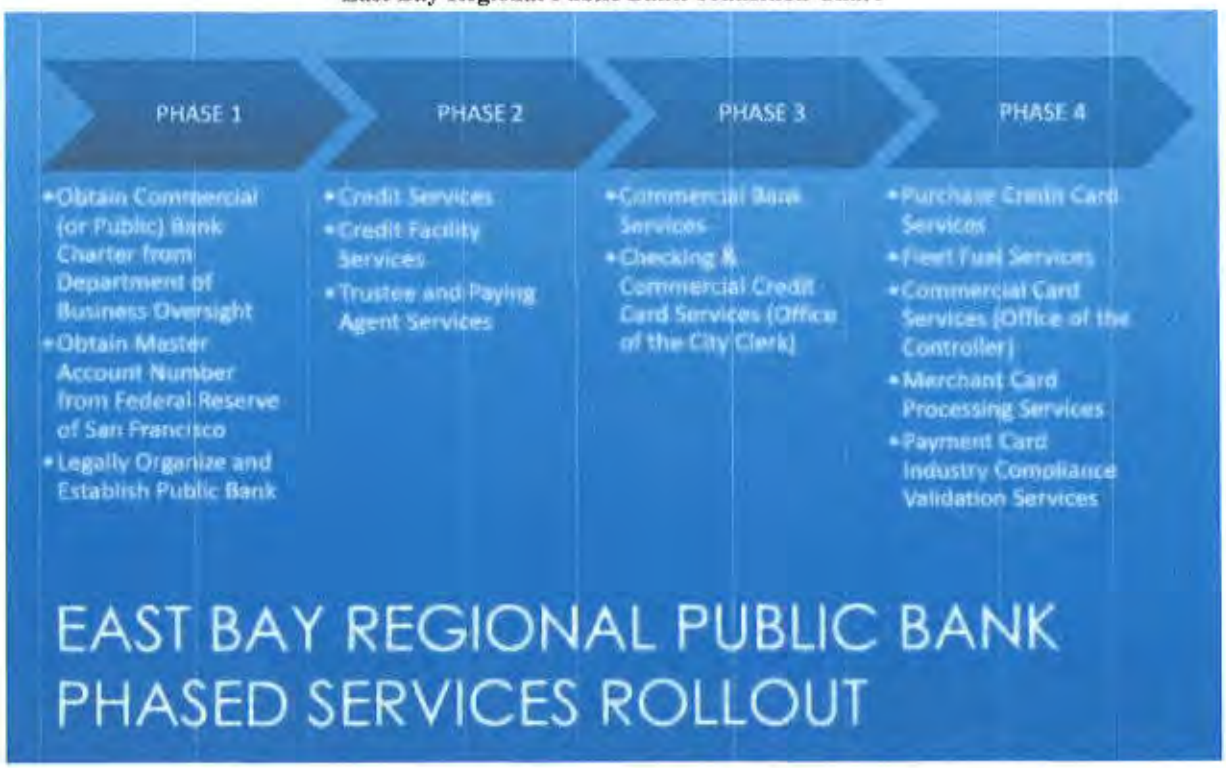
TRANSITION

The City of Berkeley developed its own transition plan for banking services. For reference find it attached in Appendix10. Because a public bank, as envisioned for the participating governments in the East Bay, will be circumspect in its deployment of banking services, technology will be less important than one might expect. However, when possible, technology will be rolled out to support key banking functions. We initially envision them as follows:

- Phase 1 - Obtain Bank Charter, Master Account Number, Organize and Establish.
- Phase 2 - Credit Services, Credit Facility Services, Trustee and Paying Agent Services.
- Phase 3 - Commercial Bank Services, Checking and Commercial Card Services (Office of the City Clerk).
- Phase 4 - Purchase Card Services, Fleet Fuel Services, Commercial Card Services (Office of the Comptroller),
  - Merchant Card Processing Services, Payment Card Industry Compliance Validation Services.

See Transition Phases Flowchart:

East Bay Regional Public Bank Transition Chart



Many, if not most, of these functions will likely require little customization and can be automated with cloud-based software services or can be contracted out to technology vendors.[79],[80]

CENTRALIZED LOAN SERVICING

The public bank could act as a banker's bank in other ways for community lenders, perhaps by providing centralized loan servicing, or data stores to inform underwriting decisions. It could also become a valuable source of short-term liquidity for community lenders, allowing them to extend themselves a little farther than they might without such a resource.

Affordable housing is an important community development priority in the Bay Area, and it is also one worth discussing in relation to a public bank. The Federal Home Loan Bank is an important resource to small banks, as a source of liquidity and collateral. Established to promote home ownership in the 1930s, the FHLB uses mortgages as its currency, so to speak. There would be a substantial benefit to the public bank becoming part of the FHLB network, giving it access to

[79] The Smart Path: Solving for Zero Assets with Blockchain Technology, 4/29/18. Brett Bartlett, Berkeley City Council.

[80] https://getfuturebank.com/wp-content/uploads/2018/01/whitepaper.pdf

emergency liquidity, inexpensive collateral, and more, but the price of admission is to be involved in some fashion, in the home mortgage market.

FINANCIAL INFORMATION

Public Bank Capital and Sustainability Scenario:

An initial $50 million in deposits - invested in treasuries with an average return of 2.54% producing a gross profit on earnings (less .44% paid to depositors) - leaving 2% for the bank. Revenues after $1 million annual operating budget are estimated to be $51 million in the first year and $53 million in the second year.

CONCLUSION

In conclusion, a multi-jurisdictional public bank for the East Bay region is feasible. A holding company is one structure for limiting localities from liability which have examined is the use of the JPA for the purpose of forming a public bank a holding company for that bank or both.

A public bank could provide solutions to key unmet financial needs for communities exposed to the public bank with the exception of providing banking services to the cannabis industry under current federal law exposing public bank deposits exposes participating members to unwanted risk.

Participating members have common goals for a public bank, such as, the creation of:

- an institution that exists specifically for the purposes of keeping control of assets and investment choices local and an institution that is focused on supporting local business needs and the needs of municipalities for competitively priced financial services.
- an institution that frees residence and municipalities who reside within the region, of using mainstream financial service providers as their primary source so as to create better services for the community.

More extensive planning is needed for participating members. A detailed roadmap to establish and implement a regional bank is a vital step. Initiating a RFP issued by the MJPB Working Group or one of the Working Group participating members, for Multi-Jurisdictional Public Banking Services Business Plan for the region is recommend as a next step to establish a public bank.

It is estimated the cost to acquire a small community bank is $25-30 million plus $1 million for operations.

Transitioning banking services from current banks to a new bank could take up to 18 months after the business plan; implementation plan and debundling of services plan have begun.

NEXT STEPS



- Members are considerate of stakeholder's input to a public bank in the Bay Area. Establish Multi-Jurisdictional Working Group (MJWG). The MJWG should formally decide on any next steps after discussions with the State Department of Business Oversight.
- Approve the issuance of an RFP to establish a business plan for guidance in implementing the East Bay Regional Public Bank.[81][82][83][84]
- Establish a business plan to evaluate the state charter strength based on the reasonableness and achievability of the banks' business objectives, lines of business, public benefit activities, proposed management, adequate checkpoints for oversight by state regulators and intermediaries[85]. If the decision to move forward includes acquisition as a part of the business plan, identify a $20-30 million community bank to acquire, capitalization levels, member participation and sources of capital.
- The participating members may want to consider the possibility of adding a provision that specifically permits investment in a public bank.
- Revisit divestment city and county directives set by each participating member for guidance.
- Revisit interested organizations and other stakeholders ready to partner with participating members on establishing a bank.
- Authorize GIC to coordinate the inaugural Public Municipal Bank Summit in partnership, under the guidance of the MJWG, with interested stakeholders and other jurisdictions. A fintech company, SafetyNet has offered to partially fund the event.

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[81] Office of the Treasurer & Tax Collector, City and County of San Francisco Request for Qualifications for Office of the Treasurer & Tax Collector Municipal Bank Feasibility Quantitative Analysis, March 19, 2018.

[82] See City of Los Angeles Banking Services Request for Proposal. County File 17-0330 – Office of Finance – Report Back On Divestment and Banking Services Request For Proposal

[83] Banking and EBPP Services. Solicitation No.: RFP 16/17-23. Alameda County Water Department

[84] Banking Services Request for Proposal. City of Berkeley. May 29, 2012.

[85] Appendix 12 . A Social Mission: Divestment

CREDITS

APPENDICES

Appendix 1 Private and Public Banking

Appendix 2 -Outreach Summaries

Appendix 3 -SOW Task Checklist for Oakland Feasibility Study

Appendix 4 –Lending and Guiding Principles

Appendix 5 - Governance Considerations: PBI.org, and https://friendsofpublicbankofoakland.org/wp-content/uploads/2018/04/FOPB_public_bank_of_oakland_governance_proposal_040918.pdf

Appendix 6 -Summary of Cities and States Creating Socially Responsible Banking, Investment and Financial Services Policies

Appendix 7 - Benefits

Appendix 8 - Relevant Market and Participant Information

Appendix 9 - Association of Bay Area Governments Population Tables

Appendix 10 - City of Berkeley, "Resource Requirements to Implement a Change in Financial Institution." Attachment 3

Appendix 11 - Stakeholder's Feedback and Letters of Interest (https://friendsofpublicbankofoakland.org/supporting-organizations/)

Appendix 12 – A Social Mission - Divestment

Appendix 13 - Summary: German public banks help address climate change (Wolfram Morales, September 2017)

Appendix 14 - Relevant Cannabis Legislation

Appendix 15 – CCA- California Cannabis Authority

Appendix 16 - The Copernican Revolution in Banking. https://s3.amazonaws.com/qed-uploads/The+Copernican+Revolution+in+Banking+-+Publication+Version.pdf

Appendix 17 - Bruce Cahan, UrbanLogix. Adjunct Professor, Stanford University. GoodBank™ (IO), an independent teaching bank for high-transparency, impacts-aware commercial bankers. Credit scoring alternatives for sustainable banking.

Appendix 18 - David Polk & Wardwell Legal Memo, Bank Regulatory Considerations Related to Establishing a Public Bank in the State of California. November 18, 2017.

Appendix 19 - Virtue & Najjar Legal Memo, Establishment and Operation of a Chartered Public Bank by the City of Santa Fe, New Mexico, October 13, 2017.

Appendix 20- SB885, State Bank of New Jersey Act

Appendix 21- HB5431, Bank of Michigan Act

Appendix 22 - Refund America Project - Roosevelt Institute - Municipal Banking: An Overview Financing Socially Just and Sustainable Forms of Urban Development. Karl Beitel. April 2016.

Appendix 23 - The Winner Takes Almost All.

Appendix 24 – Report of the Commission to Study the Feasibility of Establishing a Bank Owned by the Commonwealth, August 2011.

Appendix 25 – California Alliance Public Banking Charter (Proposed)

Appendix 26 – Participating Members Municipal Funding

Appendix 27 – CRC Small Business Study, Displacement, Discrimination and Determination: Results from a Statewide Survey in California. CALIFORNIA REINVESTMENT COALITION Small Business Owners Struggle to Access Affordable Credit

Appendix 28 – Disaster Recovery

Appendix 29 – Fintech Collaboration and Outreach

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4

MULTI-JURISDICTIONAL PUBLIC BANK FEASIBILITY STUDY APPENDICES (SUPPLEMENT)

5

Appendix 1

PRIVATE AND PUBLIC BANKING

Most bankers view their role in the economy as being one of an intermediary; a bank takes excess, underutilized capital (deposits) and places them (as loans) in another sector of the economy that needs the capital for investments. Much like George Bailey in movie "It's a Wonderful Life," they see themselves as performing a valuable and necessary role as they put the savings of one customer to work as the capital for another. But this is a zero-sum gain view that unnecessarily constrains the equation and is based on a physical view of money. While this simplistic view may have been true for centuries because of the physicality of money, it is no longer so. A report from the Bank of England in 2014 states that "97% of the money held by the public is in the form of deposits with banks, rather than currency." It continues: "Where does money come from? In the modern economy, most money takes the form of bank deposits. But how those bank deposits are created is often misunderstood. **The principal way in which they are created is through commercial banks making loans**: whenever a bank makes a loan, it creates a deposit in the borrower's bank account, thereby **creating new money**. This description of how money is created differs from the story found in some economics textbooks."

What this actually means is that a bank's role is far more important than that of an intermediary. In our economic system a bank, creating loans on their books, is the enabler of the economy, creating loans ex nihilo (but within the established framework of rules) to fund important economic sectors. The issue is, *important to whom?* Most bankers are a conservative lot, very often with different values and interests than non-bankers. Is it any surprise then, that bankers express a desire to lend "but they can't find any profitable ventures"? Many of us have heard this from bankers because they truly believe that the economy can only absorb so much credit being extended. And what this translates to is money only for what it is they value -- established businesses and not worker-owned coops or money for fossil fuel centric businesses and not clean energy ventures.

The reason for Sparkassen's success funding the renewable energy grid in Germany is because their mandate comes from the community they serve, not their private shareholders. They have a 15 member board that equally represents the region's elected officials, community organizations, and employees. This is a sea-change in perspective and is the core reason why a public bank, modeled after Sparkasse, is viewed by many as a bank that truly serves the people within the region it serves, such as the East Bay. And, most important, the ability to create loans simply by writing them in a ledger is a privilege that should not be a monopoly of the private sector.

But, let's not overstate this too much. There are loan constraints because deposit costs and deposit maturities need to line up with a loan -- this is the way banking works. And, as an example, BND practices what many would consider traditional banking when it comes to commercial loans. The deals are done with the major funders (BND, federal government agencies, city/state tax authorities, and community bankers) sitting around a table and hammering out the terms of the deal. They do business face-to-face and work out ways to ensure that risk is mitigated, costs are covered, and maturity dates line up. So, for instance, if a manufacturer builds out his production line and it'll only begin to run at 30% of capacity for a

few years, ramping up to 70 or 80% over time, sales tax revenue (from the city and from the state) is used to buy down the interest rate during that period. Sometimes they buy it down to 1%.

The commercial loan niche that BND plays in is on the high end of small business loans. If a community bank has a longstanding customer that needs a loan much higher than the bank's legal lending limit, the bank turns to BND instead of a Wall St. bank. The risk of losing that customer to the Wall St. bank (because of cross selling) is simply too high. So they go to BND and BND not only puts the deal together, funding much of it, but it also does the servicing of the loan. And, all along, the bank continues to manage the customer relationship and rests assured that the large customer is not going to be lost to a Wall Street bank.

All of this give/take makes for a more solid business and lending environment in North Dakota. Loan write-off rates for BND are regularly under 1% and are regularly about 50% of that of the average ND community bank. Clearly, it's very conservative.

Good governance, reasonable public oversight, and some measure of democratic processes are part of this equation, in addition to the extension of credit. It's not simply a matter of lending deposits.

Finally, the private bank credit contraction of 2008/10 resulted in driving the recession to all sectors in the economy. Some of those effects are still being felt. Public banks are counter-cyclical. Because they do not have the same liquidity and solvency issues as private banks, they are in a position to expand credit precisely when private bank credit contraction is unnecessarily out-of-control, a kind of systemic risk that can bring an economy to its knees. A paper on the "Counter-cyclical Behavior of National Development Banks in Latin American and the Caribbean" from January, 2017, concludes with the following statement:

"Our main findings are the following. We find robust evidence that national development and public banks increased total lending in response to crisis periods relative to normal times, while domestic and foreign banks decreased their lending relative to their normal lending pattern. It is interesting to observe that the average national development bank lends at a lower lending growth rate than the average domestic bank in normal times (3.21 percent per annum compared to 9.36 percent). However, once a crisis hits, national development banks expanded lending at a higher rate (10.62 percent per annum compared to 6.17 percent for private banks). This countercyclical behavior of national development banks is even stronger when considering corporate and commercial lending rather than total lending. While foreign bank lending did not differ much from domestic bank lending, we observe that public banks have played a similar countercyclical role during times of crisis, as did national development banks[1]."

BND and other public banks in Germany also demonstrated their countercyclical nature during those years. A network of large public banks (in California and throughout the USA) would soften the blow of private bank credit contractions. Here are some quotes regarding private banks from a report on BND that the Federal Reserve of Boston produced (from 2011 Federal Reserve of Boston report on BND[2]):

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[1] http://policydialogue.org/files/events/Future_of_National_Development_Banks_-_Countercyclical_Roles.pdf

[2] https://www.bostonfed.org/publications/new-england-public-policy-center-research-report/2011/the-bank-of-north-dakota-a-model-for-massachusetts-and-other-states.aspx

"The North Dakota banking market has a robust small bank presence. Banks with less than $500 million in deposits account for almost one-half of total bank deposits in the state. In this environment, BND plays the role of sharing risk with smaller banks, ensuring that larger-scale projects can get funding."

"The Bank of North Dakota is a unique institution. Although it has played various roles since its founding in 1919, BND's most important role in 2011 is serving as a lending partner for North Dakota's numerous small banks. Over one-half of BND's current loan portfolio consists of loan participations and loan purchases from community banks."

Loan participations are arrangements where a lead bank (in this case, a smaller institution) originates and services a loan, and another bank (in this case, BND) is involved in some capacity.

This involvement can take various forms, including guarantees, capital contributions for the initial loan, and interest rate buy-downs (contributions to payments during the early years of a loan, to reduce costs to the borrower). Some 50 percent of BND's loan portfolio is guaranteed by federal and state agencies.

BND did assist North Dakota banks through "record loan growth, letters of credit for public deposits, and a record amount of fed funds borrowed.""

Here are quotes regarding private banks from the BND 2015 Annual Report:[3]

"Financial institutions benefited from their partnerships with BND's treasury and investment services in 2015 with:

- *More than $2.5 billion in public deposits through pledging services, an increase of $0.5 billion from last year*
- *$230 million in large non-public deposits through repurchase agreement accounts, an increase of nearly $50 million*
- *$679 million of liquidity through BND's secured and unsecured federal funds lines, an increase of $60 million*
- *More than $288 million of additional liquidity through the Letters of Credit for Public Deposits Program"*

State Bank vs. Municipal Bank Comparison

If California was to create a state bank, and numerous municipalities started their own banks, what would be the difference? Here are a few points.

1. A California state bank would likely have a general mission to serve the people of California, but it would likely be constrained so that it does not interfere in existing markets. For instance, it would likely be prohibited from issuing commercial credit for businesses, whether or not in partnership with community banks. The reason is that smaller municipal public banks can likely effectively serve this market and, in the case of very large commercial loans that exceed a municipal bank's legal lending limit, these commercial establishments can likely issue corporate debt in order to

[3] https://bnd.nd.gov/2015-annual-report/

raise the money. Companies like Apple and Google don't need to go to a state bank for a loan -- they can issue either debt or shareholder equity.

2. A California state bank would primarily be involved in providing infrastructure financing for both large and small infrastructure projects in California. It would likely work closely with the California Infrastructure Bank and provide credit that would lower the cost of financing. It could also create pools of investment funds that can be used for targeted infrastructure financing, such as renewable energy and/or the relatively new community energy choice organizations, with the money coming from small investors or large investors, such as CalPERS.
3. A California state bank would have economies of scale in providing back office and loan administration & servicing in large credit markets, such as student loan consolidation. There are many opportunities to lower the burden that has been placed on student loan borrowers and, for those working full-time and living in California. One such opportunity is to consolidate the outstanding student loans, lower the interest rate, and provide reasonable monthly payment alternatives.
4. A California state bank could also come out with low-cost, internet based depository services for the un/underbanked market, which, according to the FDIC, comprises over 20% of California households. Markets like these exist but have been overlooked by the existing private banking market.
5. A California state bank can provide emergency loan services to counties and municipalities that are facing natural disasters.
6. Finally, a state bank can provide liquidity and solvency programs in partnership with municipal public banks, which can then judiciously use them to help community banks expand their presence in specific counties. Providing letters of credit, a low cost way to guarantee government deposits, can also be provided to community banks.

Municipal banks can focus on indirect lending (through community banks) of commercial credit, small infrastructure, municipal bond refinancing, investment accounts, and specific economic development programs

The Public Bank Charter in the State of California (as proposed)

Besides capitalization, governance is likely top-of-mind for most people evaluating the merits of a public bank. To some, of even greater import is the question of organizational capacity. Can a municipal government build something like this from scratch? And will this bank will be part of a network or will it be stand-alone? We all know of the "network effect" phenomenon, where a product or service gains value as more people use it. To some extent, this concept can apply to banking, but the value accrues as more public banks are established and become networked. Just as the Sparkassen banks are independent banks with a limited regional business area and are joined together in an association, many public banking supporters view public banks in California as possibly having the same limit placed on territorial coverage, essentially one per county, and joined in an association. In doing so, they leverage an expanded knowledge base and benefit from the economies of scale.

With the purpose of addressing capitalization and governance, and to make it easier to build organizational capacity and to rapidly establish a network of public banks, some public banking advocates have defined what a new public bank license, issued by the Department of Business Oversight, could look like. As background, during the summer of 2017, Davis, Polk & Wardwell was engaged by the Economic Justice Lawyers' Committee for Civil Rights in San Francisco to research and write a report on the regulatory

considerations for public banking in California. One of the recommended actions in the report was to have the California Department of Business Oversight issue a license to public banks that would help resolve many of the issues associated with a public bank using a Commercial Banking Charter to conduct business. Their legal memo can be found in Appendix 18. The California Public Banking Alliance has developed an outline of some of the key elements of a new Public Bank Charter. They are as follows:

Public Bank Charter
(As of June 13, 2018)
In fall 2018, the California Public Banking Alliance, a statewide alliance of organizations pushing for public banking across 8 California cities, will co-sponsor enabling legislation which will create a public bank charter for local government entities, regulated by the Department of Business Oversight.

What Organizations Qualify to Receive this Public Bank Charter?
The Public Bank Charter will be available to Qualifying Government-Owned Organizations, which will include banking institutions that are owned by:

- Cities
- Counties
- Joint Powers Authorities consisting of cities and counties

Purpose of the Public Bank Charter:

It will establish municipal or regional banks that:

1. Provide authority for a public bank to provide banking services within a "Territory," defined as the primary county and adjacent, contiguous counties in which the public bank operates;
2. Expand credit by providing loans for infrastructure, worker cooperatives, public housing, for both new construction and capital improvements;
3. Further financial inclusion by providing online depository banking services to community residents where private banking has not met the depository banking needs of the market in the given region (e.g. the underbanked and unbanked) in partnership with the US Postal Service, when possible;
4. Further financial inclusion by providing trust accounts for every child born within the bank's given region with a "baby bond" that matures at adulthood; and, [LS]
5. Create specific investment opportunities (investment funds that specifically target sound areas of the economy that are underfunded) for community residents to "invest local".
6. Ensure that bank governance and all bank policies comply with explicit social responsibility and environmental regenerative standards that further equality and minimize dependence on fossil fuels, promote regeneration of biological systems and protect biodiversity.

How will Cities be able to Govern their Public Banks?

1. Establish an independent governance committee, comprised **equally** of 1) public bank employees, 2) individuals holding state, municipal, or county elected office within Territory, and 3) elected members who live in the Territory of the public bank local community through the "California Public Banking Alliance" membership organization, and such committee that is gender-balanced and reflects the population of the area served by the bank;
2. Require public input, annual review and other participatory approaches/methods, or city statute on the rate of growth and allocation of the bank's loan portfolio;
3. Write, regularly update, and adhere to a social responsibility and environmental regenerative standards statement; and,
4. Actively network with other public bank chartered banks and adhere to commonly understood best practices.

How will Cities be able to Control how their Public Banks Operate?

1. Raise capital by donation, corporate debt equity, and/or public bond or appropriation;
2. Receive deposits, lend, and operate within the public bank's Territory;
3. Maintain a business plan to operate a commercially viable bank according to the environmental and social policies as required to achieve it;
4. Use the founding charter city and its partners as guarantors of deposits, qualifying them as a 'source of strength' for federal and state regulatory purposes;
5. Hold deposit insurance or equivalent security (including public guarantee or general obligation bond) for deposits as approved by the Department of Business Oversight;
6. Relax or remove collateral requirements for public funds (deposited by the government entity that owns the bank) and affiliate transaction restrictions that would prove antithetical to the bank's purpose;
7. Seek to return a profit to its shareholders by making commercially viable, economically sustainable and environmentally regenerative loans and providing a high level of service to its depositors, customers, and partners; and,
8. Adhere to strict social responsibility and environmental standards in its lending and business practices.

What Limitations will Cities be able to impose on their Public Banks with this Public Bank Charter?

1. This charter will prohibit a public bank from making any investment, loan or line of credit to be used in the fossil fuel industry, weapons manufacturers and distributors, police militarization, companies with hidden overseas wealth or unethical business or labor practices;
2. This charter will prohibit a public bank from providing commercial loans directly to businesses except in partnership with banks (i.e. Community Banks and Credit Unions) active in the given region and that are accepted by the Governance Committee;
3. This charter will prohibit a public bank from providing retail banking services through retail banking locations (brick and mortar) except in partnership with banks (i.e. Community Banks and Credit Unions) active in the Territory given region and that are accepted by the Governance Committee and except with the U.S. Postal Service offices in the Territory;
4. This charter will prohibit a public bank from providing banking services to people who have their primary residence outside of or to organizations with primary location outside of Territory; and,
5. This charter will prohibit a public bank from selling the bank to or merging with any bank that does not have this same license.

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Appendix 2

OUTREACH SUMMARIES

Throughout the community engagement process, the Global Investment Company project team facilitated focus group discussions with small groups generally consisting of 8-22 people. The purpose of the focus groups was to gain a deeper perspective on the feasibility of forming a public bank in the Oakland, Berkeley and Richmond region. The stakeholder focus groups provided an opportunity to reach a representative sampling of the target demographic and priority populations. These groups were Citizens, Cannabis, Treasurers, Small Business and Finance and Banking. The focus groups were held on January 22, February 9, February 13, March 15 and March 16, respectively. The stakeholders representing affordable housing were grouped with the small business focus group. At every focus group meeting, there were generally 3-6 members of the GIC Team. Extensive notes were taken at the focus groups; the facilitator's raw notes are included in Attachment.

Key Takeaways

- *The participants want to keep banking local, simple, safe, and transparent.*
- *Public bank may reduce fees for services, contribute to social/economic justice*
- *Public banks may add flexibility in public funding*
- *Public banks can partner with community banks, credit unions, small bank; and could meet the needs of the unbanked population.*
- *Public bank may be achieved with an existing department of one of the governmental agencies*
- *Banking cannabis isn't illegal at the state level but is at the federal level and as such, would be deemed risky to the bank*
- *One significant concern with cannabis banking is money laundering*
- *Cannabis businesses want to be legitimized by banks*
- *Public bank may be able to offer services to cannabis businesses*
- *Large banks are starting to give 60-day notices to cannabis businesses*
- *Affordable housing is a top priority for all of the focus group participants*
- *Citizens want community lending, reinvestment , student loan, etc*
- *Large banks can't keep up with the demands of the municipalities and municipalities can't afford the 120% collateralization*
- *There is a lack of communication with existing banks.*
- *Property management and office space is a concern for small business*
- *Small business loans in Oakland are not readily available.*
- *The Treasurer's want relationships with the community*
- *Treasurer's suggested, depending upon the services offered, migration to the public bank would be a multi-phase process beginning with select few services such as payroll, short-term cash management activity, etc.*

Case Studies and Notable Quotes

Scenario #1

"Strike Debt to public banking. When I went to the City Council meetings, I grasped the number of requests for funds and the council wanted to say yes to the requests. There are limited funds. A public bank changes many of the "No's" to "Yes's". Oakland's budget is about half the size of North Dakota. So many coming to City Council need less than $100,000 to be okay."

Scenario #2

"We had an account closed. The bank issued a $63,000 cashier's check before I had time to discuss the matter. A person was fired for opening an account for a cannabis business. I had closed accounts with a commercial bank and credit union."

Scenario #3

"As an attorney being paid by a cannabis business, money in my bank account was paused. My clients operation was raided so my account was affected."

Scenario #4

"Funds were withdrawn from my account by the IRS and my bank failed to notify me. I wrote my rent check and it bounced."

Scenario #5

"I jumped on the public bank when I met Ellen Brown a number of years ago. It is a bank without shareholders. It serves the public and at the will of the public. You can generate funds but shareholders generating funds is not the priority for a public bank. I was in Europe during the election and become a real political activist. A neighbor informed me that there is work being done on a public bank."

Scenario #6

"The example of cannabis. There is a safety issue. What happens if someone gets robbed (due to the current all-cash method of conducting business that is currently in place)? A public bank can do it, based on a public safety issue. How much will it cost, I can meet those because I don't have to worry about someone getting robbed."

Scenario #7

"If I removed my funds from Wells Fargo, and place them in public bank, I feel like I am a part of the community. I want to own something."

Scenario #8

"In 2015, Wells Fargo closed my account due to cannabis business. The bank held over $18,000 in limbo for 6 weeks. The bank closed the account and returned the funds. They stated that they reviewed the account and closed it with no other clarification. They reported no red flags."

Scenario #9

"The public bank is the way. I have sense learned about Bank of North Dakota. Our debt to Wall Street is astronomical. If that debt belonged to us we would be able to buy back student loans and reissue them at 4%. The bank is wholesale and partners with other community banks. We can make decisions with a lot more money that we are willing to take risks. At the City Council, there wasn't enough money to solve the problems. I went to all of the budget meetings this year and there isn't enough funds."

Scenario #10

"Entered public bank arena about 6 years ago. My theory on the reticence of banks is that there is a risk factor and the state hasn't given much sense of security. The state is taking a serious tax risk. The cost of compliance is significant. As a business owner, banks haven't approached me. I was approached by a credit union. The biggest challenge is ramping up to full capacity. It is at least a 5 year run to get up to capacity. Same issue of the current community banks. We refer to the Bank of North Dakota so Brazil, Russia, China have used public bank to further other interest such as green energy. All the money stays in the community."

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Appendix 3

SOW TASK CHECKLIST

Feasibility of Public Bank Options	Narrative	Page
a. Public Bank for Municipalities		
Key Functions of this Bank	Lending, Deposits and Payments	10-11
Provide the benefits to establishing a public bank	Benefits in various areas of the study, Member of Federal Home Loan Bank, etc.	13,17,25 Appendix
Provide the risks to establishing a public bank	See Legal and Regulatory Issues	16-26
Provide a mission statement	East Bay Region Public Bank is a socially, environmentally and economically responsible institution created to fill unmet financial needs of the region; or East Bay Region Public Bank mission is to provide credit, deposit and wholesale banking services to East Bay and neighboring municipalities; or The mission of East Bay Region Public Bank is to be a sustainable public bank for public benefit. EBRB is fair and fills unmet financial needs our community.	Samples to Review for comment
Describe the structure of the public bank including the types of services to be provided.	Provide a variety of options	Appendix 10-23
Identify the banking services that a public bank would provide that are not currently being provided (or provided adequately or affordably) by community banks and credit unions.	Analyze the current services for gaps	Appendix 33-35
Determine the initial investment requirement for a public bank to assume the responsibility of banking services to municipal customers.	Capitalizing the public bank	48-51
This raises the question of the optimal scale of a public bank given a range of customers, including but not limited to municipalities.	Determine optimal scale – multi-jurisdiction	9
Identify options, sources and needs for initial capitalization of the public bank.	Capitalization section	51, Appendix 26
Identify potential revenue stream(s) for operational of a public bank.	Consider revenue	41 and Appendix 26
Identify institutions and steps needed to obtain regulatory approval for the establishment of a public bank. Include required licenses, insurance, governance structure, etc.	Regulation needed to establish, i.e. licenses, insurance, governance	12-22
Describe requirements to ensure sustainability and continued alignment with the social responsibility objects established by participating jurisdictions.	Determine multi jurisdiction sustainability requirements Put requirement for Responsible Banking Ordinance in Public Banking License	18 Appendix 1, Appendix 12
Describe any opportunities for partnership with existing credit unions, commercial banks, non-bank lenders and small business lending and mortgage companies.	Opportunities identified	28-44, Appendix 29, Appendix 2
Provide a risk analysis including fiscal legality and any other constraints. Also, quantify the impact of the transfer of investments and banking services to a public bank on the credit rating of the City of Oakland and other participating East Bay jurisdictions	Transferring fiscal responsibilities to a public bank from multi jurisdictions. Acquisition versus starting from scratch	10, 53Appendix 10,
Develop a credit scoring model that equitably reflects the risks of lending to underserved residents. What would be the credit rating(s)	Credit Scoring model Address what the credit rating(s) would	Appendix, 1, 33

of the bank?	be	
Identify the challenges or opportunities for a public bank	Identify Challenges or opportunities	12-25
Provide a comprehensive summary of why this structure is feasible or not. If so, please provide a timeline for implementation – from approval of concept to market readiness.	Explain why the suggested structure is feasible or not	Appendix 1,54

b. Unbanked and Cannabis Industry		
Identify the capital requirements.	Capitalization for cannabis	Diagram
Provide a risk analysis including fiscal, legality and any other constraints. Also, quantify the impact of the transfer of investments and banking services to a public bank on the credit rating of the City of Oakland and other participating East Bay jurisdictions.	Legal opinion	19, 25
Describe what method can be used to identify unbanked communities and what outreach programs are available. Identify any challenges and how to overcome these challenges.	FinTech, community banks and non-profits. Underbanked and unbanked related programs.	38-34, Appendix 29
Since banks are overseen and insured by federal agencies, describe in detail how a public bank that serves the cannabis industry might overcome these federal rules and the Federal Reserve System; since without an account at the Federal Reserve, a bank is "nothing but a huge cash vault."	Address how a public bank serving cannabis overcome federal rules and federal reserve system	19-25
Address how a public bank serving the cannabis industry will meet the requirements for Federal Deposit Insurance Corporation (FDIC) insurance. Describe the challenges of securing deposits if FDIC insurance is not available.	Address how a public bank serving cannabis overcomes insurance requirements.	19-25
Describe how it might be possible for a cannabis bank to get private insurance, describe the benefits, costs, and risks of obtaining private insurance	Can cannabis get private insurance? Yes.	19-25
Describe the risks associated with lending activities (i.e., loans) to the cannabis industry.	Lending to cannabis	19-25
Describe the most important functions and services of a bank which cannabis business need. For instance, do cannabis businesses need merchant services, payroll functions, technological features, etc.? Can a public bank easily provide these services? Please address the fact that the only other Public Bank in the United States, the Bank of North Dakota, is a wholesale bank and probably does not provide these retail services	What are the bank functions needed? Can a public bank easily provide these services? Discuss BND	Appendix1, Appendix Outreach Summaries, Appendix 10, Appendix 26
Is there any potential liability of a public agency including city officials and employees, please describe?	Address liability to agency and staff	16-18
What entity will regulate the public bank? What entity will examine the public bank? If the public bank loses money, what entity will absorb the loss?	See Section II: Legal and Regulatrory	11-16
Finally, for a public bank which accepts cannabis clients, comment on the recent State Treasurer's report and describe how a local public bank could succeed where - in the Treasurer's opinion - a state bank could not at present succeed.	Address State of California Treasurer's Banking Access and Cannabis report 11/7/17	26-27

c. Community Reinvestment/Lending (small business lending, consumer loans, etc.)		
Identify what the needs are.	Identified through focus groups, summit and interviews	Appendix 2 Outreach Summaries
Mission	Samples to review	See above samples
What services have not been met and why? How much of the reason is that potential borrowers are not creditworthy? And how much is because of an unwillingness by banks to lend to creditworthy borrowers for other reasons?	Describe the services not being met	27-37

Advocacy for undocumented citizen's	New programs and technology address inclusivity	Appendix 29, 33, 36
What would be the methodology used for developing certain mortgage products or small loans (business and consumer) to mitigate risks, given the overall impact of the great recession of 2007-2009, which left small business vulnerable to and battered by the financial crisis of 2007-2008, real estate hit hard by the subprime mortgage crisis, and financial institutions to constrain lending, citing the need to conserve capital and make fewer risky loans?	CALCAP is an example	38-43
Identify opportunities and risks associated with servicing the student loan market	Identify opportunities and risk	26

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Appendix 4

LENDING AND GUIDING VALUES

Oakland specified a number of measurable goals in its Economic Development Strategy document from September, 2007. The table below shows how a public bank can enable those specific goals. Note the frequent mention of the lending programs -- these are the heart of any public bank.

Measurable Goals	Enabled How?
We will support more than 1,000 businesses each year	Design commercial loan programs to target specific sectors, such as renewable energy, manufacturing, and home construction, and to localize supply chains or fund businesses located in Business Improvement Districts (BIDs)
The economy will add 2,800 jobs each year	Require that, for every $100,000 in loan principal, a new job is created.
We will give 12,000 Oakland residents access to job training services each year	Design a loan program that can help pay for job training programs.
We will achieve a 90% business satisfaction rating for the City's assistance and services	Access to affordable credit will be a sure way to increase the business satisfaction rating.
We will support the construction of more than 4,250 new homes, including 1,200 below market rate homes and permanent supportive homes for the homeless, while protecting 5,000 households from displacement	Create investment funds that investors can put money into and that specifically fund this kind of construction. This could be a way to fund longer term mortgages as well.
Our public-private development investments will earn $30 million in one-time revenues and $16 million in annual City revenue to fund City services and programs	Use this money either as capital for the bank or as a deposit base. Either way, it will fund credit expansion in the bank, and then use the new credit to fund City services and programs, with a repayment schedule created to ensure repayments.
We will spend $120 million on transportation and other public infrastructure - including repaving 1,100 City blocks - and other City facilities, including fire stations, libraries, and recreation centers	Use this money either as capital for the bank or as a deposit base. Either way, it will fund credit expansion in the bank, and then use the new credit to fund City services and programs, with a repayment

	schedule created to ensure repayments.
We will conduct a Racial Equity Analysis to evaluate existing conditions, analyze impacts, and maximize positive outcomes for communities of color, English learners, and low income communities.	Use the same Racial Equity Analysis to determine if the Public Bank of Oakland loan portfolio accurately reflects the demographic profile of the City of Oakland.

Another alternative for the City of Oakland is, of course, to rely upon the Community Reinvestment Act (CRA). Indeed, many expect that the CRA will serve as a kind of safety net so that the private banks help to meet the credit needs of the communities in which they operate, including low- and moderate-income neighborhoods. But regulating this kind of behavior into existence is difficult, according to Michael Skipper, VP and Community Development Manager at WSFS Bank in Wilmington, DE, "..as regulatory agency oversight on credit policy has led to risk aversion, tightened credit standards, heightened pressure on return, and reluctance to delegate authority through participation." (Participation loans are precisely the approach BND takes for all of its commercial lending.)

In May, 2017, KQED aired a report ("Why Are Fewer Loans Going to Minority Business Owners?") indicating that "Wells Fargo, one of the top providers of SBA-backed financing in the country, reduced by half the number of all business loans for under $1 million in the Oakland, Fremont and Hayward areas since 2008, according to loan origination figures reported under the Community Reinvestment Act. Other large banks show a similar trend." Small Business Administration (SBA)-backed loans are only a fraction of all the business lending going on in the country, and the SBA is partnering with Community Development Financial Institutions (CDFIs) and microlenders to make loans under $250K. But scaling is the problem -- how can small loans be cost-effective for the lending organization? This is probably an issue that will likely not disappear should the East Bay establish a public bank. What a public bank does, however, is provide locus -- fiduciary oversight -- so that cost-effective loan programs are created to fund small business lending.

How a Public Bank Enables Oakland Guiding Values

Guiding Values	Narrative	Enabled How?
Economic Security	Enable all residents to be economically secure, build wealth, and achieve their full potential	Create loan programs that create economic opportunities for many community members (students, business owners, worker-owned cooperatives, and infrastructure workers), provide low-cost web-based depository services for the un/underbanked, savings accounts for working families, and investment accounts for local investors who want to keep their money local.
Equity and Diversity	Reduce racial and gender gaps in employment, income, and ownership; maintain diversity	Require that any commercial loan recipient publishes the "pay scale" for positions funded by credit that is provided by the Public Bank of Oakland.
Growing Good Jobs	Help businesses to thrive so they can preserve and add living wage jobs	Direct loan programs towards growing industry sectors that provide living wage jobs. Require that, for every $100K that is loaned, a new employee is hired.
Fiscal Sustainability	Expand the City's revenue base to better fund services and community investment	Expand the revenue/tax base by lowering the debt service cost for businesses that are participating in any of the commercial lending programs, thereby making Oakland more attractive to business startups, expansion, relocation, and foreign direct investment.
Efficiency	Optimize public benefits from limited public resources	Consolidate existing loan programs provided by city and county and streamline (state and federal) funding sources.
Shared Responsibility	Recognize that economic development is a City-wide responsibility shared by many departments	Annual review of all bank services (lending, deposit, savings, investment) should identify how each of these services could be leveraged by or could leverage other city programs. (Internal collaboration)
Collaboration	Support internal collaboration and external partnerships	Internal collaboration: see above. External partnerships: Work with community bankers to determine how the commercial lending programs can be used by them to increase their business.
Transparency	Increase community awareness and engagement	Hold an annual public forum that discusses the existing loan portfolio and loan programs, the projected growth in credit capacity for the next year, and how this growth will be allocated to the existing (and any new) loan programs.

Source: 2018-20 City of Oakland Economic Development Strategy

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Appendix# Social Responsibility

Table . Summary of Cities and States Creating Socially Responsible Banking, Investment and Financial Services Policies

City	Link to Legislation	Other Relevant Information	Date of Divestment	Rating
Seattle, Washington	Seattle Legislation		February 7, 2017	Strong 1,2,3,5
Los Angeles, California		In the process of implementing their strengthened socially responsible banking ordinance.		
Berkeley, California	Berkeley Responsible Investing Policy City of Berkeley Resolution look at item #24	Berkeley establishes a banking task force to create RFP language and implement the socially responsible banking and investing goals	March 30, 2017	Strong 1,2,3.5 so far - other items to be considered and presented by the banking task force by 12/17
San Francisco, California	San Francisco Legislation Treasurer's Evaluation of Wells Fargo	San Francisco Social Responsible Investments Legislation see section 13 Added DAPL to their pre-existing screen for socially responsible banking. The City's contract with Bank of America isn't up until August 2018. The public employee fund (SFERS) is voting in January on divesting from fossil fuels.	March 14, 2017	Fair/Strong 1 (banking, investments and some of the other services), 2,3,5
Davis, California	Davis Divestment Staff Report Davis Resolution Davis RFP and Investment Policy		February 7, 2017	Fair 1 (deposits, investments, and some banking services), 2, 4, 5
Santa Monica, California	Santa Monica City Legislative Divestment Process Note: read the attachments for a complete picture	Annual Update on City Investment Policy (Santa Monica) RFP to be issued soon	February 14, 2017	Strong 1 (deposits, investments and other services), 2, 3, 5
State of CA	Action by State Treasurer John Chiang	NYT Article		Includes all relationships with Wells Fargo

City	Link to Legislation	Other Relevant Information	Date of Divestment	Rating
Alameda, California	City of Alameda Resolution (pg 17-20)	In progress. First directions seem vague.	February 21, 2017	Fair 1, 2
Palo Alto, California	City of Palo Alto Resolution		February 19, 2017	Limited to CalPERS
Richmond, California	City of Richmond Resolution		May 7, 2013	Limited to divestment of holdings in fossil fuels
Portland, Oregon	Enacts Socially Responsible Investments Committee Do Not Buy List Resolution		Dec. 21, 2016 Vote to disinvest from WF	Limited to divestment of holdings

New York, New York	Suspension of Business with Wells Fargo	New Business Suspension Temporary Exception	May 31, 2017	Undetermined - unable to access details of legislation
Fairfax, California	City of Fairfax Resolution Resolution re: fossil free CalPers investments			Limited to CalPers
Missoula, MT	Missoula Resolution	While limited to bank accounts, it looks like other resolutions address socially responsible investments	April 3, 2017	Strong social responsibility language
Philadelphia, PA	Philadelphia Resolution		May 2, 2017	Limited to depository services
Washington, DC	DC Resolution	D.C.'s largest Pension Divests from Fossil Fuel	March 21, 2017	Fair 1, 2
East Orange, NJ	East Orange Legislation		February 15, 2017	Limited to investments
San Diego, CA	San Diego RBO		2012	Limited to Language on Community Reinvestments and some reporting requirements
Oakland, California	Oakland Legislation	Article on Divestment and Public Bank Study Investment policy already bars investments in fossil fuels directly (but not banks that fund fossil fuels).	March 7, 2017	Limited to divestment of JP Morgan and starting a Public Bank Study
State of Ohio		Ohio News Article on Divestment	October 15, 2016	
State of California	State Treasurer Chiang Suspends Business	Year Suspension with Wells Fargo and Pension Fund Pull	September 28, 2016	

State of Illinois		Illinois News Article on Divestment	October 3, 2016	
State of Massachusetts		Massachusetts News Article on Divestment	October 18, 2016	
Other cities: Eugene, OR, Minneapolis, MN, Chicago, IL				

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Appendix 7

PUBLIC BANK BENEFITS

Benefits from a public bank are many, and many of these can be quantified as long as assumptions can be made. With this in mind, we make the following projected tangible benefits:

BENEFITS FOR MUNICIPALITIES

1. Cost Savings from Issuing Debt to Refinance Bonds
2. Cost Savings from Issuing Debt and Avoiding New Bond Financing
3. Cost Savings from Reduced Investment Management Fees
4. Cost Savings from Avoiding Tax Credits and Other Business Incentives
5. Gross Profit from Conservative (Short Term, Long Term) Investment Revenue
6. Gross Profit from Loan Portfolio Revenue
    a. Student Loan Consolidation
    b. Commercial Loans
    c. Small Infrastructure Loans
7. Fee and Margin Income from Targeted Investment Accounts (e.g. infrastructure) open to the Public
8. Increased financial capacity

FOR COMMUNITY BANKS

1. Booking more loans because of ability to compete more effectively on larger deals
2. More liquidity by having largest customer loans placed as asset on public bank's books
3. More solvency by having access to cash to bolster capital

FOR OTHERS (Students, Business Owners)

1. Savings from Student Loan Consolidation Loans
2. Savings from Commercial Loans
3. Lower Taxes because of Savings from Small Infrastructure Loans

And here are the intangible benefits:

1. Lowers risk exposure to Wall Street shenanigans by positioning government as a credit issuer, not just as a credit borrower
2. Adds rigor to public financing process because of this new option
3. Lowers systemic risk to the economy by the (private) banking industry because by having a counter-cyclical issuer of credit

Source: Marc Armstrong, President CommonomicsUSA

4. Reduces over reliance on tax credits and incentives by funding long term economic goals with two new direct funding options (issuing credit or setting up investment pools)
5. Increases community involvement
6. Removes Wall Street from dictating terms of public finance agreements

Source: Marc Armstrong, President CommonomicsUSA

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Appendix 8

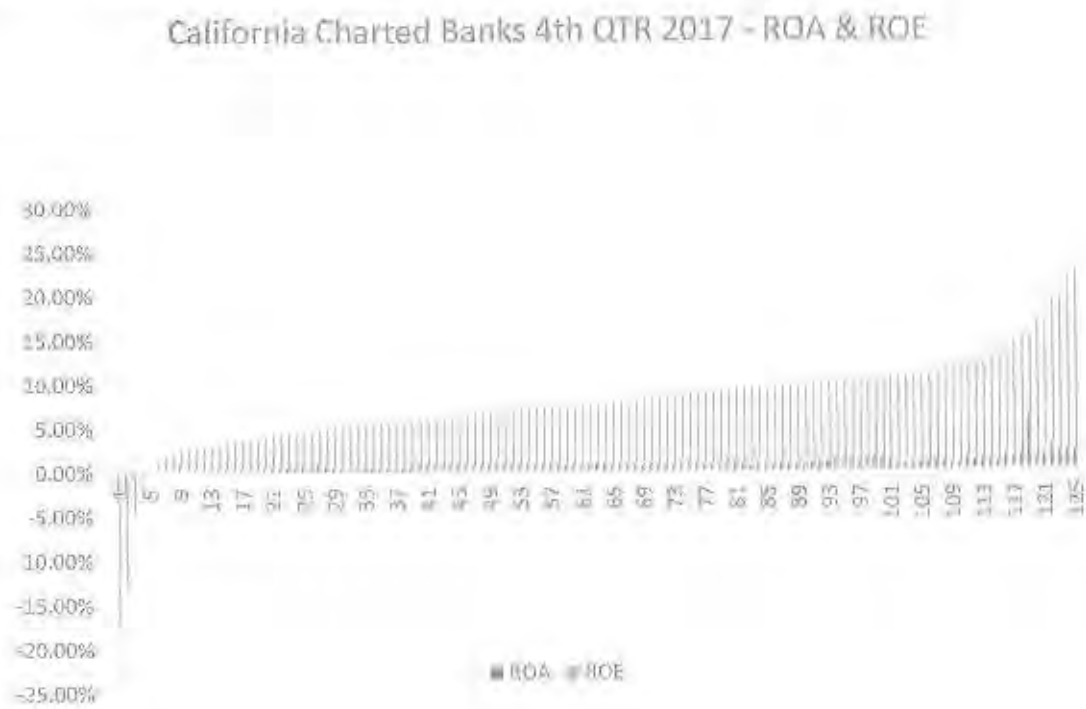
RELEVANT MARKET INFORMATION – Prepared by: Ron Surratt

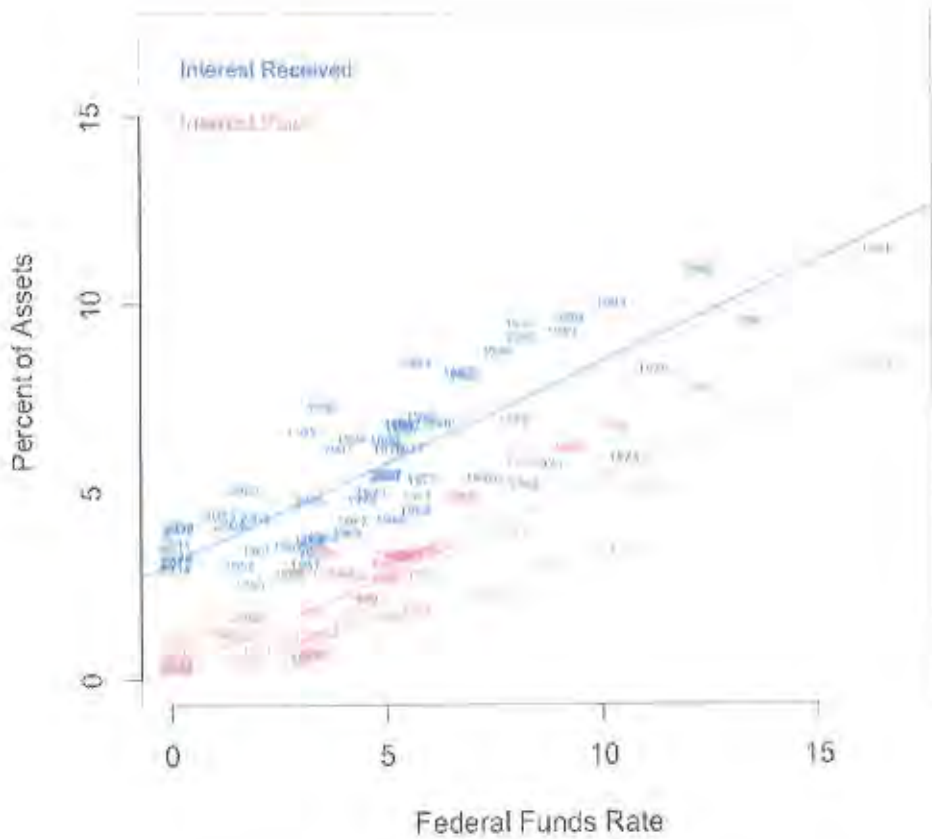
Participating Members

Berkeley, Richmond, Oakland, and Alameda County in some ways operate like a bank. They make loans in their portfolios (buy short term bonds) and take loans (sell long term bonds). But unlike banks they do not leverage their equity and they buy short term bonds at low yields and originate long term bonds at much higher interest rate. They lose money on the difference. For example, **Oakland is currently paying 5% on long-term bonds issued in 2016** (a time of lower rates than currently) and they **lost an inflation adjusted 0.8%** on their whole $900 million portfolio as shown in their Dec. 31, 2017 cash management report. Banks generally do the opposite: they leverage their capital and lend long term at high rates and borrow at shorter term at lower rates, earning money on the difference. Their difference is on average about **positive 2.5.**

The following information provides an overview of the current market landscape for a bank, the Federal Funds Rate, Default rtes, and a more detailed look at the Bank of North Dakota.

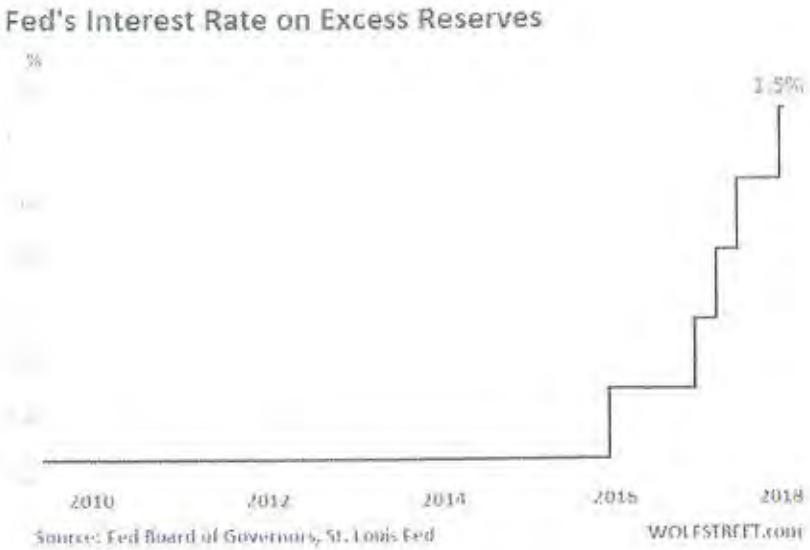
State of California Charted Banks - 2017

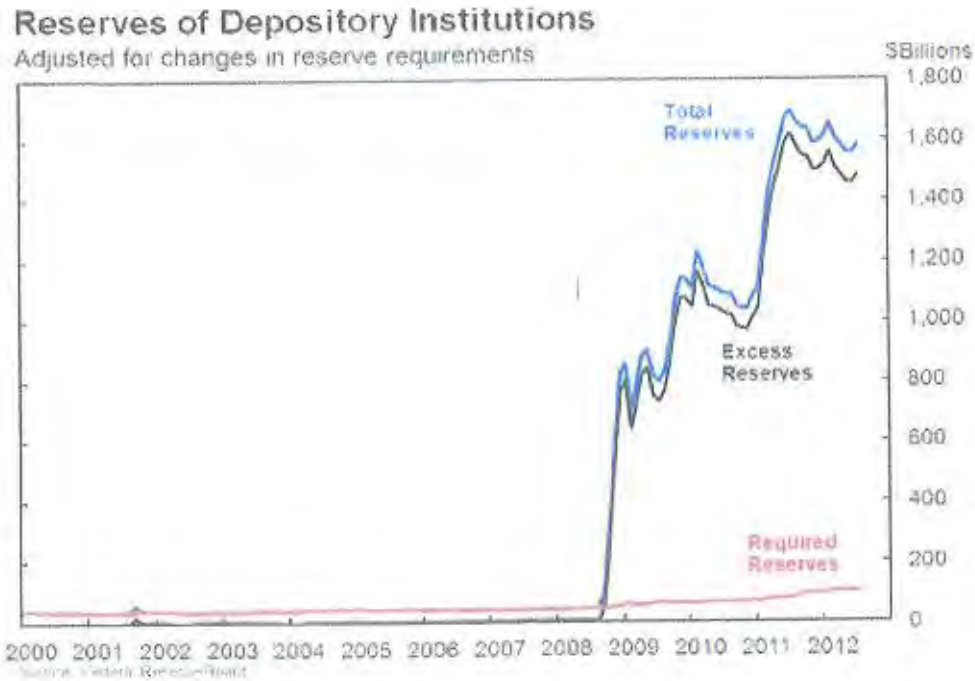




Fed Funds Rate - the rate at which banks make overnight loans to other banks often to make up for a shortfall in the borrowing banks required reserves at the FED. It should be noted that the Fed Funds Rate is pretty much meaningless anymore because the Fed Funds market is essentially dead. Since the 2008 crisis the Fed has paid interest on both required and excess bank reserves they hold and banks have significantly increased their excess reserves holdings. The only ones in the market are foreign banks with an account at the Fed who do not receive interest on their accounts. Banks do not need to borrow from other banks to meet their reserve requirements. Also, they do not trust the other banks enough to loan to them (counterparty risk).

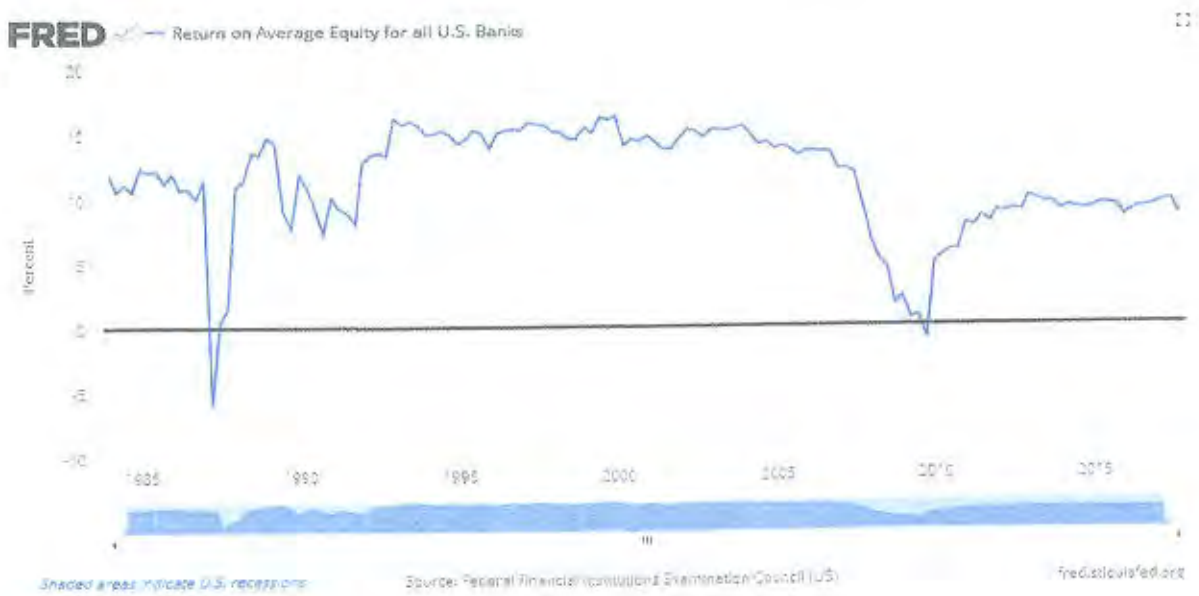
Excess Reserves is a new phenomena





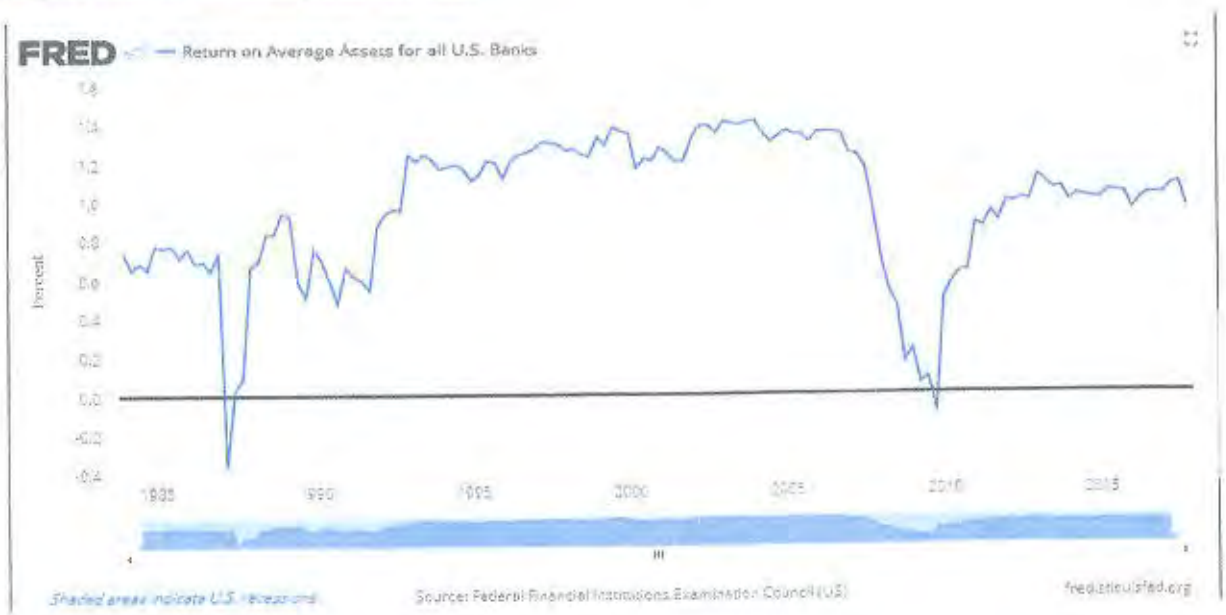
Banks Return on Assets, mostly loans (ROA) and Return on Equity (ROE).

https://fred.stlouisfed.org/series/USROE



Return on assets (loans) graph from the Federal Reserve.

https://fred.stlouisfed.org/series/USROA

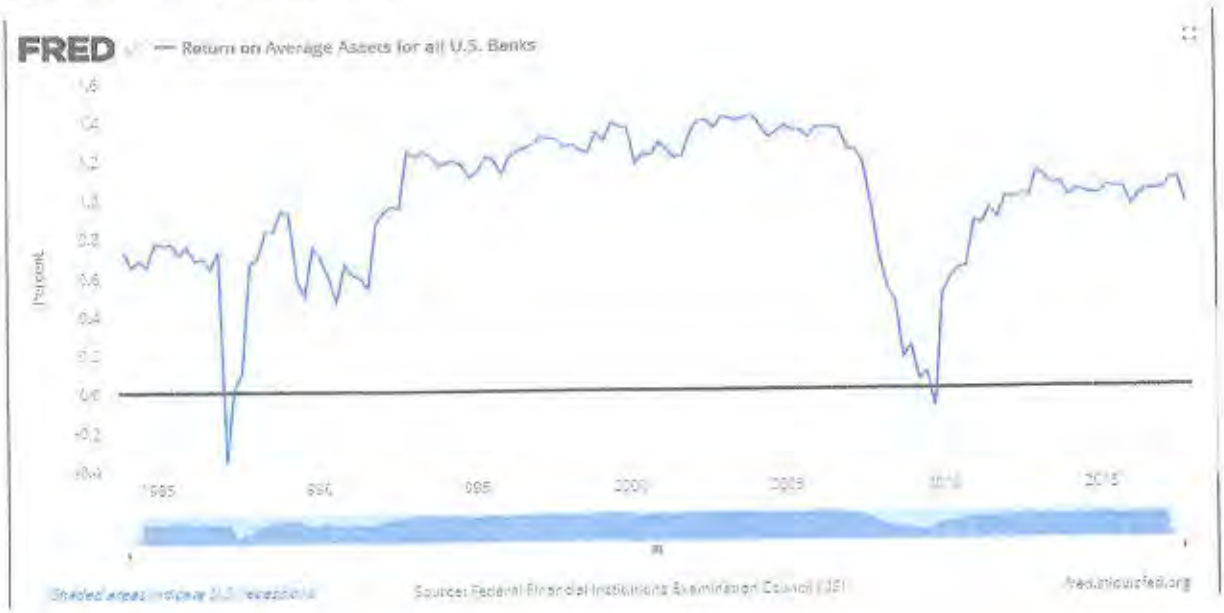


Bank of North Dakota

Compared to the average of all banks in the US (see chart above) the profits of the BND grew through the 2008-2009 financial crisis instead of dropping below zero.

Return on Assets Comparison between all US Banks and The Bank of North Dakota (BND).

Notice that during the financial crisis the BND had better Returns on Assets than all US banks **HAVE EVER had – always above 1.5%.**

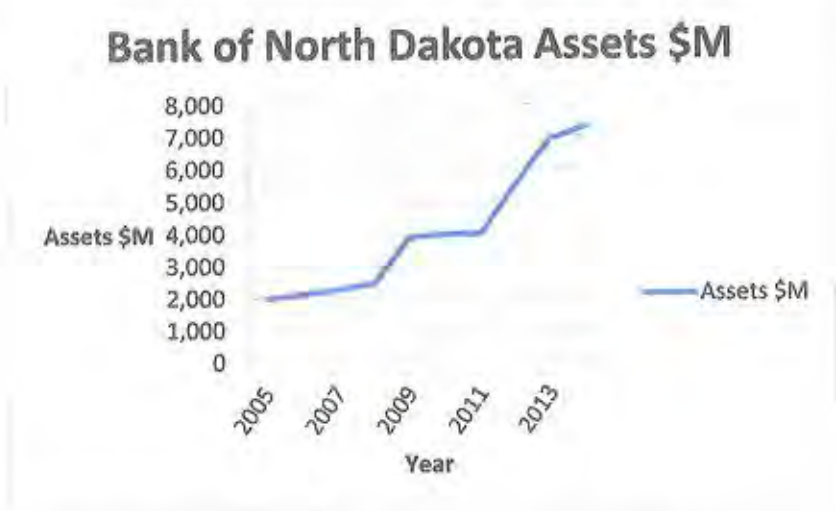




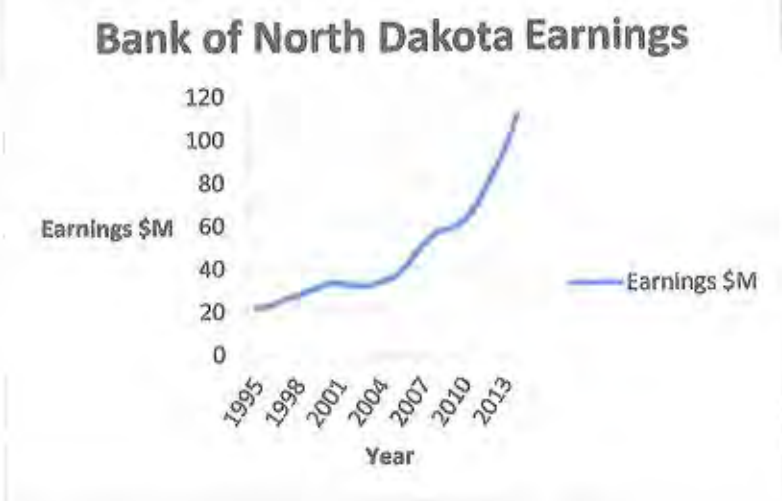
So How did they do that? First, they stopped returning profits of the bank to the state:



Then, while the rest of the financial system went into retreat and stopped making loans, the BND did the opposite and started making new loans to businesses and farms in the state:

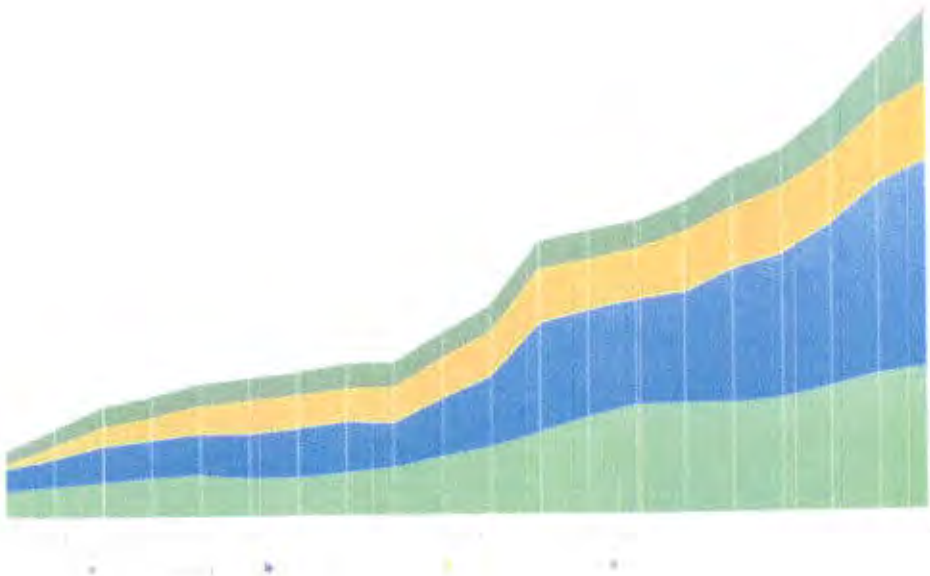


The end result is that their earnings went up significantly:



A more detailed look at their portfolio of loans:

Bank of North Dakota Lending Portfolios



Bank of North Dakota announces loan program changes

May 1, 2017

Enhancing business diversification efforts and addressing financing gaps in economic development programming were key issues identified in a series of 40 meetings with business and finance leaders, economic development professionals and elected officials across the state in 2016. The outcome of these meetings combined with additional research by Bank of North Dakota (BND) has resulted in a recommendation to the Industrial Commission to enhance four existing BND programs and implement a new program to assist fast growing companies in North Dakota.

"Economic diversification is a top priority for North Dakota," said Gov. Doug Burgum. "It will require a statewide focus and Bank of North Dakota is an example of a public-private partnership that leverages business and state funding options to create opportunity for our residents. These programs will allow BND to deliver on its mission of being an agile financial partner, to enhance our competitive advantage and think outside the box to deliver on new business funding concepts."

A key addition to the BND loan portfolio is the development of an Accelerated Growth Loan Program. This program will assist North Dakota-based companies with a record of proven operations, experienced management and the ability to generate cash flow when they have limited assets for traditional bank financing. Loan proceeds can finance the acquisition of real property, remodel, or expand an owner-occupied business, purchase or lease equipment, provide working capital or refinance a portion of existing loans. Technology-based companies are a good example of entities that could use this program. Like all BND business loan programs, it is made in partnership with local lenders. The business owner should visit first with their local lender to determine qualifications.

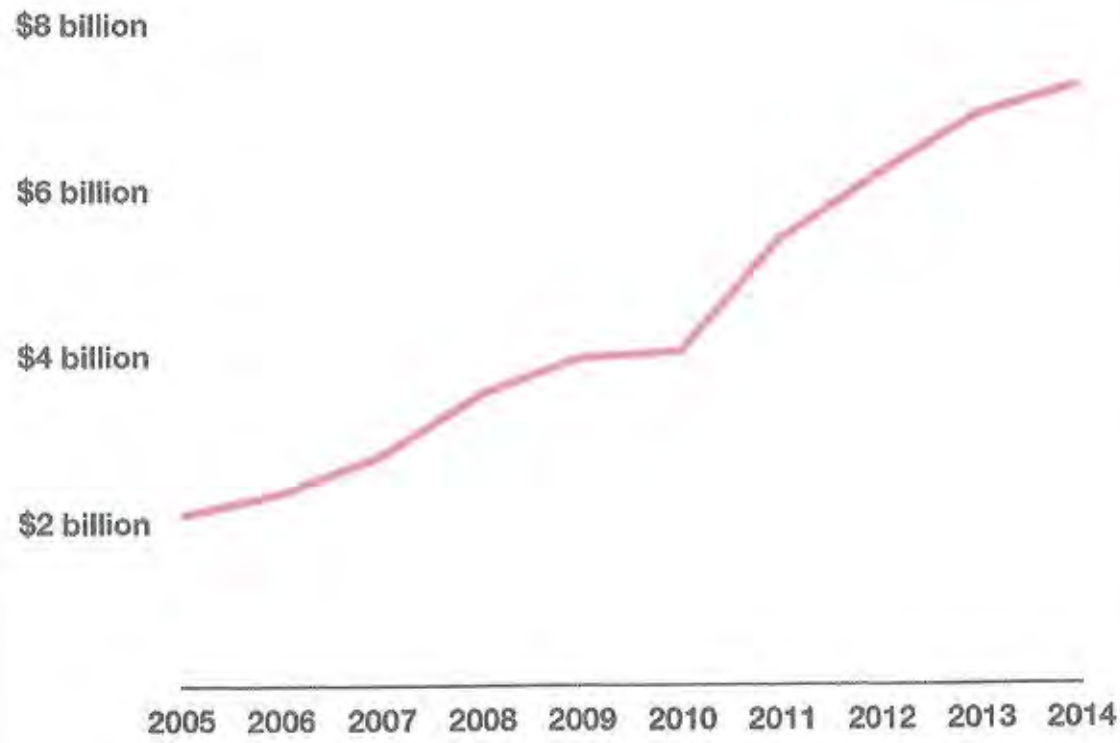
The parameters of four existing programs – the Beginning Entrepreneur, PACE, Flex PACE and Venture Capital Fund – were also amended to meet the needs of North Dakota's changing economy. The Beginning Entrepreneur Loan Guarantee limit and maximum net worth requirements increased to $500,000 from $200,000. This program provides beginning entrepreneurs and small businesses access to funding backed by BND. The intent is to provide local financial institutions with opportunities to grow small businesses in their communities.

The final two programs, PACE and Flex PACE, have been popular business development programs in North Dakota for almost two decades. These programs support economic development initiatives to diversify and expand the economy based on priorities determined by a local community. Eligibility guidelines now align with other economic development programs in the state and meet the definition of a primary sector business as defined by the Legislature. To be eligible for PACE, the borrower must be certified as a primary sector business by the North Dakota Department of Commerce. (As defined by NDCC 4-01-49.)

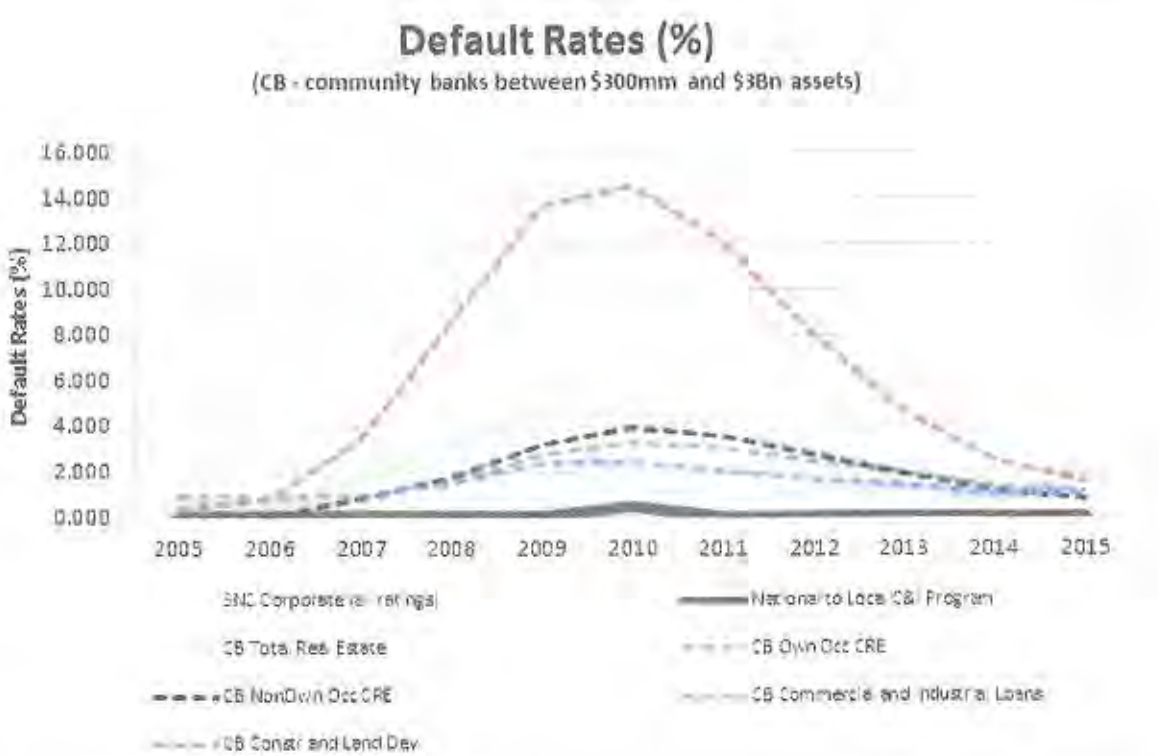
"Financing gaps" is another term for "lack of credit". Yes, North Dakota has the same problem of lack of credit as does Oakland, and they actively addressing the problem. What this press release does is detail a concerted effort by their public bank to fine-tune existing loan programs and develop new loan programs for the people it serves. Most cities, including Oakland, do not have money to lend to commercial businesses, let alone take the time to better determine how best to lend it. This is precisely one major functions of a public bank - to figure how out best to use its credit to better serve the people in its community.

INSTITUTE FOR Local Self-Reliance

Bank of North Dakota: Growth in Assets, 2005-2014



Source: Bank of North Dakota, Annual Reports, 2005-2014

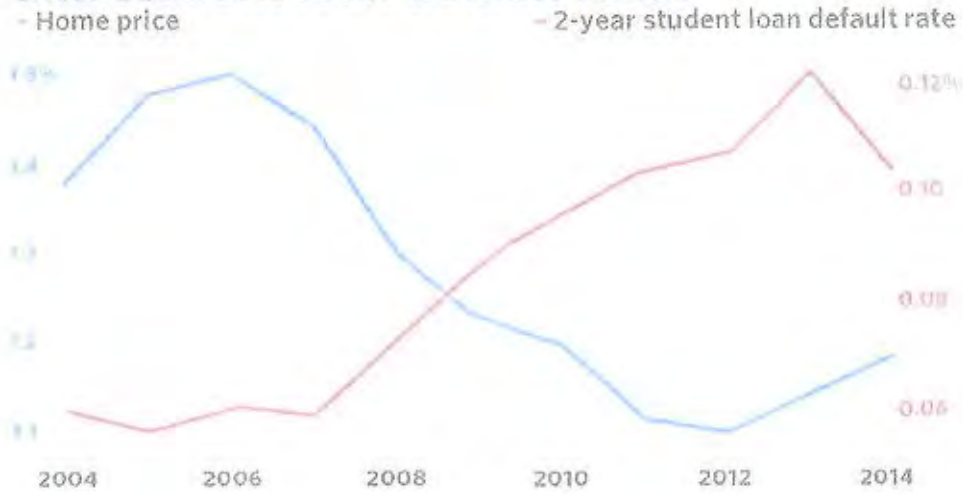


A few observations on the data shown in graph above:

1. Construction and land development loans represent the highest default rates for community banks. Default rates for this loan category were especially high during the last downturn (reaching 14.5% in 2010). This loan category's default rate is an outlier and currently represents just over 6% of the average community bank's loan portfolio.
2. Community bank C&I loans have demonstrated consistently lower default rates than community bank real estate loans. This difference for community banks was largest in 2009 and 2010. At that point real estate loan default rates were 4.77% per annum, while C&I loan default rates were only 2.40%.
3. During the last recession, owner occupied CRE exhibited lower default rates than non-owner occupied CRE. However, this differential has recently reversed and for the last three years, NOOCRE default rates have outperformed OOCRE default rates.
4. Historically non-community bank Syndicated National Credits (SNCs) have shown favorable default rates to community bank real estate and C&I loans. However, these SNC credit default rates increased in 2008 and 2009 to match and then slightly exceed average community bank loan default rates.
5. In 2015 SNCs default rates increased to 1.60% primarily because of higher default rates in metals and energy sectors. Backing out those two sectors, default rates for this loan group drops to 0.71% and compares favorably to other community bank loan categories.

Of the 35 industries tracked by Moody's, the lowest average default rates were found in utilities (0.18% per annum), followed by public finance (0.34% pa), and then by banking (0.40% pa). The last category may be surprising to some. The highest default rates were in the media industry (3.89% pa), followed by hotel, gaming and leisure (3.44% pa), and then by consumer transportation (3.31% pa).

The relationship between home prices and student loan default rates



Sources: Zillow Home Value Index, National Student Loan Data System for Students

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APPENDIX 9

Source: Association of Bay Area Governments (ABAG)

i. Total number of students of age 3 years old and above

Alameda County, California	418502
Berkeley city, California	46341
Oakland city, California	99224
Richmond city, California	27018

Source: US Census Bureau, American Community Survey, 2016, 5-year release Table B14001

ii. Total number of college and graduate students of age 15 years old and above

Alameda County, California	143869
Berkeley city, California	34502
Oakland city, California	33633
Richmond city, California	7614

Source: US Census Bureau, American Community Survey, 2016, 5-year release Table B14004

iii. Enrollment by type of school for students of age 3 years old and above

Geography	Alameda County, California	Berkeley city, California	Oakland city, California	Richmond city, California
Total Enrolled in school:	418502	46341	99224	27018
Enrolled in nursery school, preschool	26380	1651	6977	1657
Enrolled in kindergarten	21395	741	5253	1618
Enrolled in grade 1	19075	853	4581	1403
Enrolled in grade 2	17943	727	4140	1169
Enrolled in grade 3	19040	742	4129	1762
Enrolled in grade 4	18730	756	4574	1151
Enrolled in grade 5	19118	858	4749	1327
Enrolled in grade 6	19646	869	4308	1159
Enrolled in grade 7	18679	712	4349	1132
Enrolled in grade 8	18410	712	4604	1547
Enrolled in grade 9	18076	737	4086	1235
Enrolled in grade 10	18320	902	3990	1537
Enrolled in grade 11	18866	720	4307	1121
Enrolled in grade 12	20955	859	5544	1586
Enrolled in college, undergraduate years	111081	25542	25320	6641
Graduate or professional school	32788	8960	8313	973

Source: US Census Bureau, American Community Survey, 2016, 5-year release, Table B14004

b. Average wage (Estimate is for both Alameda and Contra Costa Counties)
   i. Mean Hourly Wage for all occupations: $30.70
   ii. Mean Annual Wage for all occupations: $63,855
   Source: OES, California Employment Development Department, 2016 Annually

c. Average income

i. Per Capita Income ((in 2016 inflation-adjusted dollars)

Alameda County, California	39042
Berkeley city, California	44611
Oakland city, California	34984
Richmond city, California	26965

Source: US Census Bureau, American Community Survey, 2016, 5-year release, Table B19301

ii. Average Household Income ((in 2016 inflation-adjusted dollars)

Alameda County, California	79831
Berkeley city, California	70393
Oakland city, California	57778
Richmond city, California	57107

Source: US Census Bureau, American Community Survey, 2016, 5-year release, Table B19013

Jobs forecast over the next 10 years

	Job 2015	Job 2020	Job 2025
Alameda County	834,220	858,680	877,220
Berkeley	114,660	116,430	117,700
Oakland	244,050	247,300	252,910
Richmond	38,560	42,680	46,720

Source: MTC/ABAG, Plan Bay Area 2040

We only forecast for every 5 years, you can make an assumption and draw a straight line if you need estimates for years in between.

Population for the government members:

Alameda County, California	1605217
Berkeley city, California	118585
Oakland city, California	412040
Richmond city, California	108303

Source: US Census Bureau, American Community Survey, 2016, 5-year release, Table B10003

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APPENDIX 10

Resource Requirements to Implement a Change in Financial Institution

Attachement 3

RESOURCE REQUIREMENTS TO IMPLEMENT A CHANGE IN FINANCIAL INSTITUTION			
Description	**Reasons, Needs and Comments**	**Estimated Additional Cost Outlay**	
General Fund Budget	1 Maintain checking accounts in two banks to allow time for checks to clear through the banking system. 2. Due to extensive resource requirements and staffing condition due to budget cuts, affected departments may need to first extend existing banking contract and may even implement account changes in phases when possible; therefore requiring a longer transition time for a change in financial institution.	1. Additional 6 months of bank service fees 2. New bank supplies such as deposit slips, new endorsement stamps for deposit processing, new signature stamps for Payroll and Accounts Payable checks. May need to buy new deposit scanners and credit card terminals if existing equipment are not compatible with the new banking system. The estimated conversion cost for supplies and additional bank fees is approximately $50,000.	
Departments Affected:	**Reasons, Needs and Comments**	**Impact on Other Projects**	**Staff Time**
City Auditor/Payroll	1. Learning curve and invest time to test payroll direct deposits banking services - failure has severe consequences as employees must be paid on time. 2. Test payroll related online banking services like garnishment and benefit payments .3. Work with IT to ensure (a) new specimen signature is properly installed and tested, FUND$ check print software and check printer function properly printing checks according to new bank specification; (b) bank reconcilement program meets spec to integrate with FUND$ check run program.	This may take time from staff who currently works on CALPERS, using their new system.	All staff in Payroll will be impacted. 3 staff will be working on new print check requirements and direct deposits. Another 3 staff will need to test benefit payments are working properly. 1 staff will work with COBRA-dental regarding remote deposits and reconciliation.
City Manager	1. Sign new contracts. 2. Authorize new bank accounts. 3. Provide authorized specimen signatures for Payroll, Accounts Payable and Shelter Plus Care accounts.		
Finance	Very resource intensive for the Dept. and its involvement is described in two major phases: A and B. Phase A. 1. RFP preparation and posting. 2. Vendor response evaluation and selection. Phase B. Implementation: 1. Learn/set up/test new online banking services and their user access administration, all banking services including deposit preparation, deposits via scanner, wire, ACH, direct deposit, electronic date upload and download, positive pay and other fraud detection tools online reporting and account reconcilement. 2.Set up/test all new accounts in general banking and in merchant services and their reporting tools. 3. Work with IT to ensure (a) specimen signature installed , check print software and check printer function properly printing checks according to new bank specification; (b) bank reconcilement program meets spec to integrate with FUND$ check run program. 4. Coordinate with departments and online vendors for setting up/testing of new merchant service accounts (about 50 accounts)amongst citywide credit card payment acceptance locations. 5. Learn merchant service online reporting. 6. May need to work with another PCI compliance provider as contracted by the bank for merchant services. 7.Process new corporate credit cards for existing credit card holders. 8. Learn the new corporate credit card reporting and billing system. 9. Learn services re Cash Management, and online reporting. 10. Work with armored car service employees as needed for the transition. 11. Learn cash management and investment reporting, custodial account services, etc. 12. For merchant services that are processing credit payments via their online payment gateway, there will be testing and monitoring of initial implementation activities to ensure all payments come through the system and are recorded in the City's accounts.	There are competing demands for same staff working on mission critical projects improving system efficiency and directly impacts revenue generation and customer service. Examples include: Business license replacement software, online payment, customer service, use tax, parking citations, etc.	Staff in all Finance Department Divisions will be impacted: Administration, Accounting, Accounts Payable, Customer Service, General Services, Revenue Collection and Treasury are all impacted for a minimum of six months. Key stake holders such as those in Administration and Treasury are being impacted more than others. The impact of changing a financial institution will be felt in Finance beyond the initial year; for example, external auditors will inquire about the new financial institution services, and the updating of relevant internal control procedures.
FUND$ Module Leaders-Citywide	1. Set up changes are required in almost all modules 2. System testing is required to ensure financial transactions are correctly recorded. 3. Need training for citywide accounting staff and 4. Update procedures.	Improvement project reprioritized-Affect some of the same staff for software improvement or replacement projects.	About 12 staff.

Resource Requirements to Implement a Change in Financial Institution

Attachment 3

Departments Affected:	Reasons, Needs and Comments	Impact on Other Projects	Staff Time
Information Technology	1. Work with Payroll and Finance to ensure (a) both check print software and check printer function properly printing checks according to new bank specification; (b) bank reconcilement program meets spec to integrate with FUND$ check run program. 2. Work with Housing and Finance staff to ensure check printing functions work properly with the Housing Elite software. 3. A partner with Finance to support that all connections between gateway and other software containing bank codes are appropriately adjusted and tested prior to implementation.	Again, it is the same staff that are working on new software implementation. The banking service project may be in lower priorities or may negatively impact the other deliverables.	4-6 staff.
Housing	1. Learn/test related banking services while transitioning to new accounts. 2. Work with IT to ensure (a) both check print software (Elite), new specimen signature and check printer function properly printing checks according to new bank specification; (b) bank reconcilement program meets spec to integrate with Housing Elite check run program.	In the worse case, resouce may be diverted from fiscal monitoring of grants to the bank project. At a minimum, the bank project will trigger additional audit inquiry to Housing operations.	2 - 3 staff.
Police Department	Transition to new bank accounts.		minimal impact.
Public Works/Parking Meter Op.	1. Work with Finance to transition to new merchant service accounts. There is a pending contract to expand IPS implementation which enables single parking meters to accept credit card payments. 2. Will need to coordinate with vendors such as IPS and Cale Parking systems re new account set up and testing.	May delay related projects to move forward.	1 to 2 staff.
Public Works/Garage Operations	1. Work with Finance to transition to new merchant service accounts. The garages recently implemented new software and hardware for their credit card payment acceptance. 2. Will need to coordinate with garage contractors re new account set up and testing.	May delay other garage projects to move forward.	2 City staff, 1 to 2 contractor employees and software vendor.
Citywide Locations and Online Service Provider accepting credit card payments	There are about 50 merchant service accounts. 1. Managers and staff will work with Finance to transition to new merchant service accounts. 2. Staff may need to learn the online reporting tools in future.	Affects almost all departments.	Some impact on operator staff time.
All corporate credit card holders	Transition to new credit card accounts. Support staff will learn new online reporting as needed to pay credit card bills.		15 card holders

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APPENDIX 11

To: Katano Kasaine, Treasurer, City of Oakland

Budget & Finance Dept.

150 Frank H Ogawa Plaza

Regarding: Public Bank

Date: 3/29/18

We are a stakeholder located in Oakland, and are interested in partnering with a potential public bank to assist in fulfilling our mission of securing banking services for our cannabis dispensary.

We are aware that you are undertaking a feasibility study for a public bank for the City of Oakland, City of Berkeley, City of Richmond and the County of Alameda as a result of a recent interview by one of the Global Investment Company consultants.

As your feasibility study progresses we would like you to include us in the business strategy when it moves forward.

Sincerely,

Signature 

Name: dress wedding

Address/ other contact info. : Harborside, 1840 Embarcadero, Oakland, CA 94606

dress@firish.com 510.213.0734

To: Katano Kasaine, Treasurer, City of Oakland

Budget & Finance Dept.

150 Frank H Ogawa Plaza

Regarding: Public Bank

Date: April 3, 2018

We are a stakeholder located in Oakland and are interested in partnering with a potential public bank to assist in fulfilling our mission of Small business loan credit enhancement.

We are aware that you are undertaking a feasibility study for a public bank for the City of Oakland, City of Berkeley, City of Richmond and the County of Alameda as a result of a recent interview by one of the Global Investment Company consultants.

As your feasibility study progresses we would like you to include us in the business strategy when it moves forward.

Sincerely,

Signature 

Name: Byron Phillips

Address/ other contact info. : bphillips@nor-calfdc.org

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Appendix 12

A SOCIAL MISSION: DIVESTMENT

Today many cities, counties and states priorities include divestment from environmental and social injustice. Social justice is on the forefront of citizen's and political leader's minds. Climate change, renewable energy, building more below rate housing and divestment from banks and investment companies investing in projects, such as, the Dakota Pipeline, (DAPL), are just a few reasons municipalities are making major shifts to move away from companies not in line with these priorities.

There are a number of issues impacting the decision on whether a public bank in the East Bay Region is feasible for participating members as a whole. One of the key issues would be the bank's social mission. Economic, Environmental and Social Equity are a few characteristics which describe the sustainable and social responsible investment opportunities participating members include in their Investment Policy Statements, as acceptable investments. If a public bank were established, it would be with the intent to do public good and gain public input into services.

DIRECTIVES

A Public Bank alternative banking structure is a choice on the table for participating members to consider at this time.

Municipalities are actively setting deadlines to divest.[1] The directives require the jurisdictions to identify and implement alternatives to their existing banking relationships.

> Oakland City Council voted for divestment in 2014. At the time, Councilmember Kalb said:
>
> "I'm thrilled that Oakland City Council took a strong stand to divest from fossil fuels companies that emit heat-trapping greenhouse gases, and to protect our communities by opposing the transport of hazardous fossil fuels by rail through the heart of Oakland. "Divesting from a dirty energy economy will add Oakland's voice to a growing movement that makes it clear that the old way of fueling our economy is not sustainable for our cities and our planet."
>
> On March 30, 2017, Berkeley Mayor Arreguin co-sponsored a Resolution to end Berkeley's business with Wells Fargo, and called on his Responsible Banking Task Force, a member is a part of this Study's MPB Working Group, to develop criteria for a socially and environmentally responsible bank. The city of Berkeley established the Berkeley Responsible Investing Policy.

[1] Appendix 6 – Summary of Cities and Counties Creating Social Responsibility Banking Investment and Financial Policies.

Richmond City Council, on May 7, 2013, passed a Resolution declaring it a policy of the City of Richmond to not invest in fossil fuel companies and urging the board and management of the city's pension funds to divest from publically traded fossil fuel companies.

In 2017, the City of Alameda, part of the County of Alameda, took the first steps toward divesting more than $36 million from its accounts at Wells Fargo over the bank's involvement with the Dakota Access pipeline and history of controversial practices.[2]

California cities are divesting from banks and businesses involved in the Dakota Access Pipeline at an increasing rate -

- The City of Davis is divesting $124 million from Wells Fargo.
- The City of Alameda has also pledged to divest more than $36 million from Wells Fargo. In addition, Alameda will prohibit Wells Fargo from even applying to be the city's bank for three years.
- Santa Monica is also vowing to end its relationship with Wells Fargo as it moves to withdraw $1 billion over the DAPL issue.[3]
- San Francisco Board of Supervisors approved a Resolution introduced by Supervisor Sandra Lee Fewer urging City Treasurer Jose Cisneros to add the Dakota Access Pipeline to the list of screening factors he considers when making city investment decisions. Nearly 14% or $2 Billion of the city's portfolio is currently invested with issuers that provide financing to the project.[4]

This month, a recent decision by the Oakland City Council limited the cities banking contract period with Union Bank from 5 years to 3 years, in hopes to have identified a viable banking alternative than Union Bank. Municipalities are encouraged by active citizens to begin to unbundle and divest.

"Oakland City Council's vision of a city committed to a clean future has been derailed by the city's available choice of banks and financial institutions.

According to 350.org, a leading divestment organization, well over $6 trillion dollars had been committed in the pledge to divest from fossil fuels as of the end of 2017. However, much of this money is still actually invested in banks and financial institutions which do invest in fossil fuels, because of the lack of feasible alternatives. Oakland's recent move to Union Bank, from a divestment perspective, is simply a move from JP Morgan Chase to another major fossil fuel investor, Mitsubishi UFJ, which invests in fossil fuel projects at a rate of over $3 billion per year." *Debbie Notkin, Oakland Citizen.*[5]

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[2] https://www.eastbaytimes.com/2017/02/22/alameda-city-moves-to-divest-from-wells-fargo/
[3] fossilfreeca.org/campaigns/city-county/
[4] http://sanfrancisco.cbslocal.com/2017/03/14/san-francisco-moves-to-divest-1-2b-from-companies-financing-dakota-access-pipeline/
[5] Friends of the Public Bank of Oakland.

SOCIAL RESPONSIBLE BANKING AND INVESTING

There are a number of definitions for a bank being "socially responsible". Socially responsible can be defined as "any investment strategy which seeks to consider both financial return and social good to bring about a social change."[6] Or, it could stipulate a loan portfolio that is regenerative, that it does no harm to the earth, is not exploitative, and guarantees human rights[7]. There are multiple approaches to this as can be seen in the matrix below. Banks that are involved in funding the Dakota Access Pipeline are sometimes singled out as being the most egregious, and there are multiple hot button issues, such as private prisons, border wall investments, and the fossil fuel industry, that are considered by some to be reason enough to boycott. The result is that there is an ever-dwindling list of large-enough banks that are considered to be ethical and that have the capacity to handle city and state government monies. A public bank operating in line with a mission that prohibits these investments would be an exception.

"High-transparency banking is feasible and emerging. Public-interest accountability metrics can support a new crop of more trustworthy banks, highly-transparent as to their environmental and social impacts and corporate governance practices."[8]

COST SAVINGS

The East Bay Regional Public Bank, with a banking structure specific to a public bank as the need – such as, an industrial bank for the agriculture industry – to could hire internal staff to manage bank assets and save billions of dollars in management fees. Consolidating jurisdictions banking might mean some of the service and investment fees currently being charged would stay within the new public bank created instead of paying outside banks. In addition, the consolidation of large dollars from integrated agencies and cities should enhance the chances of sustaining the banks revenue and credit rating.

For example, Oakland and neighboring jurisdictions could pool their resources together with larger jurisdictions, such as, the County of Alameda to afford the smaller cities the option to participate in a public bank for their city. One option they might not be able to afford on their own.[9] Investment guidelines could mirror the needs of the region for the public bank to allow for investment in climate change and affordable housing related projects, to mention a few.

The savings from management and some bank service related fees could be reallocated to cities and the county for infrastructure loans and a small percentage set aside for a loan loss reserve to be used by qualifying intermediaries included in what we coin a "BIN", (Bank Intermediary

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[6] https://en.wikipedia.org/wiki/Socially_responsible_investing

[7] https://mazaskatalks.org/divest-your-community/

[8] https://www.frbsf.org/community-development/files/cahan.pdf

[9] https://www.santafenm.gov/media/archive_center/PBTF_Final_Report.pdf

Network)[10]. The idea is to consolidate jurisdictions deposits and investments into one shared public bank so that the earnings can be used to pay down debt, debt service and pay off debt, among other things. For example,

The City of Oakland Redevelopment Successor Agency debt service is $10 million, which is just about equivalent to its earnings on the fund. Both the city of Oakland and Richmond service these funds only to pay 99% of the account earnings to debt service. The public bank could lend to pay off these successor fund balances at a significantly lower rate to these participating members.

Oakland's debt service of (26%) or $190 million on $733,430,000 debt, at least a portion, could eventually be serviced by the East Bay Regional Public Bank, which service fees would probably be lower, therefore, making it cheaper to service than the current banking and investment relationships. The same is true for the other participating members. Transferring a part of the debt service to the new bank in increments, such as, 25% or by investment vehicle is a task for the governing committee of the public bank. The business plan should be a useful tool for participating member's in order to do a throughout portfolio debt analysis for each portfolio.

The determination of how the public bank funds might be allocated could be done by establishing an independent governance committee comprised of public bank employees, elected officials within the territory of the bank and local community members.[11][12]

How will a public bank help participating members? In summary by,

- *Consolidating capital into a bank with common interest, all of the earnings and deposits generated from the bank (interest and investment income) would be useful to municipalities and the community. The funds circulate within the community and impact the local economy.*

- *Distributing proceeds from treasuries to BIN's who invest in desired programs and initiatives, specific to each participant intermediary in the BIN. Criteria may include offering a competitive rate and having an acceptable CRA rating.*

- *Loans, grants and deposits into short term cash management vehicles criteria of BIN's should be developed for the public bank with specific criteria matching, goals and purpose.*

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[10] BIN is an intermediary network for jurisdiction owned banks. A BIN has two categories: Category 1: M-BIN for intermediaries in a network for a Public Bank established by cities and counties. Category 2: S-BIN for intermediaries in a network for a Public Bank established by states. BIN's could be used to group banking relationship intermediaries, such as; CDFI's credit unions and small banks serving the retail customer. The BIN could accept funds from the public bank from treasury securities proceeds. "Surviving Financially In a Rigged System. Cathy Jackson-Gent. Third World Press. May 2018.
Appendix 1: Private and Public Banking

[11] Appendix 25 – California Public Banking Alliance DRAFT Public Bank Charter

[12] Friends of the Public Bank of Oakland Governance Proposal. 4/9/18.

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APPENDIX 13



Summary: German public banks help address climate change
(Wolfram Morales, Sept. 2017)

The December 2015 climate protection summit in Paris has decided to keep global warming well below 2 degrees and below 1.5 degrees in the long term and also has set a clear signal for the decarbonization and expansion of renewable energies.

Decarbonization requires greenhouse gas savings of at least 95% by 2050. In view of an existing GHG base in industry and agriculture, this means that the energy sector (electricity, heat, transportation) must already be decarbonized well before 2050.

The national targets set for reaching the German Energy Transition ("Energiewende") are based on the Federal Government's long-term strategy for future energy supply, according to which at least 60 % of final energy consumption and 80 % of electricity consumption ought to be covered with renewable energies by the year 2050. In combination with challenging energy efficiency targets, greenhouse gas emissions are to be cut by 80 to 95 % in relation to the base year 1990.

The central element of this transition is the restructuring of the German energy sector. Since at least the year 2000 Germany has been following a policy to strengthen the role of renewable energy. We have already achieved a great deal: Almost one-third of our electricity derives from the wind, the sun, and Co. This means that renewables have become our number-one source of electricity.

Despite the energy transition policy and hundreds of billions of investments much remains to be done in order to match the set goals and to compensate temporary setbacks (CO_2 emissions have not declined for some years, 2016 it has even risen, because the savings in electricity generation are compensated for by the additional consumption of fossil fuels elsewhere, ahead of traffic).

Public banks. Germany has more than 600, have played and are playing a decisive role in financing the "Energiewende". More than 70 percent of the needed money for investments comes from public banks. At the federal level of the two promotional banks/institutions KfW and Landwirtschaftliche Rentenbank and at the regional level from Sparkassen.

The promotional banks are institutions which enjoy state privileges and do not compete with the commercial banks on the market but cooperate with them.

Sparkassen are independent universal banks with a limited regional business area and a public mandate to promote financial inclusion and a sustainable economic and social development in their specific area. They operate fully at market conditions.

Financing the transition towards decarbonization and renewable energy with public banks means to give incentives where the market fails, to meet policy objectives on time through the necessary investments, to share the risks of a new industry, to minimize the debt service and to support a new industry until it is profitable.

What does this mean for city or county with a public bank? *It means that there is a way to pay for a reduction in greenhouse gas emissions. The cause of climate change is a contentious issue for some but is settled science for most people. Oakland, Berkeley, Richmond, Emeryville and the County of Alameda are part of "We Are Still In."*

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Appendix 14

RELEVANT CANNABIS LEGISLATION

SUMMARY

Senate Bill 930
Banking for the Cannabis Industry
As Introduced January 25, 2018

SB 930 states the Legislature's intent to create a special purpose state charter for financial institutions to accept cannabis deposits and perform other financial transactions. SB 930 would allow financial institutions to work with licensed cannabis businesses to:

- Pay state and local taxes and fees while lessening the burden on local government to collect and manage large sums of cash;
- Issue certified checks and conduct payroll for certified California employees;
- Pay rent; and
- Invest in California's economy.

ISSUE
The use and consumption of medical marijuana was legalized in California in 1996, and Proposition 64 legalized adult-use cannabis as of January 2018. However, due to cannabis' federal classification as a Schedule I drug, cannabis-related businesses are not able to deposit income with federally-insured financial institutions. The cannabis industry is expected to generate between $8-20 billion annually. This is a massive industry that we can only expect will continue to grow; yet cultivation, distribution, and retail businesses alike have been forced to operate on a cash-only basis. This is not only impractical from an accounting perspective, but also presents a significant public safety issue.

For 2017, medical marijuana retailers owe approximately $95 million in taxes. Unlike most businesses however, cannabis businesses arrive to government offices with duffel bags of cash to fulfill their tax obligations. Standard oversight and accountability measures, like audits, become very difficult when most transactions are completed in cash. Additionally, these businesses face security risks because of the volume of cash in their possession. SB 930 is an integral step toward integrating cannabis-related businesses into the California economy in a safe and transparent manner.

SB 930 states the Legislature's intent to allow cannabis-related businesses to open accounts and deposit income in financial institutions that hold a special purpose state charter created under this bill.

LEGISLATIVE UPDATE
SB 930 may not be considered until the Budget is completed in June. The bill awaits input from feasibility studies from Los Angeles, San Francisco and Oakland. A stakeholder briefing is expected in April.

At the state capital, the bill will be heard in the Assembly Committee on Banking and Financial Institutions and in Assembly Committee on Business & Professions, in June.

ACTION

Legislative Counsel language has been coauthored by GIC Team Member, Benedict Lubbon, to be introduced into SB 930. The Deschedule Mandate legally challenges Cannabis as a Schedule One Drug. The language deschedules Cannabis at the State level defining it as a natural organic agricultural product. The language further contends that Cannabis be given the same parity of the wine grape including all legal precedents and standard business practices. Once this language is passed, the State of California will have the legal grounds to challenge the Federal Government in Federal Court due that Cannabis has medicinal qualities and is not highly addictive as per the Schedule One FDA definition.

2018 California Cannabis Legislation
Priority Bills Pending includes.

- Senate Bill 930 Financial institutions, Cannabis
  - Senator Hertzberg

- Assembly Bill 2020 Cannabis: Local Jurisdiction Licensees: Temporary Event Permits
  - Assembly Member Bill Quirk

- Assembly Bill 2555 Cannabis, Plant Definitions
  - Assembly Member Cooley

- Assembly Bill 2641 Temporary Events
  - Assembly Jim Wood

- Assembly Bill 2717 Cannabis: Local Control: City Responsibility for County Regulatory Function
  - Assembly Member Cooley
  - Assembly Member Lackey

- Assembly Bill 3069 Cannabis: Enforcement, Educational or Training Events
  - Assembly Member Cooper

- Assembly Bill 3157 Taxation: Cannabis
  - Assembly Member Lackey
  - Assembly Member Bonta
  - Assembly Member Wood
  - Assembly Member Cooley
  - Assembly Member Jones-Sawyer

- Assembly Bill 3261 Cannabis
  - Committees on Business and Professions

Others:
AB 259 (Gipson) Medical Cannabis and Nonmedical Marijuana Licensing
AB 1578 (Jones Sawyer) Marijuana and Cannabis Programs
SB 1294 (Bradford) Cannabis Equity

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Appendix 15

California Cannabis Authority (CCA)

Purpose

The California Cannabis Authority ("CCA") is a Joint Powers Authority created by contract between counties with cannabis regulatory or taxing authority. The purpose of the organization is to develop and manage a statewide data platform that will gather, collect, and analyze information from a myriad of data sources into one resource, to help local governments ensure cannabis regulatory compliance and also provide necessary information to financial institutions that wish to work with the cannabis industry.

The Need for Data

The data platform will aggregate data from multiple sources including track and trace, point of sale, taxation and socioeconomic data. By combining all of these data points, local governments will be provided with targeted and defensible data, ensuring that what is being reported and what is occurring truly coincide.

The data platform can be used to ensure that adequate tax payments are being made; assist local law enforcement and code enforcement officers with accurate and defensible information for speed of compliance; provide public health officials with product information, including product origin and product flow; and inform community planning efforts by understanding locations, concentrations and potential past or future land use patterns. CCA's data platform will provide local governments with a number of secure log-in connections to access clear, accurate and real-time data on cannabis activity within their jurisdiction. In addition, as more jurisdictions use this tool and the data platform is populated with data, CCA Members will have a broader picture of cannabis activity throughout the state and access to information outside of their jurisdiction.

Linking Data and Financial Institutions

The data platform will provide necessary information to financial institutions that wish work with the industry. Despite the conflict between state and federal law, it is possible for financial institutions to serve cannabis businesses now, but it is not easy. To accept cannabis customers, financial institutions must comply with the rigorous monitoring and reporting requirements and accept a significant amount of risk. Institutions must make sure cannabis businesses are not violating state laws or engaging in any other illegal activities. For each cannabis customer, financial institutions must complete special money laundering and suspicious activities reports. These are onerous requirements that demand extensive staff time. Despite Attorney General Sessions' recent action which rescinded Department of Justice guidance known as the "Cole Memo", there are roughly 400 financial institutions nationwide that work with cannabis clients.

The burden can be eased if financial institutions are able to obtain detailed information on each cannabis customer, formatted to fit the institution's regulatory reporting requirements. Financial institutions cite the single most important step California can take to encourage cannabis banking under current state and federal law is to provide them comprehensive licensing and regulatory data on cannabis businesses.

Governance

The data platform will be developed and managed by a Joint Powers Authority, which is a contract between two or more public agencies to exercise, jointly, all power(s) common to each of them, for the purpose of accomplishing specific shared goals. Member counties will comprise the governing body of the organization. Cities and other public entities will be allowed to participate in the JPA and access data, but will not be part of its governance structure. Financial institutions will have access to CCA data by contract. The organization will be funded by a fee, calculated for each city or county, and dependent upon the total sales within the jurisdiction. This amount will be commensurate with the amount of data generated, and therefore equitable to each Member or Participant's costs to the JPA.

County Boards of Supervisors must pass a resolution to join the JPA. In addition, jurisdictions desiring CCA data access must require cannabis businesses operating within their jurisdiction to provide specific information to the JPA. Non-member, public entity participants will be allowed to join CCA by contract.

Contact

To learn more about the CCA, please contact Cara Martinson, CSAC Senior Legislative Representative & Federal Affairs Manager at 916-327-7500, ext. 504, or cmartinson@counties.org or Alan Fernandes, CSAC Finance Corporation Executive Vice President at alan@csacfc.org, or (916) 955-1791.

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The winner takes (almost) all

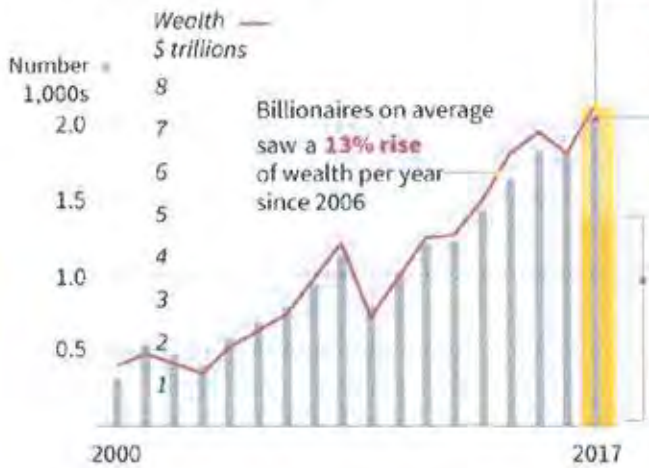
Oxfam report on the rich-poor divide: "Reward work, not wealth"

Key data

The richest **1% raked in 82 percent** of wealth created last year



The rise of the billionaires



Billionaires on average saw a **13% rise** of wealth per year since 2006

Billionaires saw their **wealth increase** by **$762 b** in the last 12 months

There are **2,043** dollar **billionaires worldwide**

9 out of 10 of them are **men**

According to Oxfam approximately two thirds of billionaire wealth is product of **inheritance, monopoly, cronyism**



Since 2015 the richest **1%** has owned more wealth than the other **99%** of the planet

42 people own the same amount of wealth as the poorest **3.7 billion people**





The richest 1% in the world are evading an estimated **$200 billion** a year of tax*

**Oxfam calculation with economist Gabriel Zucman*

Source: Oxfam · Reward work, not wealth/World Inequality Report 2018

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Appendix 25

DRAFT June, 13, 2018

Public Bank Charter

In Fall 2018, the California Public Banking Alliance, a statewide alliance of organizations pushing for public banking across 8 California cities, will co-sponsor enabling legislation which will create a public bank charter for local government entities, regulated by the Department of Business Oversight.

What Organizations Qualify to Receive this Public Bank Charter?
The Public Bank Charter will be available to Qualifying Government-Owned Organizations, which will include banking institutions that are owned by:

- Cities
- Counties
- Joint Powers Authorities consisting of cities and counties

Purpose of the Public Bank Charter:

It will establish municipal or regional banks that:

1. Provide authority for a public bank to provide banking services within a "Territory," defined as the primary county and adjacent, contiguous counties in which the public bank operates;
2. Expand credit by providing loans for infrastructure, worker cooperatives, public housing, for both new construction and capital improvements;
3. Further financial inclusion by providing online depository banking services to community residents where private banking has not met the depository banking needs of the market in the given region (e.g. the underbanked and unbanked) in partnership with the US Postal Service, when possible;
4. Further financial inclusion by providing trust accounts for every child born within the bank's given region with a "baby bond" that matures at adulthood; and, [LS]
5. Create specific investment opportunities (investment funds that specifically target sound areas of the economy that are underfunded) for community residents to "invest local".
6. Ensure that bank governance and all bank policies comply with explicit social responsibility and environmental regenerative standards that further equality and minimize dependence on fossil fuels, promote regeneration of biological systems and protect biodiversity.

How will Cities be able to Govern their Public Banks?

1. Establish an independent governance committee, comprised **equally** of 1) public bank employees, 2) individuals holding state, municipal, or county elected office within Territory, and 3) elected members who live in the Territory of the public bank local community through the "California Public Banking Alliance" membership organization,

and such committee that is gender-balanced and reflects the population of the area served by the bank;
2. Require public input, annual review and other participatory approaches/methods, or city statute on the rate of growth and allocation of the bank's loan portfolio;
3. Write, regularly update, and adhere to a social responsibility and environmental regenerative standards statement; and,
4. Actively network with other public bank chartered banks and adhere to commonly understood best practices.

How will Cities be able to Control how their Public Banks Operate?

1. Raise capital by donation, corporate debt equity, and/or public bond or appropriation;
2. Receive deposits, lend, and operate within the public bank's Territory;
3. Maintain a business plan to operate a commercially viable bank according to the environmental and social policies as required to achieve it;
4. Use the founding charter city and its partners as guarantors of deposits, qualifying them as a 'source of strength' for federal and state regulatory purposes;
5. Hold deposit insurance or equivalent security (including public guarantee or general obligation bond) for deposits as approved by the Department of Business Oversight;
6. Relax or remove collateral requirements for public funds (deposited by the government entity that owns the bank) and affiliate transaction restrictions that would prove antithetical to the bank's purpose;
7. Seek to return a profit to its shareholders by making commercially viable, economically sustainable and environmentally regenerative loans and providing a high level of service to its depositors, customers, and partners; and,
8. Adhere to strict social responsibility and environmental standards in its lending and business practices.

What Limitations will Cities be able to impose on their Public Banks with this Public Bank Charter?

1. This charter will prohibit a public bank from making any investment, loan or line of credit to be used in the fossil fuel industry, weapons manufacturers and distributors, police militarization, companies with hidden overseas wealth or unethical business or labor practices;
2. This charter will prohibit a public bank from providing commercial loans directly to businesses except in partnership with banks (i.e. Community Banks and Credit Unions) active in the given region and that are accepted by the Governance Committee;
3. This charter will prohibit a public bank from providing retail banking services through retail banking locations (brick and mortar) except in partnership with banks (i.e. Community Banks and Credit Unions) active in the Territory given region and that are accepted by the Governance Committee and except with the U.S. Postal Service offices in the Territory;
4. This charter will prohibit a public bank from providing banking services to people who have their primary residence outside of or to organizations with primary location outside of Territory; and,
5. This charter will prohibit a public bank from selling the bank to or merging with any bank that does not have this same license.

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Appendix 26

MUNICIPAL FINANCE AND BANKING

Cities, counties, and states in the 21st century are significantly reliant on debt to run their financial affairs. Long-term debt is used to amortize big investments over many years, and to avoid fiscal shocks to taxpayers. Short-term debt is used to smooth out the inevitable ebbs and flows in government revenue. Without access to debt, few governments would be able to operate.

That said, the norms in the municipal finance market require few beside the city itself to be under the obligation of a fiduciary duty to any given city or its citizens. The consequence is that the terms on which debt is provided are often more expensive and less flexible than necessary.[1]This would not be such a deplorable situation if the cities in question did not themselves control enough wealth to substantially reduce their reliance on the bond markets. The governments of the Oakland region, including the counties, control well over a billion dollars of cash at any one moment. Counting the school departments in the same region, it is almost two billion. The same governments control billions more in short-term investments, and yet they typically go to the bond market to borrow sums as small as a few million dollars. Bond yields are low now, so this reliance does little harm. (Though the fee expense for most municipal finance transactions is not inconsiderable.) But the norms established and long-term budgets made under current conditions will render it difficult to wean governments from this reliance once rates begin to rise, as they have already. It does not take a long memory to recall the many unfortunate deals made by municipal borrowers before the 2008 financial crisis. Now is the moment to reconfigure municipal finances so they will not suffer the same risks in the future.

In addition to these, there are more ominous forces shading the view ahead and some market actors are already paying attention. For example, Moody's and other credit-rating agencies are preparing to downgrade states and localities that haven't gotten a handle on the problems likely to occur because of climate change. Here in California, the frequency and scale of costly wildfires is expected to increase. The interest rate on public debt would rise if downgrades were to occur, making borrowing from capital markets more expensive.

Cutbacks in Federal spending are likely as politicians use deficits created by new tax bill as an excuse to cut Medicare, Medicaid and other programs. Tax bill's limit on deductibility of state and local taxes will make it even more difficult for governments to raise taxes. This will make it vital for states and localities to find new ways to finance capital and operating expenditures. What is more, the reduced tax rate for high-income taxpayers under the new tax legislation will reduce the appeal of tax-exempt bonds. At the very least, bond interest rates may need to rise to provide investors the same after-tax returns that they now receive.

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[1] For a number of different examples (including one from Oakland), see the law review article: "Predatory Public Finance," Tom Sgouros, *Journal of Law and Society*, 17:1 (2016) pp.91–102

Participating Members Annualized Daily Collected Balance of Cash Deposits - FY 16-17

Municipal governments are fairly demanding customers of most banks. They write a lot of small checks, receive a lot of small deposits, require sophisticated anti-fraud measures like positive pay, and demand to examine a bank's financial condition. They also tend to be places where a certain amount of responsibility is distributed around the government, making it not unusual for different departments to manage their own bank accounts. Even a small city will often have dozens of different bank accounts with their primary bank, but still require a system that allows the central decision makers to have a global view of the many accounts. The table below represents a snapshot of the participating members annualized banking activities.

	RICHMOND	BERKELEY	OAKLAND	ALAMEDA COUNTY	TOTALS
Annualized Daily Collected Balance of Cash Deposits	$300,000,000.00	$376,000,000.00	$570,000,000.00	$1,000,000,000.00	$2,877,000,000.00
# of Bank Accounts	30	12	59	*	101
# of Bank Transactions	10000	180000	140000	*	330000
Other Services	$100,000	$120,000	$275,000	*	$495,000
DESCRIPTION	Low Volume	Actual	Actual	Low Volume	*Low Range*
Annualized Daily Collected Balance of Cash Deposits	$180,000,000	$335,000,000	$570,000,000	*50,000,000	$1,100,000,000
# of Bank Accounts	30	12	59	*	101
# of Bank Transactions	8,000	180000	140,000	*	328,000
Other Services	$80,000	$120,000	$275,000	*	$475,000

*The County of Alameda will issue a Request for Proposal (RFP) for Banking Services in 2019.

At any given time during the year, member's daily cash balance average between $1 Billion to $3 Billion.

If these accounts were consolidated into the East Bay Regional Public Bank, the interest earned could be divided among the participating members to address various debt needs or to fund programs. Participating members are affiliated with other agencies and governments who might consider deposits into the East Bay Regional Public Bank. The East Bay Regional Bank Sustainable Chart identifies some of these "integration partners."

Participating Members
Banking Service Fees

SERVICE	BERKELEY **	RICHMOND	OAKLAND	COUNTY OF ALAMEDA
General Banking and Merchant Services	2,021,355	78,189	94,484*	RFP to be issued in 2019
Armored Car and Interchange and Assessment Fees	8,331,402	less than $1000	2.7% ***	2.75%***
Totals (FY 16-17 $ Paid)	10,352,757	78,189		
Providers:	Wells Fargo	First Data	JP Morgan Chase *(After credits applied)*	
		Mechanics Bank *(After credits applied)*		

*** Before Discount (Earnings Credit Allowance). Service charge discounts average 70% per month.**

****Berkeley's $10,352,757 breakdown is based on 19.51% and 80.45%, respectively. City Council Report May 2018.**

*****All pass-throughs to Visa and Mastercard**

Note: Oakland has separated or "debundled" both Armored Car and Card Services. Berkeley has also debundled some services.

Compared to the City of Los Angeles which annualized daily collected balance of cash deposits in the amount of $94.5 million at Wells Fargo was $17,671,105 Fiscal Year (FY) 2016-17. 18%.

East Bay Regional Public Bank
Integration Partners Sustainability Chart

SAMPLE OF INTEGRATION PARTNERS

Participating Member	Richmond	Berkeley	Oakland	County of Alameda	
CATEGORY					
HEALTH SYSTEMS				$40,000,000	
PORTS	$7,000,000.00		$2,000,000,000.00		
PUBLIC WORKS	$21,000,000.00			$119,000,000.00	
SCHOOLS				$80,000,000.00	
HOUSING	$23,000,000	$34,000,000			
SUCCESSOR AGENCY	$26,000,000.00		$10,000,000.00		
UNIVERSTY/COLLEGES**		$3,000,000,000		$140,000,000	
RETIREMENT PLANS***				$6,600,000,000	
GRAND TOTAL	$77,000,000.00	$3,028,000,000	$2,010,000,000.00	$6,979,000,000	**$12,094,000,000.00**
					(A % could be deposited)

Calif. State Assoc. of Counties*
A potential statewide partner — $5,800,000,000

Note: Partial List

*Annual Budget FY16-17

**UC Berkeley and Peralta Community College District

***ACERA Retirement Plan

Participating Members Municipal Finance
Average Balances / Short Term Cash / Pooled Investments

FY2016-2017

Average Account Balances	Richmond	Berkeley	Oakland	Co. of Alameda	Totals	% of Idle Funds	SAMPLE Potential Funds
Cash	$13,000,000	$16,000,000	$28,000,000	$45,000,000	$102,000,000		
Local Agency Investment Fund (LAIF)	$37,000,000	0	$65,000,000	$50,000,000	$115,000,000	10%	$11,500,000
Money Market	$24,000,000	$87,000,000	103,000,000	$68,000,000	$434,000,000		
Totals	$74,000,000	$103,000,000	$196,000,000	$163,000,000	$651,000,000		

TABLE - ESTIMATED INCREASE IN RETURN ON INVESTMENT (ROI)

Short Term Cash and Pooled Investments	$73,200,000	$374,000,000	$730,000,000	$5,400,000,000	**$6,577,200,000**	10%	$65,000,000
Maturing historical Yield: 1-1.3% *5-7 years for Cities* *< 5 years for County* ** Public Bank Estimated Yield: 2.5%* *(Invested in Treasuries)*					**1%** increase in yield or reduction in fees over 5 years - Restricted Use for Public Bank Deposits	$65M @ 1% =$325M	$325,000,000
Estimated Increase in members historical Yield 1.2%					**0.2%** increase in yield or reduction in fees over 5 years Restricted Use for Public Bank Operations	$13M @ .2% = $65M	$65,000,000
				Can Use To Fund Bank Deposits →		**$466M**	$466,500,000.00

Note: Assumes Participating Members consider a 10% minimum deposit into Public Bank.

Assumes Participating Members consider an accounting and compensation method change for the new bank. Banking polies reflect public mission.

Assumes the city of Berkeley does not participate.

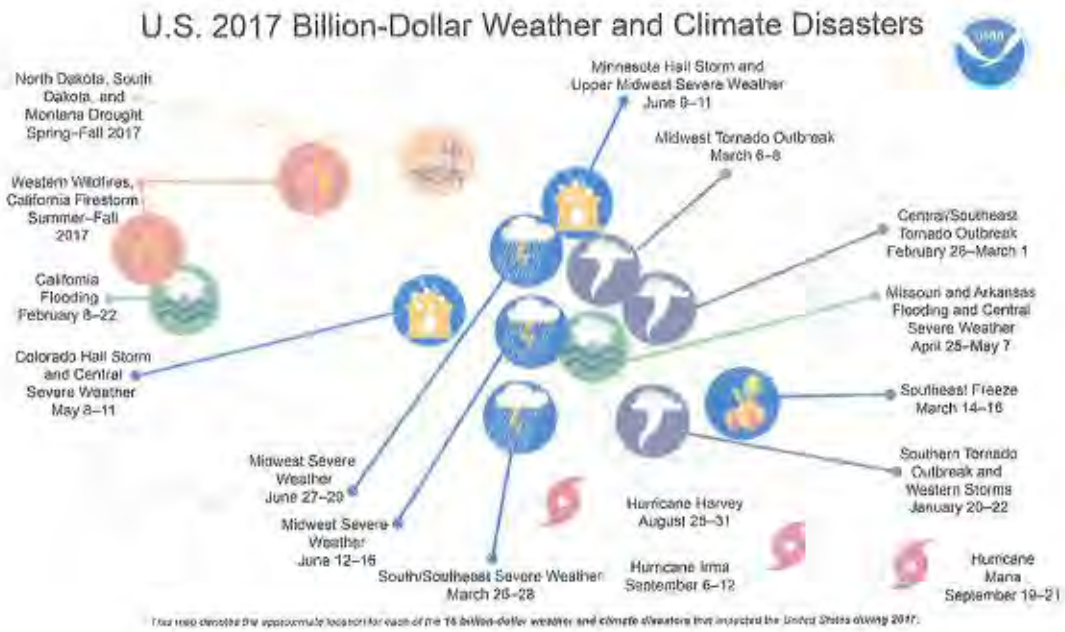
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APPENDIX 28

United States. These events included 1 drought event, 2 flooding events, 1 freeze event, 8 severe storm events, 3 tropical cyclone events, and 1 wildfire event. Overall, these events resulted in the deaths of 362 people and had significant economic effects on the areas impacted. The 1980–2017 annual average is 5.8 events (CPI-adjusted); the annual average for the most recent 5 years (2013–2017) is 11.6 events (CPI-adjusted).

During 2017, the U.S. experienced a historic year of weather and climate disasters. In total, the U.S. was impacted by 16 separate billion-dollar disaster events tying 2011 for the record number of billion-dollar disasters for an entire calendar year. In fact, 2017 arguably has more events than 2011 given that our analysis traditionally counts all U.S. billion-dollar wildfires, as regional-scale, seasonal events, not as multiple isolated events.

More notable than the high frequency of these events is the cumulative cost, which exceeds $300 billion in 2017 — a new U.S. annual record. The cumulative damage of these 16 U.S. events during 2017 is $306.2 billion, which shatters the previous U.S. annual record cost of $214.8 billion (CPI-adjusted), established in 2005 due to the impacts of Hurricanes Dennis, Katrina, Rita and Wilma.[10]



[10] https://www.ncdc.noaa.gov/billions/

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Appendix 29

FINTECH COLLABORATON AND OUTREACH

Fintech, Regtech and Suptech, financial technology companies, also known as "disruptors", have grown rapidly in the personal loan industry.[1] New technology and innovation in banking plays a vital role in servicing customers banking needs and reducing the cost to develop and offer products and services.

***Financial technology (FinTech** or **fintech**) is the new technology and innovation that aims to compete with traditional financial methods in the delivery of financial services. FinTech is a new industry that uses technology to improve activities in finance.[2] The use of smartphones for mobile banking, investing services[3] and cryptocurrency are examples of technologies aiming to make financial services more accessible to the general public. Financial technology companies consist of both startups and established financial and technology companies trying to replace or enhance the usage of financial services provided by existing financial companies. Wikipedia.*

"It's easy to blame all of the Banking ecosystem's problems on increased regulatory scrutiny and capital requirements, but there is a profound shift occurring that can't be ignored."- Frank Rotman[2]

What does this mean for cities and counties with a public bank?

It means that, by leveraging the internet and by partnering with technology companies, a public bank can provide high-value digital services, particularly for depository and payment functions, to its customers. And, by using its low-cost credit to establish loan programs that reflect the needs of the community, the public bank can pass on these savings and create strong allegiance.

Underneath the hood of SafetyNet is Watson, IBM's augmented intelligence system. SafetyNet can not only sort massive amounts of unstructured data but also gauge sentiment. Knowing Your Customer three times over is becoming a must in today's banking environment. By sorting through all that information, it's able to create a risk profile on the customer - even if they have no financial history and ensure that banks aren't doing business with money launderers or terrorist financiers. SafetyNet committed their involvement in partnering with participating members in the upcoming inaugural, "Public Banking and Municipal Summit", being held in Oakland. This commitment is another example of how Fintech might support members banking and technology goals.

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[1] FutureBank – White Paper – November 2017

[2] Frank Rotman, *The Copernican Revolution in Banking*

Uphold (Cortex), is in consultation with over 10 states to provide a closed-loop platform to solve the significant cash problem experienced in states with legal cannabis and according to the CEO, all delivered under existing statutory authority.

FutureBank is another example of innovative platforms. At its core, the FutureBank Platform abstracts the complexities and legacy inherent in popular core banking systems to help banks better service individuals, merchants and third parties. More specifically, individuals, merchants and third parties want access to core banking functionality in a modern way.

Just like a bank enables participants in the economy to conduct business seamlessly, technology is used by banks to enable many of these important functions. Customer service internet portals enhance client self-service, such as bill pay and money transfer. Check clearing technology speeds up processing and reduces risk for all parties, allowing a great degree of confidence in the settlement process. Merchant card processing software and hardware are used to facilitate the payment transactions between customers and a municipality. And so on -- there are many examples of how technology is used to enable banking functions.

FINTECH PUBLIC PRIVATE PARTNERSHIPS

Partnerships with large companies (and high net worth individuals) in the Bay Area will reap a huge (and largely undeserved) cash windfall from the tax bill. Apple alone is expected to add $47 billion to its existing $260 billion in cash. The public bank could provide a fairly low-risk way for cash-rich companies to help solve Bay Area problems some of which have been exacerbated by their rapid growth. Rising housing, homelessness and education costs immediately come to mind. Assuming that we solve the capital problem, corporate deposits could enable the public bank to achieve significant scale rather quickly. For example-- Deposits equaling just 1% of Google's and Apple's S/T investments would provide the public bank with about $5 billion while costing these two firms about 2 bps (basis points - a percentage of 1%) in return on these investments. Assuming a 1% (below-market rate) on these deposits, the public bank could probably afford to make loans at 2% to local governments. Assuming a coupon of 3% on existing bonds, if the entire $5 billion were used to refinance local government debt, the annual savings could be in the neighborhood of $50 million. Rescheduling principal payments could add to this amount.

Fintech public private partnerships also provide participating members access to the latest technology, sponsorship opportunities and research. Fintech provides a gauge on the future.

Here are a few ways local fintech companies engage government, banking intermediaries and the community. All of these companies have expressed interest in collaborating with participating members on public banking solutions:

Oportun - Oportun is a mission-driven financial services company that helps people establish and maintain financial stability despite a lack of credit history or low and volatile incomes.

The company uses advanced data analytics and technology to provide responsible, affordable loans to people with little or no credit history so they can establish credit. The company's centralized system calculates each loan applicant's ability to repay, approves those loans the company believes can be paid back, and sets loan amounts and terms to fit customer budgets. Customer account information is also reported to two nationwide credit bureaus to help customers establish credit.

Oportun operates 270 retail locations and delivers bilingual (English/Spanish) customer service via retail locations, contact centers, and mobile to customers in Arizona, California, Florida, Illinois, Missouri, Nevada, New Mexico, Texas, and Utah.

In recognition of Oportun's goals of increasing economic opportunity for its clients, promoting community development, and serving low-income or underserved communities, Oportun is certified by the United States Department of Treasury as a Community Development Financial Institution or CDFI. Oportun is open 24/7, and has two locations in Oakland, San Pablo and Richmond.

"...a bank could invest in our portfolio to earn CRA credits, invest in Oportun or buy the loans." Sarah Livnat, V.P., Community Engagement and Impact.

LendUp! LendUp! is a fintech company on a mission to redefine financial services for the emerging middle class — the half of Americans shut out of mainstream banking due to poor or thin credit files. LendUp offers technology, credit and savings products, and educational experiences that haven't existed before, to help people build credit, save money and get on a path to better financial health.

LendUp prides itself in engaging with a diverse range of partners, from global nonprofit research institutions to academics, technology companies, financial institutions, b-corps, and nonprofit service providers.

LendUp and the Aspen Institute's Expanding Prosperity Impact Collaborative (EPIC) launched Finance Forward — a multi-city event series that, for the first time, brings together local governments, businesses, community advocates, and nonprofit leaders to identify and advance innovative, actionable solutions to income volatility.

The event series culminated with an incredibly successful and well-attended Finance Forward Summit in Oakland at the Kapor Center for Impact. With more than 100+ RSVPs, we were joined by esteemed government leaders, including Mayor Libby Schaaf (Oakland, CA), Treasurer Tishaura Jones (St. Louis, MO), Mayor Steve Benjamin (Columbia, SC), major employers (i.e. Revolution Foods, Starbucks, Kaiser Permanente), CEOs from fintech (i.e. LendStreet, StrideHealth, etc), national research institutions (i.e. PEW Charitable Trusts, Urban Institute), and representatives from Congressional offices (Rep Lee, Senator Harris).

LendUp offers credit cards through partnerships with banks, such as Beneficial State Bank, a state-chartered, deposit-taking, federally insured, for-profit banking organization headquartered in Oakland, Calif. Beneficial State Bank holds to a triple bottom-line of social justice, environmental well-being, and economic sustainability. This partnership has allowed for significant expansion of the L Card, a Visa credit card designed by LendUp! and issued by Beneficial State. It helps

consumers traditionally shut out of mainstream banking due to poor credit scores or damaged credit files.

Upload –
Uphold is a leading global financial services company which serves 184+ countries, across 20+ currencies and metals with frictionless secure ecommerce for members and businesses around the world. Uphold has powered more than $3.0 Billion dollars in transactions with robust technology and compliance focused processes with unparalleled transparency and security. Uphold continues to grow and currently has global operations in San Francisco, London, Los Angeles, and Mexico City. Uphold brings hundreds of years of combined payment experience, a highly seasoned industry executive management team, as well as required licenses at both the state and federal level.

Currently, Uphold (Cortex) is in consultation with over 10 states to provide a closed-loop platform to solve the significant cash problem experienced in states with legal cannabis. Uphold can deliver a secure, closed-Loop payment and ID/authentication Platform for Michigan and it's regulated medical marijuana program at no cost to the State. The proposed solution will include full Business to consumer and business to business payment capabilities as well a leading-edge digital ID/credential storage and authentication capabilities to ensure a secure a compliant State cannabis program and ecosystem ***all delivered under existing statutory authority.*** Other possibilities: Online Banking, Bill Payment, Government Benefits, Digital Identification and Digital Payments.

Prelim – "Most of the banks using Fiserv, FIS, D&H, Jack Henry and other providers that allow them to store customer and balance information and perform transactions like posting a deposit into the account. We make it possible so that we can allow consumers to interface with the bank and hook up into different systems for credit pull, pricing, and decision making so they can essentially self-serve when the bank is closed or start the process at their own pace versus having to make an appointment and find the right person at the bank.

Wells Fargo, Bank of America, Chase all use either the core technology providers we mentioned above and their data is accessible through asset providers we connect to such as Plaid, Yodlee and Quovo." CEO, Heang Chan.

GIC spoke directly to each one of these companies and others. In line with their mission, some fintech companies are willing to sit down with participating members to discuss innovative ways to fundraise for the public bank. In addition, to funding certain activities related to its establishment. Technology companies like LendUp! have investors who may entertain, as a social responsible investment, a public bank. New technologies lower fees and interest rates could add value.

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FEEDBACKS/COMMENTS/QUESTIONS TO THE PUBLIC BANKING FEASIBILITY STUDY REPORT

The City of Oakland, together with other East Bay jurisdictions (County of Alameda, City of Berkeley, City of Richmond) reviewed the Multi-Jurisdictional Public Bank Feasibility Study dated May 10, 2018. Collectively as a team, we felt that this report did not adequately address the main objective of the study in providing the answer to "Is a public bank feasible?" The report seems to state that public banking is feasible, but lacks the supporting details and key steps of how to set up a public bank. In addition, contradictions are embedded throughout the report that appears to counter the goals of the municipalities and further indicate a public bank, owned by the municipalities, is not feasible at this time. The team has provided some feedbacks as outlined below. Please note, this is a compilation of comments/questions from all the stakeholders.

Below are quotations from the report that the stakeholders found unclear and need further clarification

LEGAL/REGULATION:

1. "Two legal or regulatory impediments exists that would prevent the formation of a public bank owned by municipalities which conduct activities in the public interest."; "There will be ways in which state or federal law could and will affect the day to day operations and oversight of a public bank." (Page 7)

2. "Accepting funds from the cannabis firms, or making investments in an instrument derived from cannabis funds, runs the risk of being deemed an investment in an illegal enterprise. Such a finding could trigger account freezing or seizure by federal authorities" (Page 8)

3. "Some banks are beginning to take cannabis dollars despite the risk, though we do not advise that for the proposed public bank."; "Any public bank formed ... is likely to still be subject to FDIC rules related to capital quality and adequacy." (Page 9)

4. "Our state legislature could create a public bank charter that eliminates the need for FDIC insurance, and it could also simultaneously address impediments in state law with regard to deposits by municipalities into the public bank as a non-FDIC insured institution."; "Interested municipalities may want to pursue the possibility of using a public bank for all transactions other than those requiring the use of payment systems."; Access to the Automated Clearing House (ACH) is a need of many, if not all, municipalities to support the electronic payments aspects of their banking business. Access to ACH/EPN services is governed by federal regulations . . . the impediment of non-eligibility of a participating entity for ACH access would remain." (Page 14)

5. If municipalities own the public bank, they would be . . . looked to by federal regulators as a source of financial strength, meaning the municipalities have proven their ability to provide financial assistance to the bank in the event of financial need." (Page 18)

6. "The City of Oakland or other entities may wish to alter their charter to further preserve social responsibility requirements for a public bank, but that is still not a guarantee that it will stay the course." (Page 19)

achieve this size through organic growth . . . it may be best to consider . . . a business combination (merger or acquisition) with a much larger institution in less than seven years. . . .the successor bank would have to continue the public bank's mission and purposes." (Page 10)

3. The report acknowledges it is not a wise idea for the sponsoring governments to provide the equity capital for the bank. The report suggests the bank could be capitalized with $50 million of funding from "impact investor" who are looking for more than purely financial returns. Did GIC speak to potential investors? Who? What did they learn? What would be their minimal expectations of financial returns? Would that be consistent with the concept of a public bank whose mission is made possible because it doesn't need to return a profit to shareholders?

4. The report says the bank should invest in Treasury securities. It also says it should buy municipal bonds. Explain how doing so will enable the bank to increase lending to people and businesses who have difficulty getting loans from traditional banks. Where does the capital come from for such loans if the bank's funding is used to buy bonds?

5. The report is confusing as to how the public funding can be funded. The Fintech Collaboration section does not provide information as to how this can possibly achieve the public banking capitalization it needs. Most of the concepts were introduced but there were not any language on the report that would provide the information as to how this can possibly happen.

OTHER KEY CONCERNS:

1. Possible solutions for the stated needs of a Public Bank aren't fully developed properly.

2. The picture/graphic is unrelated to the subject of social responsibility in banking and is wholly inappropriate for a professional presentation paid for with public funds; one that may become part of the public record of all the underwriting municipalities. It must be removed and replaces with a related and appropriate graphic. (Page 18)

3. The entire paragraph on page 11, starting with the words, "To sum up . . ." should be considered for rewrite because this summary paragraph does not follow the study's presented information.

As a team, we hope that providing these feedbacks will assist GIC in revising the report so that this would be a useful report for the underwriting municipalities and the community it serves. The scope of the report must be clear and address the main question "Is a public bank feasible?" We would like the report to conclude with a comprehensive summary conclusion of why this structure is feasible or not and the reasons to support such structure, may it be, yes a public bank is feasible or no a public bank is not feasible at this time. If so, the report should include a road map which would detail the steps and timeline of setting up a public bank – from approval of concept to market readiness. It would be helpful to include a flow chart of the process that leads to the formation of public banking.

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ATTACHMENT 5 - RED LINE DRAFT
FROM PRELIMINARY REPORT CHANGES FOR MAY 10, 2018 - RESPONSE.

Multi-Jurisdictional Public Bank Feasibility Study

The City of Oakland, City of Berkeley, City of Richmond, County of Alameda

Prepared by: Global Investment Company

June 15~~May~~ 8, 2018



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DISCLOSURES

THE NECESSITY OF PUBLIC BANKS

INTRODUCTION

The City of Oakland, together with other neighboring jurisdictions, recognizes the **vital importance of financial institutions that serve society's emerging needs.**

The primary reasons for undertaking this feasibility study is to determine whether or not a public bank is feasible and to interview stakeholders. A public bank might offer viable ways to solve some the pressing financial challenges facing Bay Area communities.



HISTORY

For the purposes of this document, the "Participating Governments" to the governments of the City of Oakland, City of Berkeley, City of Richmond, and the County of Alameda that have funded this feasibility study.

On November 26, 2016, demands by Oakland citizens and residents of other East Bay jurisdictions prompted the Oakland City Council to adopt a resolution (Resolution No. 86905) directing the City Administrator to prepare an informational

report with cost estimates and funding options on the feasibility and economic impact of a public bank for or including the City of Oakland.

Subsequently, the Berkeley City Council authorized a financial contribution to the City of Oakland for the purpose of supporting Oakland's study. Shortly thereafter, the City of Richmond and the County of Alameda also approved support for the study. A local consulting firm, Global Investment Company (GIC), founded by Cathy Jackson-Gant was selected as the consultant to conduct the study.

A Public Bank structure can support two of local government's stated goals:

- Can a public bank provide solutions to the unmet financial needs of Bay Area households, businesses and governments?
- Can such an institution provide banking services to the cannabis industry?

It is feasible to achieve these two goals and building scale of the public bank at the same time.



COMMON GOALS FOR A PUBLIC BANK

Common goals for a public bank as articulated by the City of Oakland and other interested municipalities for this study, as well as the Oakland City Council and interested community members are:

- To have an institution that exists specifically for the purposes of keeping local control of assets and investment choices.
- To have an institution that is focused on supporting local business needs and needs of municipalities for financial services that are well-priced.
- To have an institution that frees local residents and municipalities of using mainstream financial service providers as their primary source so as to create better services for residents and municipalities.

METHODOLOGY

In conducting the study, Global Investment Company sought information from a variety of citizens, public officials and banking experts. This included city, county and state treasurers, citizens, affordable housing developers, banking and finance professionals, cannabis businesses and other small businesses. The greater majority of all of the respondents queried agreed that if a public bank were to be created they would support such an entity. This willingness to support a public bank, however, is not without conditions.

To determine what sorts of services a public bank should offer and whether, given existing federal and state laws and competitive conditions within the banking industry, we conducted:

- Analyses of financial reports of participating governments to determine whether and how a public bank might offer more solutions to cash and debt management problems.
- An examination of the history and performance of the single public bank in the U.S., Bank of North Dakota, as well as public banks in other countries.
- Research to identify statutory, policy and regulatory constraints—at both the state and federal levels that might impede the successful organization and operation of a public bank.
- Discussions with banking and finance experts to identify important competitive factors and industry trends likely to affect the operation of a public bank.

EXECUTIVE SUMMARY

ESTABLISHING A PUBLIC BANK

~~Two legal or regulatory impediments exist that would prevent the formation of a public bank owned by municipalities which conduct services in the public interest.~~

A public bank could be formed as a nationally chartered entity, subject to the oversight of the Office of the Comptroller of the Currency, or as a California State chartered entity, subject to the oversight of the California State Department of Business Oversight, Department of Financial Institutions Division.

~~*Regardless of whether a charter is state or federal, there will be ways in which state or federal law could and will affect the day-to-day operations and oversight of a public bank.*~~

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California does not have a specific "public bank" designation, but none is required for a state-chartered bank to be formed that could serve some or all of the goals articulated by the City of Oakland and other municipalities for their financial services' needs. **A state-chartered public bank could operate under a Commercial Bank Charter.**

Upon receiving an application for a Commercial Bank Charter, the Commissioner of the California Department of Business Oversight has wide discretion in granting or denying the charter.[1] The Commissioner is responsible for making

[1] See Cal. Code Regs. tit. 10, §§ 10.3159, 10.3160; See also, California Department of Business Oversight, Guide for Groups Interested in Chartering a State Bank in California, http://www.dbo.ca.gov/cacharter/guide.asp. See also Cal. Fin. Code §§99 et seq.

the decision as to whether to approve each application and will not approve an application until he or she has ascertained that:

- the public convenience and advantage will be promoted by the establishment of the proposed bank
- the proposed bank will have a reasonable promise of successful operation
- the bank is being formed for no other purpose than the legitimate objects contemplated
- the proposed capital structure is adequate
- the proposed officers and directors have sufficient banking experience, ability and standing to afford reasonable promise of successful operation
- the name of the proposed bank does not resemble, so closely as to be likely to cause confusion, the name of any other bank or trust company transacting business in California or which had previously enacted business in California
- the applicant has complied with all of the applicable provisions.[2]

LIABILITY

Separate and apart from legal requirements related to investment in a public bank and its lines of business is the question of liability for the City of Oakland and other entities that may wish to participate in the formation of a public bank.



Holding Company

One structure for shielding localities from liability which we have examined is the use of a JPA for the purpose of forming a public bank, a holding company for that bank, or both. Formation of a holding company as step one towards the formation of a public bank may make sense as a way of organizing ownership and control of the public bank.

Cannabis

Cannabis remains a Schedule I, Controlled Substance under Federal law,[3] and accepting funds from the cannabis firms, or making investments in an instrument derived from cannabis funds, runs the risk of being deemed an investment in an illegal enterprise. Such a finding could trigger account freezing or seizure by federal authorities, despite California's having legalized recreational and medical use of cannabis. However, should the federal environment change, creating and

[2] *See* Cal. Fin. Code, §1023.

[3] *See* 21 U.S.C. §802(32)(A), and 21 U.S.C. §813.

or investing in such instruments could be an option to support capitalization of the public bank. Notably, some banks are beginning to take cannabis dollars despite the risk, though we advise against accepting any cannabis dollars as long as it is classified as an illegal substance by the federal government because of the risk discussed above. ~~do not advise that for the proposed public bank.~~[4]

"The Prudent Investor Standard"

When it comes to the investment of public funds, California state law holds all governing bodies of local agencies as well as municipalities, public and municipal corporations, and those who are authorized to invest on their behalf, to the "prudent investor standard," as follows:

"...When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency. Within the limitations of this section and considering individual investments as part of an overall strategy, investments may be acquired as authorized by law."[5]

FDIC Rules

Municipalities that have the authority at the local level to invest funds must invest at a nationally or state chartered financial institution, and all deposits made by the municipality at that institution must be FDIC or National Credit Union Administration insured and are restricted to depositing 30% of the agency's funds.[6]

Even if an insurance alternative to FDIC is created, any public bank[7] formed by the City of Oakland and/or partner municipalities is likely to still be subject to FDIC rules related to capital quality and adequacy adopted pursuant to Basel III that apply to "Community Banks," which is defined to mean banks with consolidated assets of less than $10 billion that are not deemed systemically important. Two types of capital ratio requirements are applicable to all banks, including community banks: a risk-based capital ratio and a leverage ratio.

PURPOSE

[4] For a quick summary of the current environment on cannabis acceptance by banks, see More Banks Are Welcoming Marijuana Businesses, Federal Data Shows (Jan. 2018), Forbes at https://www.forbes.com/sites/lomangell/2018/01/02/more-banks-welcome-marijuana-businesses-federal-data-shows/#6e9cfc727a64.

[5] *See* CA Gov't Code, Sec. 53600.3

[6] *See* CA Gov't Code, Section 53635.8. The code permits insured deposits at a credit union but has some additional deposit insurance verification requirements.

[7] All banks formed in the United States are subject to capital quality and liquidity requirements. The FDIC would probably continue to be one of the entities that a public bank would answer to, even if the State of California or some other entity came up with comparable insurance for deposits.

The primary impetus behind the public banking movement is that major private banks sometimes do a poor job of providing needed services or tend to operate in a manner injurious to the public interest. The purpose of a public bank then is to offer an alternative to—and competition for—these banks. The section examines the question: *Can a public bank offer service that is inadequately provided by large banks and in doing so become a viable institution?*

In general, commercial banks provide households, businesses and government agencies three services:

- *Deposit services* that offer their customers a safe repository for money in the form of Federally-insured demand and time deposit accounts.
- *Payment services* that provide means for customers to transfer money to each other, mainly with checks, credit cards and debit cards.
- *Credit services* that provide loans, leases and other forms of financing.

In furtherance of the interests of Oakland, Berkeley, Richmond and Alameda County, a public bank might pursue two goals:

- To provide local governments a "socially responsible" source of deposit, and payment and credit services, thus reducing their dependence on large banks.
- To increase the availability and affordability of student, mortgage and business loans in the Bay Area.

To achieve these two goals, the public bank should adopt the following strategies:

- Purchase and participate in mortgages, small business and student loans originated by community banks and/or CDFIs (Community Development Financial Institutions).
- Use a "deposit sharing" program to allow the public bank to secure significant amounts of deposit funding from participating governments.
- To achieve a third goal of addressing cannabis banking needs, municipalities could establish a separate, not-for-profit entity to provide deposit and payment services to the cannabis industry.

SCALE MATTERS

Reports from both the Federal Reserve Banks of Kansas City and St. Louis appear to indicate that scale is important to a bank's financial performance. A major reason is that larger banks are better able to make the capital investments associated with new technologies—technologies that can make a bank more productive and efficient. This is especially important to a public bank's ability to provide the array of services that large customers such as municipalities require. According to one former official of the Federal Reserve Bank of San Francisco, banks serving large government agencies typically have $300 million in capital.

It is unlikely that a public bank could achieve this size through organic growth. Therefore, it may be best to consider that it should seek a business combination (merger or acquisition) with a much larger institution in less than seven years. Of course, the successor bank would have to continue the public bank's mission and purposes.

To sum up, a publicly-owned bank can be created under state and federal law. Through a JPA or bank holding company, municipalities may be insulated from legal risk. State requirements for FDIC insurance and collateral security will virtually eliminate deposit and investment risk. The public bank can be capitalized in a manner that meets federal requirements but does not require that participating governments allocate existing funds to make investments in the bank. At the same time, the bank's capital can be structured in a manner to place permanent control in the hands of local governments and their representatives. Finally, revenue from interest and fee income should be sufficient to finance all of the bank's operating expenses. No continuing public subsidy should be needed.

LEGAL AND REGULATORY ISSUES OF ESTABLISHING A PUBLIC BANK

FORMATION IS FEASIBLE

Formation of a public bank is feasible with few to no regulatory changes

A public bank could be formed as a nationally chartered entity, subject to the oversight of the Office of the Comptroller of the Currency, or as a California State chartered entity, subject to the oversight of the California State Department of Business Oversight, Department of Financial Institutions Division. Regardless of whether a charter is state or federal, there will be other ways in which state or federal laws could and will affect the day to day operations and oversight of a public bank. Deposit insurance is one key element. Most state-chartered entities, as well as federally chartered, rely on the Federal Deposit Insurance Corporation (FDIC) for that service. Another element of concern is access to Automated Clearing House (ACH) or EPN services, which would be necessary to serve some of the types of needs, identified by the City of Oakland and other interested municipalities, as necessary for handling particular elements of the municipalities' financial needs.



Obtaining a state or national charter as a bank has some common themes. The chartering entity would review the quality of the business plan developed, evaluating its strength based on the reasonableness and achievability of its business

objectives, whether those objectives fall within legal lines of business that can be authorized under a given charter, the quality and experience of proposed management, capitalization levels and sources of capital. Over time as regulators engage in oversight, which is typically frequent and extensive, regulators will review how much the newly formed entity has deviated from its business plan, if at all, and why, and whether it is hitting its key financial benchmarks.

Formation of a holding company as step one towards the formation of a public bank may make sense as a way of accelerating the ability to provide at least some services for which municipalities rely on mainstream banks, and as a structure for ownership of the public bank. Types of transactions that a bank holding company can engage in include, but are not limited to financial data processing, money transmittal and government securities underwriting.

The bank holding company could be formed as a municipal corporation in its own right that would then own the public bank. By establishing this type of structure, it is the holding company that would be subject to capitalization requirements established under the Basel Accords that have also been adopted by the FDIC.[8] The holding company would then have to be a member of the Federal Reserve System. Below, we will discuss ownership and internal governance further.

Alternatively, to avoid the time and effort necessary to establish a new bank charter, the City of Oakland and interested municipalities may want to consider purchase of an existing bank that could serve public bank purposes. Other advantages to purchase of an existing bank could include an established data system, trained staff, and other internal infrastructure that is experienced with and prepared to engage in banking activities and necessary reporting. The bank's charter may need to be tailored to meet the public bank's goals, and modifications would then require regulatory approval. It may be possible to acquire a bank with a broad enough charter, however, to not require charter modification but to require only restructuring of the business plan of the bank, which would also require regulatory approval.

CHARTERING UNDER EXISTING LAW

A public bank can be chartered under existing California law.

California does not have a specific "public bank" designation, but none is required for a state-chartered bank to be formed that could serve some or all of the goals articulated by the City of Oakland and other municipalities for their financial services' needs. **A state-chartered public bank could operate under a Commercial Bank Charter.**
Upon receiving an application for a Commercial Bank Charter, the Commissioner of the California Department of Business Oversight has wide discretion in granting or denying the charter.[9] The Commissioner is responsible for making decisions as to whether to approve each application and will not approve an application until he or she has ascertained that:

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[8] Beitel, Karl The Municipal Bank: Compliance, Capitalization, Liquidity, and Risk, (July, 2016), Roosevelt Institute at http://rooseveltinstitute.org/municipal-bank-regulatory-compliance-capitalization-liquidity-and-risk/

[9] *See* Cal. Code Regs. tit. 10, §§ 10.3159, 10.3160; See also, California Department of Business Oversight, Guide for Groups Interested in Chartering a State Bank in California, http://www.dbo.ca.gov/cacharter/guide.asp. See also Cal. Fin. Code §§99 et seq.

- the public convenience and advantage will be promoted by the establishment of the proposed bank;
- the proposed bank will have a reasonable promise of successful operation
- the bank is being formed for no other purpose than the legitimate objects contemplated
- the proposed capital structure is adequate
- the proposed officers and directors have sufficient banking experience, ability and standing to afford reasonable promise of successful operation
- the name of the proposed bank does not resemble, so closely as to be likely to cause confusion, the name of any other bank or trust company transacting business in California or which had previously enacted business in California
- the applicant has complied with all of the applicable provisions.[10]



We want to note that **a credit union structure is also possible, though we do not see advantages.** The amount of time required for formation would be similar to a bank, and the same capitalization, collateral quality, deposit insurance and access to payment systems concerns would remain.

One of the challenges to a credit union model is the requirement that there be a common bond amongst members, and a suggested floor of 500 members. Though it is easy to imagine 500 municipalities in California wanting, ultimately, to participate, the time spent in assuring there is a common set of goals may delay formation. The State Department of Business Oversight (DBO) has previously interpreted the 500 members as a minimum.

Again it is not clear that there are advantages to the City of Oakland in formation of a public bank as a credit union. If one of the goals of a public bank is to be structured such that it is not directly supervised by a federal regulator, then a California State chartered credit union structure offers the possibility that our state DBO could approve use of private deposit insurance (there is only one insurer nationally who might be available—American Share Insurance), but there is no guaranty that DBO would find the insurance adequate. In addition, to the extent that some of the City of Oakland's business needs require access to the national electronic payment systems which, in turn, requires FDIC insurance, this

[10] *See* Cal.Fin.Code, §1023.

requirement eliminates the possible state-chartered credit union advantage of potentially utilizing private instead of NCUA insurance. Credit Unions use the same exact ACH network.

ADVANTAGES VS. A COMMERCIAL BANK

A California Public Bank Charter could have advantages over use of the existing Commercial Bank Charter.

It is not legally necessary to have a new California law or regulatory framework for the formation of a bank to serve public banking purposes. However, there could be advantages to having a specific public bank charter authorized at the state level if that charter addresses some of the capitalization and deposit insurance concerns with which a public bank formed under our state's existing commercial bank charter would have to comply. Our state legislature could create a public bank charter that eliminates the need for FDIC insurance, and it could also simultaneously address impediments in state law with regard to deposits by municipalities into the public bank as a non-FDIC insured institution. If the state were to move in this direction, however, the state would, ideally, facilitate access to an alternative deposit insurance structure (perhaps creating a state insurance structure or bringing in a significant new private insurance structure) that could be a viable alternative. The safety and soundness needs for localities and for the state necessitate a strong insurance structure.

An alternative deposit insurance resource does not automatically cure the problem of needing FDIC insurance for access to electronic payment systems, however. We would encourage working with the state to engage our local Federal Reserve System in a discussion regarding whether an alternative insurance system could be used to support access to the system for electronic payments purposes. Alternatively, the City of Oakland and interested municipalities may want to pursue the possibility of using a public bank for all transactions other than those requiring the use of payment systems.[12]

ACCESS TO ACH

Access to the Federal Reserve's payment system is essential to a public bank's success.

Access to the Automated Clearing House (ACH) is a need of many, if not all, municipalities to support the electronic payments aspects of their banking business. Access to ACH/EPN services is governed by federal regulations[13] administered by The National Automated Clearing House Association (NACHA)'s ACH Rules. It appears that a financial institution that is not FDIC insured may be, technically, eligible for use of the system, however only if it could be deemed eligible for FDIC membership.[14]Even if the State of California develops an alternative, state-run deposits insurance entity, the impediment of non-eligibility of a participating entity for ACH access would remain.

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[12] See Appendix 1 – Private and Public Banking

[13] http://www.gfoa.org/sites/default/files/BankingServicesAGuideForGovernments.pdf, Exhibit 2.6, pg. 21

[13] *See* 31 CFR Part 210.

[14] The legality at the federal level of the types of deposits accepted by the public bank, such as cannabis related deposits, would probably affect a finding of whether or not the institution could be deemed eligible for FDIC membership.

USE OF A HOLDING COMPANY



Ownership and control of a public bank might be achieved through a bank holding company.

For purposes of ownership structure and to be able to more quickly roll out at least some services that the City of Oakland and other municipalities have prioritized in authorizing this feasibility study, formation of a bank holding company is a possibility. Downsides are the extent of federal regulation and duplication of oversight. Bank holding companies are federally regulated and are required to register with the Board of Governors of the Federal Reserve System.[15] A holding company would need to have its own business plan, and board of directors, separate and apart from the public bank, and it would need to register with the Securities Exchange Commission. Most banks with a smaller asset size are owned by a holding company. A problem for use of a Bank Holding Company structure, however, is a specific federal prohibition on having either a direct government investor or a corporate investor that is majority owned by a state.[16]
California state law also has its own regulations pertaining to bank holding companies and is written broadly to declare that any person or company (municipalities would probably be included) which directly or indirectly owns, controls or has power over 10% or more of bank stock in California or even indirectly has power or a controlling influence over the

[15] *See*, Bank Holding Company Act of 1956 (12 U.S.C. § 1841(a)(2)(A), and Regulation Y.

[16] *Id.*

entity, is subject to State DBO oversight.[17] If a bank holding company were still deemed to be desirable, then it would be advisable for the City of Oakland to verify with State DBO whether it would be subject to examination as a bank holding company and, if so, what type of oversight and examinations it could expect.

PROTECTING MUNICIPAL ORGANIZERS WITH A JPA

A Joint Powers Authority (JPA) should be considered as a way of protecting municipal organizers of the bank from legal risk.

Separate and apart from legal requirements related to investment in a public bank and its lines of business is the question of liability for the City of Oakland and other entities that may wish to participate in public bank formation. One structure for shielding localities from liability which we have examined is the use of a JPA for formation purposes of a public bank, a holding company for that bank, or both.

California's Joint Exercise of Powers Act (JEPA), at CA Gov't Code, Section 6500.1, et seq. permits two or more public agencies to agree to jointly exercise powers common to each entity. The entities do not need to be located in the same geographic area.[18] The JEPA provides a procedure for creation of an entity separate from the parties to the agreement.[19] It also specifies that the parties to the agreement may help fund the purpose agreed upon by the parties, as follows:[20]

[17] *See* CA Fin. Code, §§1280 et seq.

[18] *See* CA Gov't code, Sec. 6502.

[19] *See* CA Gov't code, Sec. 6503.5

[20] *See* CA Gov't code, Sec. 6504. All funds would, of course, have to be strictly accounted for and reported on carefully. See CA Gov't code, Sec. 6505

"The parties to the agreement may provide that (a) contributions from the treasuries may be made for the purpose set forth in the agreement, (b) payments of public funds may be made to defray the cost of such purpose, (c) advances of public funds may be made for the purpose set forth in the agreement, such advances to be repaid as provided in said agreement, or (d) personnel, equipment or property of one or more of the parties to the agreement may be used in lieu of other contributions or advances. The funds may be paid to and disbursed by the agency or entity agreed upon, which may include a nonprofit corporation designated by the agreement to administer or execute the agreement for the parties to the agreement."



Thus, if the public bank, or a holding company for the institution, or both were structured as non-profits, funds could go directly to that non-profit to help pay for its function. The above language is broad, without the restrictions on investments delineated in other parts of state law.

We are still investigating whether the JPEA language could be used to fund initial start-up costs of at least a bank holding company. Other regulatory requirements may make that difficult. The language would certainly not trump the more restrictive language regarding investments made by municipalities. The parties to the agreement would be required to designate a public officer or another officer (bonded) to have access to any property of the new entity or to have custody of new entities' resources and assures use of allocated funds in the ways to which parties have agreed.[21] Again, these requirements as written would seem on their face to create some challenges to use of funds for start-up costs for a municipal entity under a JPA. However, the terms of the act do specifically allow for the creation of a separate entity to serve the goals of the municipal parties, and that:

"... if the agency is one of the parties to the agreement but is a public entity ... authorized, in its own name, to do any or all of the following: to make and enter contracts, or to employ agents and employees, or to acquire, construct, manage,

[21] *See* CA Gov't code, Sec. 6505.5

maintain or operate any building, works or improvements, or to acquire, hold or dispose of property or to incur debts, liabilities or obligations, ***said agency shall have the power to sue and be sued in its own name."***[22]

Under the JPEA, the entity formed by the participating municipalities can, in turn, have the authority to invest monies of the entity that are not needed for day to day operations.[23] If the new entity is a non-profit corporation, its investment rights are delimited to those of the investing agencies.[24] In terms of the power of participating municipalities to govern or provide oversight through the JPA, the JPA is authorized to issue shares of beneficial interest to participating public agencies representing a proportionate interest in any securities that the JPA may own.[25]

In addition to the JPEA's clearly placing liability on the shoulders of the newly created entity, removing it from the shoulders of participating municipalities, JPAs may also be able to access insurance under one or more programs specific to ensuring such entities.[26]

There are examples of financing bodies in California that have been formed under a JPA, though not full-scale banks. One is the Golden State Finance Authority (GSFA), established in 1993 to support and provide affordable homeownership, which has functioned as an eleven county financial assistance program for homeowners and buyers in California. We have not had the opportunity yet to gather more information about its experience in having used the JPA to carry out its functions. Certainly, its functions are vastly limited compared to the type of operations that a public bank would carry out, and we are continuing our research on whether a JPA structure could make sense in the formation of a public bank by the City of Oakland and other interested municipalities.

The City of Oakland is a charter city, which gives it advantages over non-charter cities in terms of its legal authority to create laws regarding "municipal affairs" that may conflict with state laws. What is considered a municipal affair is partly a matter of definition under the California Constitution and partly decided on by way of precedent from litigation. Although California's Constitution does not define "municipal affair," it does list four categories that are deemed to be "municipal affairs." These are:

- regulation of the "city police force

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[22] *See* CA Gov't code, Sec. 6508.

[23] *See* CA Gov't code, Sec. 6509.

[24] *See* CA Gov't code, Sec. 6505.5.

[25] See CA Gov't code, Sec. 6505.7. Note that there are additional requirements to be adhered to for compliance with this section.

[26] *See* services and programs of the California Joint Powers Insurance Authority at https://cjpia.org/protection/coverage-programs. A link to their members' agreement is available at http://www.gsfahome.org/admin/resolutions/UNSIGNED_JPA_for_new_members.pdf

- sub-government in all or part of a city
- conduct of city elections
- the manner in which . . . municipal officers [are] elected

Beyond this list, it is up to the courts to determine what is and is not a municipal affair.[27]

A JPA might shield localities from "Source of Strength" requirements. If a holding company owns the public bank, that holding company will be looked to as a source of financial strength for the bank. If municipalities own the public bank, they would certainly be looked to by federal regulators as a source of financial strength, meaning the municipalities have proven their ability to provide financial assistance to the bank in the event of financial need.[28] The FDIC could be a regulator of the public bank, even if state-chartered.

The municipalities need to decide whether they want to form a state chartered bank or federally chartered. For a guide to basics of formation of a state bank, here's California's basic introduction: http://www.dbo.ca.gov/cacharter/guide.asp. The municipalities should work with their city attorney/county counsel offices to bring on any additional expertise necessary to complete forms and steps. See Appendix 1 – Private and Public Banking. Some of the challenges include establishing a public bank in a changing banking environment.[29]

SOCIAL MISSION

[27] See Charter Cities, A Quick Summary for The Press and Researchers, at https://www.cacities.org/Resources-Documents/Resources-Section/Charter-Cities/Charter-Cities-A-Quick-Summary-for-the-Press-and-R

[28] *See* 12 U.S. Code § 1831o–1 - Source of strength

[29] See Appendix 16 - The Copernican Revolution in Banking.



The public bank's social mission can be mandated legally.

A key component for the public bank is the maintenance of its purpose or mission. The nature of the mechanisms used to preserve adherence to their stated mission stem in part from the type of institutional structure chosen. For an institution that is directly owned or managed by the City of Oakland and/or other municipalities, whether by way of a governing board or shares, the City could build social responsibility language into chartering documents, as well as into staff training, and any supervisory board or advisory board guidelines. Building in periodic public reports to participating local governments in open session may also help to preserve the mission of the entity, creating some transparency. The City of Oakland or other entities may wish to alter their charter to further preserve social responsibility requirements for a public bank, but that is still not a guarantee that it will stay on course. If the municipalities want to use their charters as an additional tool for trying to imbed a public purpose in the public bank, therefore, they might want to talk to their city attorney's office about adding language to their local charter to address that.

In light of the current climate at the federal level of antagonism towards some core values of the City of Oakland, Alameda , Richmond and Berkeley, which are also held by our state with regard to treatment of immigrants, the cannabis industry and other concerns, choosing a California state-charter and taking steps to limit federal regulation might be wise. Choosing to establish the bank as a Legal Benefit Corporation under California State law would further bake the public mission of the public bank into its formative documents.[30] Entities formed under this section must demonstrate to state regulators their commitment to whichever public benefit activities have been delineated in its incorporation materials.

[30] *See* CA Corp. Code, §§14600-14604.

MUNICIPALITIES CAN LEGALLY INVEST

Municipalities appear to have legal means to invest in a public bank.



For municipalities to invest in the public bank, one source of funds could be a one-time appropriation from the General Fund. Another possibility could be to use investment reserves. Municipalities could become stockholders in the public bank, and, if the bank offers common shares, then municipal investments will qualify as Tier I capital, which is particularly important for capital sufficiency regulatory requirements. Share owners would be entitled to any dividends distributed in an amount equivalent to their total shares held. State restrictions on investments are a concern and are enumerated below. It may be possible to create different share structures to encourage investment by local businesses and/or residents as well, without sacrificing the public mission of the entity.

LIMITS ON CANNABIS-RELATED INVESTMENTS

California law may limit the ability of a public bank to make cannabis-related investments.

California state law provides that cities and counties may issue debt instruments as securities in which banks, fiduciaries and others can invest legally.[31] If localities or the State of California create a cannabis industry derived financial instrument (from streams of money from that industry), then a possibility to consider for the future is that a public bank could invest in those securities. One advantage to the public bank (and any other investor) in these securities is that such a debt instrument (including any transfer or income from the instrument) cannot be taxed by the state or by any municipality of our state.[32]

As with all other cannabis-derived funding streams, the problem remains that this is a Schedule I, Controlled Substance under Federal law,[33] and accepting funds from or making investments in an instrument derived from cannabis funds runs the risk of being deemed an investment in an illegal enterprise. Such a finding could trigger account freezing or seizure by

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[31] (27) See CA Gov't Code, Sec. 53595.45

[32] (28) See CA Gov't Code, Sec. 53595.50

[33] (29) See 21 U.S.C. §802(32)(A), and 21 U.S.C. §813.

federal authorities, despite California's having legalized recreational and medical use of cannabis. However, should the federal environment change, creating and or investing in such instruments could be an option to support capitalization of the public bank. Notably, some banks are beginning to take cannabis dollars despite the risk, though we do not advise that for the proposed public bank.[34]

LIMITS ON RISKY INVESTMENTS

State law also limits the extent to which municipalities can make investments considered to be risky.

The State of California has embedded restrictions on investment by municipalities and public or municipal corporations in the Government Code, having specifically found that the solvency of localities (and/or particular departments in localities) is a matter of state interest.[35] As to matters of state interest, the fact that a municipality has charter status (like Oakland) does not protect it from the reach of state law on that particular matter. Thus, if, for example, the City of Oakland and/or partner municipalities were to decide to engage investments via a public bank that the state deemed to be too risky, that could be a violation of state law. That fact suggests that, in considering capitalization, or investments in cannabis, or cannabis derived instruments, the public bank, even if it is not closely related to the City of Oakland in terms of ownership or governance, could be deemed to be too risky for the City to conduct any business with such entities. We would suggest that the City discuss this concern with the appropriate offices of the State of California.

When it comes to the investment of public funds, California state law holds all governing bodies of local agencies as well as municipalities, public and municipal corporations, and those who are authorized to invest on their behalf, to the "prudent investor standard," as follows:

[34] For a quick summary of the current environment on cannabis acceptance by banks, see More Banks Are Welcoming Marijuana Businesses, Federal Data Shows (Jan. 2018), Forbes at https://www.forbes.com/sites/tomangell/2018/01/02/more-banks-welcome-marijuana-businesses-federal-data-shows/#6e9efc727a64

[35] See CA Gov't Code, Secs. 53600 – 53610, and specifically Sec. 53600.6.

"...When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency. Within the limitations of this section and considering individual investments as part of an overall strategy, investments may be acquired as authorized by law."[36]



Specifically, "[when investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, the primary objective of a trustee shall be to safeguard the principal of the funds under its control. The secondary objective shall be to meet the liquidity needs of the depositor. The third objective shall be to achieve a return on the funds under its control.]"[37]

State law requires that investments by local agencies shall only be in "legal investments for savings banks in the State" unless, in the case of a county, there is a four-fifths vote by the board of supervisors to invest in something else.[38] Thus, a county could vote for an investment of its surplus in an alternative that is not a legal investment for a savings bank of the state. There is not a similar provision for cities. This raises another issue for discussion with appropriate State of California staff regarding whether or not there is a need to change this language at the state level to create an exemption of some kind for cannabis or other types of investments that are not presently legal investments. There is an additional set of state law requirements for "...all local agencies that pool money in deposits or investments with other local agencies that have separate governing bodies."[39]

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[36] See CA Gov't Code, Sec: 53600.3

[37] *See* CA Gov't Code, Sec: 53600.5

[38] *See* CA Gov't Code, Sec: 53602

[39] *See* CA Gov't Code, Sec. 53601, referencing CA Gov't Code, Sec. 53635.

To the extent that the City of Oakland, Alameda County, Berkeley, Richmond or other interested localities or municipal agencies may consider pooling their money in deposits or investments, they should be aware of a specific set of California State Law restrictions with regard to investment in commercial paper, delimiting the amount of investment permissible.[40]

STATE COMMUNITY INVESTMENT STANDARDS

A public bank will probably be subject to state community investment standards.

Any public bank that is formed would have to meet additional restrictions in terms of community investment performance, which suggests that perhaps the City of Oakland and other interested municipalities would have to structure investment in the public bank at the start-up phase in a way that did not trigger this provision, or the City would want to discuss this provision with the State of California as another matter of law to be revamped. Municipalities and public corporations in California are also subject to a general restriction on where they can deposit any money in their custody, including a requirement that the depository entity has received a rating of "satisfactory" or better by its regulator as to its community investment performance in California.[41]

Given the wide variety of revenue streams or funds managed by the City of Oakland and other interested localities, we want to flag that particular types of monies may have restrictions particular to them. For example, the City of Oakland's Charter sets forth the types of entities and instruments in which retirement funds can be invested by the Police and Fire Retirement Board. Although the charter provides that the list is not intended to be exclusive, the City may want to consider the possibility of adding a provision that specifically permits investment in a public bank and/or that also addresses the issue of investment in cannabis or institutions that bank or otherwise handle cannabis funds.[42]

FDIC INSURANCE

To accept municipal deposits, the public bank will probably need FDIC insurance.

Another state restriction on investment may need to be addressed prior to or simultaneous to the formation of a public bank if the City of Oakland decides to proceed forward with that effort. Municipalities that have the authority at the local level to invest funds must invest at a nationally or state chartered financial institution, and all deposits made by the municipality at that institution **must be FDIC or National Credit Union Administration insured,** and are restricted to

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[40] *See* CA Gov't Code, Section 53635

[41] *See* CA Gov't Code, Section 53635.2

[42] *See* Oakland, California - Code of Ordinances, THE CHARTER OF THE CITY OF OAKLAND, ARTICLE XXVI - Added By: Stats. 1951, POLICE and Fire Retirement System, at https://library.municode.com/ca/oakland/codes/code_of_ordinances?nodeId=THCHOA_ARTXXVIADST1951POFIRESY

depositing 30% of the agency's funds.[43] To the extent that a public bank formed would probably not qualify for FDIC insurance if cannabis-related businesses or investments were banked there, localities may want to explore with the state changing the current restriction under state law.

Please note that another California state restriction on municipal investments comes in the form of a requirement that municipal deposits above the FDIC insurance limit be collateralized.[44] How this collateralization takes place, or ways in which the state could support collateralization, should be part of the City of Oakland and other municipalities' discussions with the state.

State law also contains a provision permitting deposits at a state or federal credit union guaranteed by the California Credit Union Share Guaranty Corporation, or insured per Section 14858 of the Financial Code provided no member or person with decision making authority at the agency also serves in a key role at that credit union.[45]

However, the CCUSGC dissolved some years ago. California Financial Code Section 14858 permits the Commission heading the Department of Business Oversight to decide that alternative forms of insurance are acceptable, at its discretion. This would seem to leave room for non-federal insurance, perhaps developed under the umbrella of the State of California, to cover any proposed public financial institution if structured as a credit union instead of as a bank, perhaps avoiding the need for and restrictions of FDIC insurance. Alternatively, such an insurance fund could perhaps be developed to support a state chartered bank, in lieu of qualifying for FDIC insurance.

FDIC CAPITALIZATION REQUIREMENTS

To accept municipal deposits, the public bank will probably need FDIC insurance.



In 2014, the FDIC issued interim capitalization rules based on the outcome of the Basel III Committee Accords.[46]Capitalization adequacy has long been a focus of the Basel Committee meetings, and higher capital standards for banks globally resulted were adopted in December of 2010 under Basel III.[47] More specifically, the FDIC's final rule incorporated into its Prompt Corrective Action requirements "... a revised

e code permits insured deposits at a credit union but has some additional deposit insurance verification

rds by a committee of Central Banks and Banking Supervisors of 28 jurisdictions (originally named the ervisory Practices, established in 1974 to stabilize currency and markets through improving bank

r liquidity risk measurement, standards and monitoring at https://www.bis.org/publ/bcbs188.htm

definition of regulatory capital, a new common equity tier 1 minimum capital requirement, a higher minimum tier 1 capital requirement, and, for FDIC-supervised institutions subject to the advanced approaches risk-based capital rules, a supplementary leverage ratio that incorporates a broader set of exposures in the denominator."[48]

The final rule also, for FDIC-supervised entities, adopted requirements regarding capital distributions by FDIC-supervised entities, certain bonus payments, and revised how risk-weighted assets are to be calculated.[49] Though so-called non-advanced approaches banks[50] are exempt from some of the Basel III requirements, they are not exempt from all.[51] For example, there are minimum capital requirements for all FDIC-insured entities and capital adequacy requirements, with specific methodologies required for calculation of compliance,[52] as well as a minimum liquidity standard from Basel III (the Net Stable Funding Ratio) which took effect January 1, 2018, and a liquidity coverage ratio (LCR) which has been phasing in since 2015, with its final stage to take effect on January 1, 2019. In determining possible impacts on a new public bank, we will examine the effects of these rules.

Even if an insurance alternative to the FDIC is created, any public bank formed by the City of Oakland and/or partner municipalities is likely to still be subject to FDIC rules related to capital quality and adequacy adopted pursuant to Basel III that apply to "Community Banks," which is defined to mean banks with consolidated assets of less than $10 billion that are not deemed systemically important. Two types of capital ratio requirements are applicable to all banks, including community banks: a risk-based capital ratio and a leverage ratio. Some key takeaways for community banks under Basel III rules are:

"On top of the tougher new minimum capital ratios, community banks must maintain a common equity capital conservation buffer of greater than 2.5% of risk-weighted assets (RWAs) to avoid restrictions on dividends, redemptions and executive bonus payments. "Compared with existing capital rules, U.S. Basel III will require community banks to deduct much more mortgage servicing assets (MSAs) and deferred tax assets (DTAs) from their common equity capital, shrinking their capital base. "Community banks can opt out of including accumulated other comprehensive income

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48 *See Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Capital Adequacy, Transition Provisions, Prompt Corrective Action, Standardized Approach for Risk- weighted Assets, Market Discipline and Disclosure Requirements, Advanced Approaches Risk-Based Capital Rule, and Market Risk Capital Rule,* 55340 Fed. Reg. 78 (Sept. 10, 2013), FDIC, at https://www.fdic.gov/news/board/2013/2013-07-09_notice_dis_a_res.pdf

49 *Id.*

50 Non-advanced approaches banking organizations have less than $250 billion in consolidated assets or less than $10 billion in consolidated on-balance sheet foreign exposures.

51 For highlights of key Basel III requirements, see *U.S. regulatory capital Basel III final rules: Key takeaways and highlights for U.S. banks,* (July, 2013), Deloitte, at https://www2.deloitte.com/content/dam/Deloitte/us/Documents/risk/us-aers-basel-III-final-rule-highlights-v8-final-112714.pdf

52 (48) See 12 CFR, Sec. 324.1 et seq.

(AOCI) in their common equity capital. In other words, they can elect to keep the existing AOCI filter. "U.S. Basel III retains the existing capital treatment of residential mortgages and certain other types of exposures."[53]

Please note that a bill currently pending in Congress with bipartisan support would relax some of the above rules for community banks was updated on April 19, 2018.[54]

In addition to the above, the Basel Committee finally released, in December of 2017, a set of capital standards for banks that grew out of Basel III. Issues addressed in this recent release include:

- a revised standardised approach for credit risk, which will improve the robustness and risk sensitivity of the existing approach
- revisions to the internal ratings-based approach for credit risk, where the use of the most advanced internally modeled approaches for low-default portfolios will be limited
- revisions to the credit valuation adjustment (CVA) framework, including the removal of the internally modeled approach and the introduction of a revised standardised approach
- a revised standardised approach for operational risk, which will replace the existing standardised approaches and the advanced measurement approaches
- revisions to the measurement of the leverage ratio and a leverage ratio buffer for global systemically important banks (G-SIBs), which will take the form of a Tier 1 capital buffer set at 50% of a G-SIB's risk-weighted capital buffer
- an aggregate output floor, which will ensure that banks' risk-weighted assets (RWAs) generated by internal models are no lower than 72.5% of RWAs as calculated by the Basel III framework's standardised approaches. Banks will also be required to disclose their RWAs based on these standardised approaches.[55]

These revised standards will take effect January 1, 2022, with phase-in provisions.
Should the City of Oakland decide to seek private deposit insurance instead of FDIC insurance, or if the State of California were to provide deposit insurance, it is uncertain what the capitalization standards would be of such an insurer.

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[53] *See Final Basel III Capital Rule—Less Impact on Community Banks* (2013), St. Louis Federal Reserve Board, at *https://www.stlouisfed.org/Publications/Central-Banker-Summer-2013/Final-Basel-III-Capital-Rule-Less-Impact-on-Community-Banks*. See also *U.S. Basel III: Guide for Community Banks* (2013), Davis Polk & Wardwell, LLP, at https://prod.davispolk.com/files/Davis-Polk-Basel-3-Guide-for-Community-Banks.pdf

[54] *See Economic Growth, Regulatory Relief and Consumer Protection Act* (2017) available at https://www.banking.senate.gov/public/_cache/files/96d07158-bf57-4f2e-9bfe-888db5da36ab/7EC24EE731A96E31783910 1D6AE8FF34.sil17981.pdf For a summary of bill requirements, see *Bipartisan Senate Bill Would Provide Welcome Relief to Regional and Community Banks* (Nov. 2017), Davis Polk & Wardwell, LLP, at https://www.usbasel3.com/single-post/2017/11/20/Bipartisan-Senate-Bill-Would-Provide-Welcome-Relief-to-Regional-and-Community-Banks

[55] Governors and Heads of Supervision finalise Basel III reforms (December 2017), Bank for International Settlements at https://www.bis.org/press/p171207.htm

However, it seems likely that any non-FDIC insurer would still look to FDIC requirements as a set of best practice requirements and may not deviate from them.

THE RISK OF CANNABIS

Current federal law makes banking the cannabis industry a highly risky choice for depositories.

The SOW for this study includes an examination of banking cannabis related funds and offers commentary to the report on the topic issued by California's State Treasurer in November of 2017.[56] The report identifies that a key stumbling block to the banking of cannabis-related funds is that cannabis is still deemed a Schedule I controlled substance under federal law. As we have discussed earlier, banks accepting cannabis derived funds are subject to the possibility of criminal action against them by the federal government under the Bank Secrecy Act and US Patriot Act, which could result in the freezing and/or seizure of bank funds and, potentially, the closure of the financial institution.[57] Under the prior federal administration, the Justice Department's 2013 "Cole Memorandum" narrowed the enforcement priorities of the department vis-a-vis cannabis, but it did not change its status as an illegal controlled substance under federal law. Since the time when the Treasurer's report was issued, the new federal administration and the Justice Department specifically have built on its already demonstrated hostility towards the cannabis industry by withdrawing the Cole Memo.[58] Though this act flies in the face of the significant legalization momentum that the cannabis industry has across many states, including California, this is, in fact, the current reality. Thus, as much as there is a demonstrated will at the local and state level in California to bank industry funds, such activity by a financial institution exposes it to significant risk of enforcement activity by the federal government.

The Treasurer's study also correctly identifies that, as a result, accessing FDIC insurance for needed deposit insurance, or membership in the Federal Reserve Board for access to its electronic payments system (Automated Clearing House- ACH) is probably impossible if a new public bank is engaged in banking cannabis money in some fashion.[59]

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[56] (52) BANKING ACCESS STRATEGIES FOR CANNABIS-RELATED BUSINESSES A Report From the State Treasurer's Cannabis Banking Working Group (Nov. 2017), California State Treasurer at http://www.treasurer.ca.gov/cbwg/resources/reports/110717-cannabis-report.pdf

[57] *Id. at 7.*

[58] *Exclusive: U.S. Justice Department blindsided banking agency on pot policy flip - sources* (Jan. 11, 2018), Reuters at http://mobile.reuters.com/article/amp/idUSKBN1F22Y8

[59] *Id. at 8.*

Even if a public bank were chartered by the State of California, and were able to obtain private deposit insurance or to partner with the state in some fashion to acquire state-funded deposit insurance, banking cannabis funds would still subject a new public bank to the possibility of criminal enforcement activity by federal authorities.



That current reality does not mean that the City of Oakland should assume that banking cannabis money would always remain highly risky. It is unclear whether the current federal administration will retain its control of Congress after 2018 elections, and seems unlikely that it would retain control in the next Presidential election cycle. Thus, thinking of a public bank as a possible venue for banking cannabis money when federal policy changes would seem a prudent course of action.

In the meantime, with significant public safety concerns created by the lack of access to banking services for the cannabis industry, the California State Treasurer's Office suggested non-banking strategies that localities could take for making tax and fee collection from this industry safer.[60] The report then goes on to encourage support of the industry's accessing banking services through supporting bank compliance with the now-withdrawn Cole Memo. Even when the Cole Memo was in force, it was never a law, but only a set of internal enforcement priorities for the federal Department of Justice, and thus it was always uncertain, at best, for entities to rely on the Cole Memo as a "safe harbor" for banking cannabis funds. Now, even that internal guidance has been retracted.

While the remainder of the Treasurer's memo discussed the possibility of the state of California forming a public bank, either just to bank cannabis funds or to also fund infrastructure and other needs, the memo reiterated that it would be unlikely that an institution to bank cannabis could successfully obtain a banking charter, much less access to deposit insurance of the ACH system.

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60 *Id. at 11-15. (See FinCen.)*

THE NEED FOR A PUBLIC BANK AS A FINANCIAL ENTERPRISE

THE NEED FOR A PUBLIC BANK AS A FINANCIAL ENTERPRISE

The nation's only public bank, the Bank of North Dakota, was organized in 1919, well before most of the nation's current apparatus for supporting and regulating depository institutions was in place or well-established. In 1919, the Federal Reserve was only six years old and operated in far different fashion from today's Fed. The FDIC did not exist.



Nevertheless, our research makes clear that a public bank can be organized under current state and federal law. In short, a depository institution owned by one or more public entities and providing loans and other banking services that further the purposes of these entities is legally feasible.

However, **the real impetus behind the public banking movement is that major private banks do a poor job of providing needed services, or tend to operate in a manner injurious to the public interest. The purpose of a public bank then is to offer an alternative to—and competition for—these banks.** The section examines the question: *Can a public bank offer services that are inadequately provided by large banks and in doing so become a viable institution?*

Our research and interviews with businesses, local residents and local government officials suggest that commercial banks generally do an acceptable job of providing these services. There are, however, exceptions to this rule. Specifically—

- Certain business, student and mortgage borrowers find bank loans either difficult to obtain or unaffordable.
- Local and state laws often force municipal government to employ deposit and services from large banks whose lending and business practices may be out of alignment with the values of their municipal customers.
- Current municipal finance practices appear to result in higher fees and interest costs than a more efficient and innovative public finance market would produce.
- The cannabis industry is generally unable to obtain conventional banking services because marijuana remains illegal under federal law.

	HOUSEHOLDS	BUSINESSES	GOVERNMENTS
DEPOSIT	No complaints about demand or time deposit account offerings. Depositors have a wide range of choices	Businesses have wide variety of deposit options from large number of competing banks in the Bay Area	Governments typically have a large number of deposit accounts. Fees may be higher than desirable but represent a small percentage of assets and budgets. However, questionable lending and business practices of large banks has spurred movement for municipalities to server ties with these institutions.
PAYMENT	Banks offer a wide range of checking, debit and credit card products. Credit card competition, among banks, is particularly robust	Businesses of all sizes have a wide range of payment options, especially from larger banks	Large banks provide a wide range of services, including debit and credit cards, sweep accounts and overdraft services upon which local governments depend. Again, many Bay Area cities are under pressure to sever relationships with large banks
CREDIT	Although credit is available evidence suggests that student and homebuyer concern about high debt service costs	Small businesses, especially those owned by people of color, complain about the unavailability of financing. Many have turned to emerging fintech lenders	Muncipal bond market dominated by large players. Room exists for new entrants and new technology to lower fees and interest rates

The following table shows what we found:

These findings suggest that a public financial institution can play a role in:

- Making student, mortgage and business loans more affordable and available.
- Providing governments an alternative—and socially responsible—source of deposit and payment services.
- However, the cash handling needs of cannabis businesses cannot appropriately be handled by a public bank, given the risk involved. Instead, a non-bank structure might be feasible, though we still recommend that neither, localities or a public bank have any ownership interest in or affiliation with this alternative structure given the legal risks.

KEY CREDIT ACCESS PROBLEMS A PUBLIC BANK COULD HELP ADDRESS

STUDENT LOAN REPAYMENT

Student loans are a repayment headache for many borrowers:

- According to Goldman Sachs, the value of outstanding student loans has reached $1.3 trillion. Graduates in the Bay Area have student debt balances of between $15,000 and $24,000.[61]
- Some borrowers have much larger amounts of accumulated debt. During our interviews, we learned about an Oakland resident who owes $137,000 in student debt on which he pays $583 every month—in interest alone. On a salary of $42,000, another resident pays $700 monthly on $80,000 in student loans.
- Beyond monthly debt service burdens that borrowers face, mounting student loan debt poses broader problems to the Bay Area economy. According to one analysis,[62] high student debt stifles spending, slows the housing market, and reduces business formation.
- The emergence of marketplace lender such as SoFi and Credible allows borrowers with solid credit scores and relatively high earnings to refinance their loans—often at substantial monthly savings.
- However, for other borrowers—those with less stellar credit scores and lower earnings, refinancing at market rates is simply not an option.



SUMMARY: Most borrowers can obtain student loans. For lower-income residents, especially, the problem is not availability; it's the relative lack of affordability

[61] San Francisco Federal Reserve Bank

[62] Student Loan Hero, December 2016

MORTGAGE LOANS

Available mortgage loans often fail to meet borrower needs:

- The median price of housing in the Bay Areas is now around $750,000.[63] While median income is also up—to about $97,000—the income required to buy the typical house may be as high as $180,000.
- For middle-income homebuyers, insufficient income is not the only problem. Inadequate savings is an equally large barrier to homeownership.
- Here's one reason. The current ceiling for 3 percent FHA loans is about $680,000—about $70,000 less than the area's median house price. This means that families buying the typical home may need to come up with the difference in the form of a larger down-payment—perhaps $100,000 or more.
- Of course, the cost of homes in the outer reaches of the Bay Area—places like Antioch—is often under current FHA ceiling. The good news is that this allows lower-income families to buy homes under the FHA's 3 percent down program. The bad news is that the median home price in Antioch—about $432,000—still requires an annual income of almost $77,000. This is less than 80% of the Bay Area median, but more than 30 percent above the median for the area.

In the U.S., most mortgages have a maximum term of 30 years. Yet, there appears to be no reasonable explanation for this limit.

- The underlying collateral has an economic life far longer than 30 years.
- The median age of first-time homebuyers in the U.S. is about 32.[64] These borrowers can expect to live to be older than 62.
- Total interest payments on a 50-year mortgage would be substantially higher than those on a 30-year loan—if the loans were outstanding for their full term. However, the typical mortgage is paid off in less than 10 years. (Borrowers tend to refinance or move.)
- At one time, both Japan and Switzerland offered mortgages with terms as long as 100 years. Before the financial crisis of 2008, several California banks had begun experimenting with 50-year mortgages. Now might be a good time to re-introduce this idea through a public bank.
- As the following table shows, a $400,000, 4% mortgage with a 50-year term will have 20% lower debt service costs than a 30-year loan.

[63] Mercury News, February 2018

[64] The Atlantic, 2014

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SUMMARY: Given the benefits that an extended term mortgage provides borrowers, it makes sense for a public bank to make such loans available through intermediaries.

SMALL BUSINESS LOANS

Small businesses often have difficulties obtaining loans.

	CONVENTIONAL	EXTENDED TERM
MORTGAGE AMOUNT	$400,000	$400,000
INTEREST	4.00%	4.00%
TERM	30	50
MONTHLY DEBT SERVICE	$1,910	$1,543
MONTHLY SAVINGS	$367	

Note: Interest is tax deductible to borrowers.

- Alameda and Contra Costa Counties are home to about 230,000 small firms, almost half owned by members of minority groups.
- While it is unclear how many of these firms may have applied for loans, what is certain is that a significant percentage of their loan requests to banks will have been declined. The following table shows the small business loan approval rate by type of lender:

BIG BANKS	SMALL BANKS	INSTITUTIONS	ALTERNATIVE LENDERS	CREDIT UNIONS
25.0%	49.0%	64.0%	57.0%	40.0%

Source: Biz2Credit Small Business Lending Index, March 2018

Almost all research on small business lending shows that these fairly high loan denial rates have **three principal causes:** the borrower has poor or no credit history, the firm has insufficient cash flow to repay the requested loan, and the borrower has inadequate collateral to provide the lender a secondary source of repayment.

All three problems increase credit risk— the likelihood that a borrower will be unable or unwilling to repay a loan according to its terms.

Most states and localities operate programs to mitigate credit risk by operating programs that either make or guarantee small business loans. Two of the largest in California are—

- The California Capital Access Program (CalCAP): CalCAP is a small business insurance loan portfolio that works as follows. Whenever a bank makes a loan, the bank and borrower make a specified contribution to a loan loss reserve account in the bank's name. Typically, the borrower and the bank contribute from 3% to 7% of the loan amount; the state then matches the borrower/bank contribution with an additional 3% to 7%. Amounts in the bank's account are available to finance any losses incurred in its portfolio of enrolled loans. For example, where the lender and borrower each make a 1.5% loan-loss contribution, the loan-loss account balance for a $10 million portfolio of enrolled loans could be 6% or $600,000 (3%, in total, from the bank and borrower, 3% from the state). Amounts in the bank's account can typically be used to finance any combination of losses equaling $600,000. While CalCAP works as designed it lacks scale. According to its most recent report, only fifteen lenders use its portfolio insurances program.

- Small Business Loan Guarantee Program (SBLG): The SBLG Program is California's version of the SBA Loan Guarantee Program. SBLG guarantees are provided through a network of non-profit "financial development companies" that issue guarantees of up to 80 percent of loans made by commercial banks. The program's virtues are its simplicity and flexibility. Documentation requirements are limited and guarantees can generally be structured to meet a lender's specific needs.

- However, SBLG has two major disadvantages. Like CalCAP it lacks scale. The federal government backs SBA's guarantees. By contrast, SBLG is backed only by a dedicated reserve fund. (State law prohibits the pledging of the state's credit on behalf of private interests.) This means that SBLG can grow only as fast as its reserve fund. An equally important limitation is that SBLG guarantees cannot be sold. Many SBA lenders generate a significant share of their small business loan earnings by selling the guaranteed portion of their SBA loans to investors. SBLG Program guarantees are not similarly saleable, making them somewhat less attractive to lenders.



Again, small business loan denials occur because lenders fear loans won't be repaid according to their terms—because they're perceived to be risky. Both CalCAP and SBLG are designed to mitigate this risk. Unfortunately, their dependence on public subsidies prevents them from achieving the scale needed to have an appreciable impact on the availability of small business finance.

What might a public bank do? In addition to guarantees and insurance, lenders can protect themselves against credit risk by selling all or parts of their small business loans. This is a strategy that the Bank of North Dakota has used successfully and one that we believe can be successfully employed by a public bank to increase the availability of small business loans.[65] Again more on this later.

SUMMARY: Students and homebuyers can generally obtain loans; the problem is that debt service payments are often onerous. Small businesses, by contrast, have difficulty securing bank credit at any cost.

MUNICIPAL GOVERNMENT FUNDING

Cities are facing pressures that make it necessary to consider new ways of financing affordable housing, infrastructure, renewable energy and other long-term investments.

- Recently, the credit rating agency, Moody's Investors' Services, announced its intention to downgrade cities that lack adequate plans for dealing with the long-term problems stemming from climate change. This means that Bay Area cities will have to increase their borrowing for infrastructure repair and improvement.
- However, at the same time, recent tax law changes—such as reducing the corporate tax rate—threaten to make tax-exempt municipal bonds less attractive to corporate investors.
- Moreover, according to a recent credit rating agency report, Oakland's debt burden is relatively high. As a result, additional bond issuance could result in a downgrade of the city's credit rating.

SUMMARY: Among the possibilities that the city might consider is that debt incurred by the public bank—for capital projects that the city would otherwise finance—would not be considered municipal debt and thus avoid triggering a possible downgrade. See Appendix 1 – Private and Public Banking for additional information.

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[65] Under the Federally-funded State Small Business Credit Initiative, the California State Treasurer's Office operates a loan participation program and a collateral support program. Both are designed to reduce lender risk—the first by reducing a bank's risk exposure, the second increasing the amount of security the lender has for its loans.

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CURRENT LENDING PROGRAMS

Oakland and its neighbor governments, as well as the state of California and the federal government, have long recognized many of the credit market gaps that exist, and established lending programs to address them. Different varieties of affordable housing lending and small business lending are mainstays of government lending programs, and have been for decades, even if significant gaps remain in both those areas.

The city of Oakland, for example, once offered a "Shared Appreciation Mortgage" in cooperation with local banks, as well as an Access Improvement Program and an Emergency Home Repair program, all of which were used to supply borrowing needs for affordable and low-income housing. The city currently offers loans to larger developers, and proceeds from the recent bond KK is available for land acquisition in Oakland itself.[66] Similar programs are on offer from virtually all the municipal governments in the study region, though budget shortfalls have curtailed many of the programs. Here are some sample loan programs:

Homebuyer Programs:
- First Time Homebuyers Mortgage Assistance
- Shared Appreciation Mortgage
- CalHome Program
- Public Safety Employees - Teachers Downpayment Assistance

Home Repair/Rehab Programs:
- Access Improvement Homeowner (Owner-occupied)
- Access Improvement Rental Property Owner
- Emergency Home Repair
- Home Maintenance & Improvement Loan
- Lead Control / Paint Programs
- Minor Home Repair Program
- Neighborhood Housing
- Rehabilitation Program

Development:
- Affordable Housing New Construction & Substantial
- Rehabilitation Loan Program
- Predevelopment Loan Program

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[66] See the Oakland Housing and Community Development web pages for more

Summary: Notably absent are any loan programs for small business, students and infrastructure.

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LACK OF CREDIT AND THE COMMUNITY REINVESTMENT ACT

In order to more fully understand the lack of credit available in the East Bay, a contrast needs to be made; something that can help focus this issue more clearly. There's is no better way to do this than to take a cursory look at Bank of North Dakota's (BND) loan programs. As one would expect, loan programs are central to BND, the nation's only public bank. A review of the BND website shows loan programs of all different types for homeowners, students, municipalities and businesses. In fact, BND has thirteen business lending programs, all listed here:

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Accelerated Growth Loan — Field Code Changed
Bank Participation Loan — Field Code Changed
Bank Stock — Field Code Changed
Beginning Entrepreneur Loan — Field Code Changed
Business Development Loan — Field Code Changed
Export Enhancement — Field Code Changed
Flex PACE for Affordable Housing — Field Code Changed
Flex PACE — Field Code Changed
Match Program — Field Code Changed
PACE Program — Field Code Changed
SBA Guaranteed Loan Purchase — Field Code Changed
USDA Government Loan Purchase
Venture Capital Fund

In 2016, a series of 40 meetings were held with business and finance leaders across the state, resulting in new ways to address "financing gaps in economic development". The press release announcing the result of those meetings is here, a portion of which is captured in Appendix ___

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~~THE CANNABIS INDUSTRY~~

~~As pointed out earlier in this report, providing banking services to the cannabis industry will expose a public bank to substantial regulatory and legal risk.~~

- ~~A bank established, in part, to serve marijuana-related businesses (MRBs) may have difficulty securing FDIC insurance, a necessity for accepting municipal deposits. Equally important, the bank may have difficulty securing a Master Account from the Federal Reserve. Master Accounts allow depository institutions to use the Fed's ACH system to make and receive payments.~~

- Beyond regulatory problems, banks that serve MRBs may be in danger of prosecution under the Controlled Substances Act. It is true that guidance from the Financial Crimes Enforcement Network (FinCEN), published in 2014, appears to provide a way for cannabis banks to meet federal compliance requirements. On balance, however, most banks appear to believe that the risks associated with cannabis banking far outweigh the possible benefits.

SUMMARY: Cannabis remains a cash business. As such it poses a public safety danger. In addition, because revenues from cash transactions are likely to be under-reported, the current state of affairs undoubtedly deprives state and local governments of fees and taxes to which they are entitled.

UNBANKED AND UNDERBANKED

"The United States is among the richest countries in all of history. But if you're not a corporate or political elite, you'd never know it. In the world working people inhabit, our infrastructure is collapsing, our schools are laying off teachers, our drinking water is barely potable, our cities are facing bankruptcy, and our public and private pension funds are nearing collapse. We – consumers, students, and homeowners – are loaded with crushing debt, but our real wages haven't risen since the 1970s. How can we be so rich and still have such poor services, so much debt and such stagnant incomes? ***The answer: runaway inequality – the ever-increasing gap in income and wealth between the super-rich and the rest of us."***

-- Les Leopold, President, TheLabor Institute

Oxfam, a nonprofit focused on alleviating poverty, recently released its World Inequality Report 2018. Central is the increasing disparity between the top 1 percent of income earners who claimed four-fifths of the wealth created in 2017, and everyone else. "Last year saw the biggest increase in billionaires in history, one more every two days. This huge increase could have ended global extreme poverty seven times over. 82% of all wealth created in the last year went to the top1%, and nothing went to the bottom 50%," the report says. Moreover, "Income inequality is worsening across the globe, which has a corrosive impact on social institutions, the standard of living for the poor and near-poor, and is linked to political unrest. The dangers of inequality aren't a new rallying point, yet despite a lip service lawmakers and the rich pay to it, the wealthy continue to pull away from the poor and middle class."

"In the last year, there has been a new billionaire created every two days, and of the wealth that got created, the top 1 percent got 82 percent of it, and the poorest half got nothing," said Paul O'Brien, vice president for policy and advocacy at Oxfam America. "That means 3.7 billion people got nothing of that new wealth." (Appendix 23- Winner Takes Almost All.)

Wealth is increasingly concentrated with a small number of people



Compounding wealth inequality is the very large percentage of people in California who are either underbanked (those with an underused bank account) or unbanked. The 2015 FDIC National Survey of Unbanked and Underbanked Households showed that, in California, over 25% of households are either unbanked or underbanked:

According to the 2015 Bank Status by State report, there are 14,484,000 Californian households. 6.2% of these households are unbanked, 19.1% are underbanked, 68.2%are fully banked and 6.5% are unknown.

In May 2017, the Federal Reserve issued a report that found that "about 25% of American adults can't cover all of their monthly bills, and 44% say they don't have enough savings to cover an unexpected expense of $400. Nearly a quarter said they had paid an unexpected medical expense over the last year, and more than 40% of those — representing about 24 million Americans — said they were still paying debt related to those expenses."[1]

There are more Pay Day loan and Lending services in the US than there are Mcdonalds. California has over 577 locations One of the highest saturated locations is the East Bay area.

What do many people do in order to pay unexpected bills? According to the state Department of Business Oversight, in 2009, Californians took out $214 million in installment loans of between $2,500and $5,000, what is now the most common size of loan without a rate cap. In2016 the volume was $1.6 billion. The LA Times states that "loans with triple-digit rates accounted for more than half, or $879 million -- a nearly40-fold increase since 2009.

SUMMARY: With 82% of the new wealth generated in 2017 being directed to the top 1%, with over 25% of California households being under or unbanked, with 44% of all American adults unable to meet an unexpected expense of $400, and with the California legislature unwilling to stem the high cost of the high end of payday lending (loans of$2,500 or more), all while people are still recovering from the halving of their wealth because of the Great Recession, inequality is proving to be an intractable fixture of the economic landscape.[67]

[67] Marc Armstrong, CommanomicsUSA

WEALTH INEQUALITY

What does this mean for city or county with a public bank?

There are **many systemic approaches that remedy income and wealth inequality. These include a living wage, free higher education, divestment and re-investing locally, and single payer healthcare.** A public bank can be added to the list of these systematic approaches because it helps to level the playing field - it addresses some of the inequalities (most notably, lack of access to capital) inherent in our capitalist system. So, the bottom line is that the promise of a democratically governed public bank is to use the public's credit to remedy wealth inequality.

By placing government deposits into a public bank and releasing capital (in the form of loan programs) that fund new initiatives like East Bay Community Energy, overlooked renewable energy projects, capital starved worker-owned cooperatives, small businesses, affordable housing, student loans, and infrastructure, a public bank ends the cycle of wealth extraction. The Bank of North Dakota, the nation's only public bank, has over $6,300 per capita in loans outstanding. All things being equal, that would be the equivalent of $2.6 billion injected into the Oakland economy as low-cost credit, with the generated profits staying local. Even just a fraction of this credit would go a long way to alleviate income and wealth inequality in Oakland and the East Bay.

THE PUBLIC BANKING SOLUTION: LENDING

LENDING

Buying and participating in solid loans is the way to go.

Though banks claim that they provide loans to "every creditworthy borrower," there are important exceptions—mainly borrowers whose loans banks cannot remain on their books for regulatory or interest rate risk reasons. Examples include:

- **Solid small business loans where the borrower lacks adequate collateral:** Many of today's growing small firms are "asset-light"; their principal assets are people and software—neither of which can collateralize a loan. Such firms may have trouble securing credit even with solid credit histories and adequate cash flows, because they cannot offer the bank a secondary source of repayment—collateral in the form of real estate, equipment, inventory or a personal residence.
- **Mortgage loans that exceed 30 years:** Banks are often reluctant to make and retain long-term loans that they must fund with short-term deposits. Though large banks can make and securitize these loans, smaller banks have insufficient volume to do so.
- **Loans exceeding the lenders' legal lending limit:** All banks have limits on the amount they can lend to a borrower. For example, national banks supervised by the Office of the Comptroller of the Currency, have a limit of 15% of the bank's capital and surplus. So a bank with $10 million in capital would be limited to loans no larger than $1.5 million. If a customer needs a loan that exceeds this limit, the bank must decline the request or find another lender to participate in the loan.
- **Loans that pose concentration risk:** Small banks tend to make the most of their loans in one geographic area and/or specialize in making one or two types of loan. While specialization gives the bank a competitive advantage in competing for some customers, it exposes the institution to significant loss should downturns in its favored communities or industries occur.

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Community banks, local banks and/or CDFI's ability to make loans that its customers need—and have the demonstrated ability to repay— imposes a cost on both the bank and the borrower. The borrower can't finance the expansion of a business or home purchase; the bank risks losing both a customer and an earning asset.
The public bank can use a four-part strategy for its loan purchase program:

- Establish underwriting criteria for loans that it will purchase or in which it will participate. For example, small business borrowers might be required to have an "acceptable" credit score; and three years of successful operating history.
- Create a network of community banks and/or CDFI's to sell loans and loan participations. Participating governments can create an incentive for banks to join the network by offering to make low-cost deposits in participating institutions.
- Aggregate purchased loans into a homogeneous but geographically diverse pool. (Homogeneity would be achieved by ensuring all loans have similar credit scores and cash flow histories.)
- Give participating institutions bonds or notes collateralized by the pool of loans as payment for their loans.

EXAMPLES

The public bank's proposed loan purchase/participation program would provide participating banks several benefits:

- It would allow them to honor more of their customers' loan requests.
- It would increase the likelihood of retaining a valued customer relationship.
- It would provide an attractive earning asset (the collateralized bond) in exchange for a loan that it might otherwise have to decline.

Here are two examples of how actual transactions might work:

- Five years ago, Franco resigned his job at Google and started a company processing digital payments. The company has done well. After a rocky couple of years, it now has solid cash flow and is growing—so much so that Franco needs a $200,000 loan to expand the business. Unfortunately, Franco's company has almost no collateral—no buildings and very little valuable equipment. Franco himself, like so many in the Bay Area, has been unable to buy a house, so he can't pledge a personal residence as collateral. It's not his credit history. He has a FICO score of 770. He simply can't afford the cost. If it weren't for the lack of collateral the bank wouldn't hesitate to make the loan. To solve the problem, the public bank agrees to purchase the entire loan from Franco's bank. The public bank pools Franco's loan with 100 similar loans from other banks and gives Franco's bank back a bond collateralized by the pool of loans.
- Melanie is a recent college graduate and middle school teacher who's struggling under her burden of $40,000 in student loans—high for California and for her personally. The monthly payments on her 10-year, 6% loan are almost $450 a month. She's got a good credit score and hasn't missed a payment in three years. Nevertheless, she'd like to lower the monthly payment to something more manageable. Based on the public bank's purchase commitment, her bank agrees to make a 15-year, 5% loan. Because the loan is for a longer term, meaning the principal will be outstanding for an extended period, the loan structure includes a 5% loan-loss reserve payment. However, even with the loan-loss reserve, the refinancing will lower her monthly payment to $332 from $450, a reduction of 25 percent. Again, in exchange for the loan, the bank takes back bonds collateralized by a pool of similar student loans.

GOVERNMENT LENDING

A public bank may be able to meet local governments' short-term borrowing needs.

In addition to financing small business, housing and student loans, the public bank may also be able to play a limited role in financing the short and long-term needs of participating governments:

- If permissible under California law, deposit funding from one local government could be used to finance the purchase of short-term notes from another, saving the borrowing local governments interest and fee costs. Say for example, Oakland has made a deposit of $10 million in the bank secured by $11 million in Treasuries. The public bank might sell the Treasuries and purchase $11 million in short-term notes issued by Berkeley.
- As explained later, we believe that the public bank should have more capital than required under current banking regulations. Its excess liquidity could be invested in long-term bonds of participating localities, once again reducing their fees and interest costs. Assume, for example, that the public



bank has $10 million in its reserve account at the Federal Reserve but needs only $5 million under current regulations. It might use the $5 million in excess liquidity to purchase $5 million in bonds from one of the participating governments.

BENEFITS

Collectively, the budget for the governments of The City of Oakland, City of Berkeley, City of Richmond, and the County of Alameda total **over $3.3 billion in cash and investments and almost $9 billion, with a percentage of these budgets spent on servicing the combined $5 billion in long term liabilities.** A public bank with a lending capacity initially measured at $300 million could be formed, and use of this credit to refinance existing bond obligations could be worth millions of dollars annually to this county and these cities in reduced debt service. Furthermore, the debt service payments would provide a positive cash flow to the public bank from the outset, allowing it to bypass the startup losses that are usually part of a bank's early history, thereby reducing overall risk. And, finally, because these participating governments will each own a share of the public bank, the interest payments they make will add to the value of their share. In essence, the interest they pay would be turned into an asset by being credited to their own fund balance. Clearly, being your own credit holder is strategically advantageous, with both near and long term benefits.

Other quantifiable benefits from these participating governments owning a public bank include opportunities to:

- Determine if the profits from public bank operations are held as retained earnings by the public bank or returned to the participating governments.
- Access affordable lines of credit during times of disaster recovery.
- Access bank letters of credit at reasonable rates not available through other banks, thereby helping the participating governments to engage in infrastructure and other projects.
- Access low-cost funds from the regional Federal Home Loan Banks through the public bank.
- Increase the availability of local commercial credit by creating an after-market for local business lending, buying participation in loans made by existing financial institutions.

One of the main benefits of a public bank is the hard dollar cost savings from reducing debt service costs. After all, issuing your own debt is an essential role of a public bank. Moreover, even though a public bank has multiple value propositions, debt service reduction is the most distinct and quantifiable. But this benefit, of course, cannot be overplayed. The obvious risk is abuse of fiduciary duty by running up too much debt, but constraints can be put in place to prevent this from happening. These can include setting a limit to the percentage of the loan portfolio allocated for any one participating government and working with regulators to ensure that this limit is set in accordance with accepted banking standards that prevent too much concentration of the loan portfolio in any one sector.[68]

See Appendix 3 – Public Banking – Oakland and Neighboring Jurisdictions

[68] Marc Armstrong, CommonomicsUSA

COST

The challenge, of course, is how best to obtain these benefits without the investment of too much capital or the burden of excessive operating costs. Building this capacity so that profitability is realized sooner rather than later and so that capitalization is reasonable will be a challenge and can be better understood with pro formas (which are outside the scope of this study) that model alternative revenue and expense scenarios and with sources of capital clearly identified with written (and conditional) commitments.

Because the public bank would have a relatively small number of municipal customers, it could be effectively run by a fairly small staff, with technology applications and platforms outsourced. Important functions like check processing and account record keeping can be accomplished using bank and financial industry vendors, allowing the operation to be run with a minimum of staffing overhead, real estate expense, and other operating costs. On the credit side, the idea would be to rely on other institutions like Community Development Corporations (CDCs), nonprofit check cashing organizations, and revolving loan funds to make credit available to the public. The public bank would provide funds to capitalize or expand these programs and, because it would be a bank where the owners, depositors, and loan recipients were largely one and the same, the ability to manage profitability will be fairly straightforward.

Each county and city that participates in the bank will benefit from the investment made possible by extending low-cost lines of credit to CDCs, land trusts, and similar community organizations. These organizations are very low credit risks, but are generally unable to find short-term credit, except at high rates. As one example, lack of access to quick capital prevents CDC's from participating in short sales and tax sales and frequently forces them to sit on the sidelines as bargains are snapped up by others. Long-term financing for large projects is commonly provided by multiple banks acting as partners and who determine the terms. The public bank will have the capacity to become one of the partners for large housing construction projects and will be able to have a determinate role in setting terms.

In conclusion, the public bank's access to low cost money will keep participating governments' borrowing costs to a minimum, reversing recent increases in debt service costs. This lower cost approach to banking will provide a stronger bottom line to the owners because of reduced debt service costs. Even more important, a public bank will be their asset that appreciates with every interest payment they make. The increase of affordable credit will make existing government institutions more effective and responsive. Consolidation of accounts will provide finance directors with a more comprehensive -- and convenient – way for cash management and accounting.

Because the initial customer base is, by and large, the same participating governments that own the bank, the risk of bank revenues not materializing is minimal, as is the risk of unwieldy operating costs. Because access to lower cost of money will be used to reverse the increasing debt service costs, positive cash flow is even more certain. Because affordable credit provides increased affordable housing opportunities, the value provided by the public bank will be an important way to address this shortage and will positively impact government employees, veterans, and other population segments needing affordable housing in the communities in which they work. And, finally, because banking is fundamental to our economy and, as such, is a business model that has been proven both in the private and public sector, with the limitations of banks

in both sectors well understood, the risk of starting and successfully operating this kind of a public bank appears to be something that can be well-managed with clear policy direction and proper oversight provided by the governing board and with experienced and effective bank operating management.

For these reasons and more, the idea of a public bank for the Oakland area is eminently feasible.

THE PUBLIC BANKING SOLUTION: DEPOSITS



DEPOSITS: SAFETY

Safe, sound and quality investments offered by the public bank could inspire participation by others.

DEPOSITS: GOVERNMENTS, AGENCIES AND OTHERS

Collateralized and Safe Investments

- Participating members, agencies, other governments and others could make deposits into the bank to sustain revenue. Short term investments maturing in 9-12 months still provides liquidity necessary for participating members.
- For example, the County of Alameda could deposit $100 million from existing funds earmarked for deposits into local banks. In addition, the City of Oakland from existing funds earmarked to impact community or to reduce liabilities could make deposits and earn 2% interest.

CD'S - Community Focused

Buy CD's offered by the Public Bank. An example, from Alameda County Treasurer, Henry Levy, is to match a purchase of a CD with what the depositor wants to achieve. In other words, a "community purpose linked-CD." For instance, local, small, community banks and/or CDFI's who currently directly invest in low-income housing or affordable lending to underserved populations. The public bank deposits funds into these banks and other intermediaries who are taking out financing for low-income construction.

Criteria

Criteria must be established as a part of bank investment policies. Criteria for community-linked CD's should include the CRA (Community Reinvestment Act) rating and other important information related to the predetermined criteria embedded in the public bank governance policy, such as, a respectable CRA Rating.

Tax Deposits

The public bank could accept tax deposits on behalf of other jurisdictions for a reasonable fee. The deposit process could include data collection as a part of the service.

Fintech

Fintech companies provide some innovative solutions for managing data. For example, NCS (National Compliance Services), a Fintech company, assist with the data platform for some California counties. The platform aggregates data from multiple sources including track and trace, point of sale, taxation and socioeconomic data. (See: Appendix 1)

The California Cannabis Authority (CCA) created a Joint Powers Authority between counties with cannabis regulation or taxing authority.

~~ALTERNATIVE: A CANNABIS INDUSTRIAL BANK~~

~~The Department of Business Oversight and other state departments continue to listen and discuss the concerns related to banking cannabis cash.~~

~~The concept of establishing an Industrial Bank with a "special purpose", in this case, Cannabis, is an alternative to consider, in addition to a separate commercial public bank to be established as a state charter bank. The Industrial Bank only offers deposits (no loans) into NOW (Negotiable Order of Withdrawal) accounts. All money is invested in treasuries with an average life guaranteeing a 2% spread over interest on deposits. Bank accepts no cash and distributes treasury bills which may be liquidated at account in second state chartered commercial public bank. (See Appendix – Public Bank Multi-Jurisdictions Business Model Diagram.)~~

~~*"According to FinCEN, in 2016, over 400 banks were banking Cannabis. There are insurmountable risks and complexities for any jurisdiction to apply for any bank to deposit cannabis cash. It would be important these jurisdictions are clear about these risks."*~~

~~*DOB, Commission Jan Lynn Owen*~~

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Denver based, Fourth Corner Credit Union recently received approval to move ahead to set up a master account from the Federal Reserve – with conditions. Fourth Corner's E.V.P. of Industry Relations said it best, "we made it abundantly clear that as representatives of the industry, it serves nobody's interest to break laws."[69]

The goal to bring state and jurisdictions together to discuss ways to address the Cannabis industry is in high demand due to public safety and its potential financial contribution toward public benefit.

Next steps include continuing to explore with participating members alternatives – under the direction of the Department of Business Oversight and the Department of Financial Institutions.

Public Will

Both the political and financial risk to undergo such efforts is eminent for elected officials representing these jurisdictions.

"If there were such an industrial bank, the documentation related to vetting depositors would be rigorously enforced. There would have to be incredible governance. The lack of FDIC insurance and the inability to get a master account as an industrial bank investing in treasuries, has not been explored under the proposed business model. We will have to do more legal research."
Commissioner, Jan Lynn Owen.

[69] theconnabist feb 62198, Alice Wallace

BUILDING AND FINANCING THE BANK

GOAL: GROW TO $3 BILLION IN ASSETS

The public bank should seek to grow to $3 billion in assets.

Reports from both the Federal Reserve Banks of Kansas City and St. Louis appear to indicate that scale is important to bank financial performance. A major reason is that larger banks are better able to make the capital investments associated with new technologies—technologies that can make a bank more productive and efficient. This is especially important to the public bank's ability to provide the array of services that large customers such as municipalities require. According to one former official of the Federal Reserve Bank of San Francisco, banks serving large governmental customers typically have $3 billion or more in assets.

It is unlikely that a public bank could achieve this size through organic growth. Therefore **we suggest that it should seek a business combination (merger or acquisition) with a much larger institution in five to less than seven years.** Of course, the successor bank would have to continue the public bank's mission and purposes.

Beyond the need to serve large municipal customers, there are other reasons why a public bank, in particular, needs scale. One is that a larger bank is better able to diversify and manage risks.

First, what criteria are needed to assess a bank's ability to diversity risk?

Small bank loan portfolios are often concentrated in one geographic area or include a large percentage of one type of loan. For example, a community bank's portfolio might contain large numbers of commercial real estate loans to firms in Contra Costa County. The lack of diversification exposes the bank, to an unhealthy degree, to any downturn in the Contra Costa economy or in the commercial real estate industry. By contrast, a larger bank is more likely to have loans to different industries and borrowers all over the Bay Area. Downturns in one county or industry are much less likely to affect its financial health.



Consider
Submitted by
(510) 835-8500 300 Frank H. Ogawa P

Second, big banks and small banks manage credit risk in entirely different ways.

As we pointed out earlier, small banks tend to be low-volume lenders and manage risk on a loan-by-loan basis. That is, they want to make sure that for each loan (a) the borrower has enough income to make required payments and (b) if something goes wrong, the collateral posted by the borrower will allow the lender to recover the outstanding principal.

Big banks, by contrast, tend to be high volume lenders and manage risk on a portfolio basis. Say, the bank knows that in a portfolio of 1,000 loans, the default rate will be 5%. It doesn't have to know which of the 1,000 will default. All it has to do is price its loans so that loss of any 50 of them will be completely covered by the income from the remaining 950.

This difference gives larger banks two important advantages:

- Because the performance of a large portfolio of geographically diverse loans tends to be more predictable than the performance of individual loans, large banks can more easily sell their loans for profit or liquidity reasons.
- The unit costs of servicing a large portfolio of loans is much lower than those of servicing a smaller portfolio. This means that, all other things being equal, larger banks are likely to have higher earnings on their portfolios.

Size also matters on the liability side of a bank's balance sheet. A large bank is much more likely to have the infrastructure and systems needed to provide deposit and payment services to larger customers such as municipal governments.

The final reason that scale is important is a simple one. Big banks simply can make a bigger difference in their communities than small ones. A bank with $3 billion in loan assets has ten times the impact of one with only $400 million in loans on its books.

GOAL: RAISE $50 MILLION IN CAPITAL RESERVES

The bank should initially raise $50 million in capital reserves from public and private sources. This will support organic growth to $500 million in assets.

According to some banking experts, the minimum amount of capital required to launch a new bank is $30 and $50 million.[70] Even though it will be chartered as a commercial bank, the public bank's unusual purpose and strategies may create the perception that it is somewhat riskier than other "de novo" banks and thus requires a larger than normal capital cushion.

[70] Dinsmore & Shohl, LLP December 2017

SOURCES OF CAPITAL

Discussing the creation of a bank will always move to the source of the capital with which it is to be founded. The quantity and form of capital required to open the OAPB will depend crucially on the purpose behind the bank. The purpose will suggest the size, and that will set a certain requirement for capital. Furthermore, some purposes will allow capital to come in the forms of performing loans or other assets, or even good will, while other purposes will require the capital to be real cash. The capital can come in the form of permanent investments that might pay a dividend, or in the form of loans. The capital requirements will become clear through the bank design, but it is worth considering the potential assets that could be applied to the purpose.

Though its border is fairly subjective, there are around two dozen cities within the study region, along with a comparable number of school districts, and at least two county governments. Collectively, they control well over a billion dollars in cash at any one time, along with another few billion in notes, CDs, and other investments. This does not count funds held in trust or pension funds, only the cash on hand, typically held in bank accounts and bond funds.
In addition to these, there are public and non-profit agencies working in the area that might have an interest in seeing a public lending institution with which to ally. For example, the California Housing Finance Fund might be an organization to approach for capital in the form of a swap of performing loans for bank stock, since it is reasonable to think they might value the presence of another low-cost source of housing loans in the Oakland area. There are philanthropic organizations, too, that might be persuaded to contribute in a similar fashion.

In addition to the capital, it is important to consider the liabilities that will compose the bank's balance sheet: the deposits from which loans will be made. The sections that follow will consider a few of the different potential sources of deposits, but it is possible to imagine a structure that can accommodate short-term investments from other sources, for example from one of the many cash-rich corporations in the area who might have an interest in ameliorating some of the affordable housing crunch they have participated in creating

We believe that any strategy for raising the required equity should include:[21]

- **Avoid seeking a large investment of existing public funds.** To most people in the Bay Area, a public bank represents a useful—but not urgent—use of public funds. Competing against more urgent demands would undermine the bank's limited support.

Aim at large investors with an appetite and capacity for risk. The public bank is an untested idea. The impact investment market has now reached $300 billion and comprises large institutional investors looking to achieve social—rather than purely financial—returns. An investment in the nation's first urban public bank may have significant appeal

Stock Equity

[21] Appendix I—Private vs Public Banking

1. Any revolving loan fund that can be replaced with credit. Specifically, existing loan programs that are funded with revolving loan funds.
2. Existing pools of money that have been set aside for affordable housing and other programs that could use credit instead of hard dollars.
3. Rainy day funds that could be replaced with an Emergency Loan program for cities and counties.
4. Issue a state bond.
5. Duplicate the Green Bay Packers ownership model, where constrained capital stock is issued to the public.
6. Crowd-fund the bank with donors identified as "Founders" of the Public Bank of Charter City.

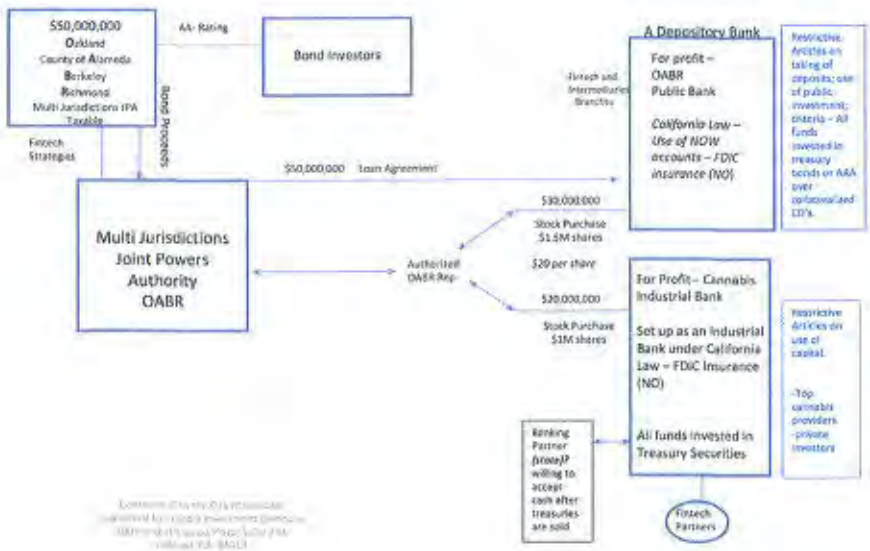
Debt Equity

1. Public Bank of Charter City issues corporate debt.
2. Public employee pension funds for long term investing.

- ~~**Avoid seeking a large investment of existing public funds.** To most people in the Bay Area, a public bank represents a useful—but not urgent—use of public funds. Competing against more urgent demands would undermine the bank's limited support.~~
- ~~**Aim at large investors with an appetite and capacity for risk.** The public bank is an untested idea. The impact investment market has now reached $300 billion and comprises large institutional investors looking to achieve social—rather than purely financial—returns. An investment in the nation's first urban public bank may have significant appeal.~~

~~**COMMUNITY OWNERSHIP AND CONTROL**~~

~~"Community ownership and control" can be achieved by the issuance of bonds for the public bank and a private placement for the industrial bank.~~



~~We recommend the following approach in raising the bank's capital: (The diagram includes commercial and industrial public banks.)~~

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~~Under our concept, the public bank would be owned by participating governments and the public.~~

"RISK-FREE" INVESTING: U.S. TREASURY BONDS

The U.S. Treasury issues lots of different kinds of debt securities. Savings bonds, which can be purchased for small amounts and come in certificate form (making for nice bar mitzvah and birthday gifts), are just one of many kinds of investment options.

When investment people speak of Treasuries, they usually are not talking about savings bonds. Rather, they're talking about larger-denomination bonds known formerly as Treasury bills, Treasury notes, and Treasury bonds that are issued only in electronic (sometimes called book-entry) form.

All U.S. Treasury debt securities, whether a $50 savings bond or a $1,000 Treasury note, share four things in common:

- Every bond, an IOU of sorts from Uncle Sam, is backed by the "full faith and credit" of the United States government and, therefore, is considered by most investors to be the safest bet around.
- Because it is assumed that any principal you invest is absolutely safe, Treasury bonds, of whatever kind, tend to pay relatively modest rates of interest — lower than other comparable bonds, such as corporate bonds, that may put your principal at some risk.
- Although the United States government is very unlikely to go bankrupt anytime soon, Treasury bonds are nonetheless still subject to other risks inherent in the bond market. Prices on Treasury bonds, especially those with long-term maturities, can swoop up and down like hungry hawks in response to such things as prevailing interest rates and investor confidence in the economy.
- All interest on U.S. government bonds is off-limits to state and local tax authorities (just as the interest on most municipal bonds is off-limits to the Internal Revenue Service). But you do pay federal tax.

Differences Between Treasury Bills, Notes, and Bonds

The financial media often mentions three different terms relating to government bonds: Treasury bills, Treasury notes, and Treasury bonds. These securities are similar in that each is issued by the United States to fund its debt, and each is also backed by the full faith and credit of the U.S. government.

Two key differences exist between the three types of U.S. Treasuries:

- their maturity dates
- the way that they pay interest.

The variance in maturities of the three types of Treasury securities helps differentiate them. Treasury bills (or "T-bills") are short-term bonds that mature within one year or less from their time of issuance. T-bills are sold with maturities of four, 13, 26, and 52 weeks, which are more commonly referred to as the one-, three-, six-, and 12-month T-bills, respectively. The one-, three-, and six-month bills are auctioned once a week, while the 52-week bills are auctioned every four weeks. Since the maturities on Treasury bills are so short, they typically offer lower yields than those available on Treasury notes or bonds.

Treasury note issues have maturities of one, three, five, seven, and 10 years, while Treasury bonds (also called "long bonds") offer maturities of 20 and 30 years. **In this case, the only difference between notes and bonds is the length until maturity.**

The 10-year is the most widely followed of all maturities; it is used as both the benchmark for the Treasury market and the basis for banks' calculation of mortgage rates. Typically, the more distant the maturity date of the issue, the higher the risk of payback to investors, and so the higher the compensating yield.



INVESTING: U.S. TREASURIES

In contrast, both Treasury notes and bonds pay a traditional "coupon," or interest payment, every six months. When these securities are auctioned, they may sell at a price that translates to a yield to maturity higher, or lower, than that of the coupon. Investors can purchase bonds directly from the U.S. treasury, through its TreasuryDirect website. The Treasury's site explains how the interest rate and price of a bond are determined at auction.

Price Fluctuation

Once T-notes and T-bonds are issued, their prices fluctuate, so their yields remain linked to market prices.

For example, say the government issues a 30-year bond with a yield of 10 percent when interest rates are high. In the next 15 years, prevailing rates fall significantly, and new long bonds are being issued at 5 percent.

Investors will no longer be able to buy the older T-bond and still receive a yield of 10 percent; instead, its yield to maturity will fall, and its price will rise. In general, the longer time until the bond matures, the greater price fluctuation it will experience. In contrast, T-bills experience very little in the way of price fluctuation since they mature in such a short amount of time.

U.S. Treasuries continues to be a prudent, safe and sound vehicle for investors.

MANAGEMENT OF THE BANK

The public bank could be managed either by its own team or under management contract.



The public bank could be managed either by its own team or under management contract—The expertise of the management team and Fintech strategies developed will operate both the commercial public bank and the industrial bank to the extent possible under Federal regulations in a manner that the commercial public bank does not become a holding company for the industrial bank.

Fintech strategies should be developed so that all banking and financial transactions are by smartphone. In this strategy, there would be less need for armored cars and ATM machines, and branches for the industrial bank. The commercial public bank should offer full payroll, accounting services, and other related services and State and Federal tax payment services, debit and credit cards, etc. The commercial public bank will be a depository bank.[72]

FINTECH COLLABORATON

Fintech, Regtech and Suptech, financial technology companies, also known as "disruptors", have grown rapidly in the personal loan industry. **New technology and innovation in banking plays a vital role in servicing customers banking needs and reducing the cost to develop and offer products and services.**

According to *The Copernican Revolution in Banking*, the Geocentric Model of Banking no longer produces solid economic returns.

"It's easy to blame all of the Banking ecosystem's problems on increased regulatory scrutiny and capital requirements, but there is a profound shift occurring that can't be ignored."
- Frank Rotman[73]

The destruction in shareholder value and that now many full service Banks and Credit Unions today, are too small to deliver a suite of products profitably is part of the shift.

Greenhouse by Wells Fargo, Canvas by Citi and Erica by Bank of America, to mention a few from the big banks also create solutions - Fintech "disruptors", have created efficient payment systems and credit systems which are embedded with compliance, identity management and other AI (artificial intelligence) wrappers. Wrappers gather key data points for future banking needs, monitoring and product solutions. Product solutions needed include fundraising. Municipalities are creating public-private partnerships to address solutions to fundraising, compliance, security and lending. The city of Berkeley, for example, the city UC Berkeley Blockchain Lab and a Fintech company are together launching the Berkeley Blockchain Initiative (BBI) to develop a first-of-its-kind tokenized municipal bond. In the Appendix, there are other

[72] http://www.gfoa.org/sites/default/files/BankingServicesAGuideForGovernments.pdf
[73] Frank Rotman, *The Copernican Revolution in Banking*

Fintech companies and ways that services support banking. These relationships could increase efficiencies and reduce cost while capturing key data for a public bank and its collaborative e-intermediaries.

What does this mean for cities and counties with a public bank?

It means that, by leveraging the internet and by partnering with technology companies, a public bank can provide high-value digital services, particularly for depository and payment functions, to its customers. And, by using its low-cost credit to establish loan programs that reflect the needs of the community, the public bank can pass on these savings and create strong allegiance.

Underneath the hood of SafetyNet is Watson, IBM's augmented intelligence system. SafetyNet can not only sort massive amounts of unstructured data but also gauge sentiment. Knowing Your Customer three times over is becoming a must in today's banking environment. By sorting through all that information, it's able to create a risk profile on the customer - even if they have no financial history and ensure that banks aren't doing business with money launderers or terrorist financiers. SafetyNet committed their involvement in partnering with participating members in the upcoming inaugural, "Public Banking and Municipal Summit", being held in Oakland. This commitment is another example of how Fintech might support members banking and technology goals.

Uphold (Cortex), is in consultation with over 10 states to provide a closed-loop platform to solve the significant cash problem experienced in states with legal cannabis and according to the CEO, all delivered under existing statutory authority.

FutureBank is another example of innovative platforms. At its core, the FutureBank Platform abstracts the complexities and legacy inherent in popular core banking systems to help banks better service individuals, merchants and third parties. More specifically, individuals, merchants and third parties want access to core banking functionality in a modern way.

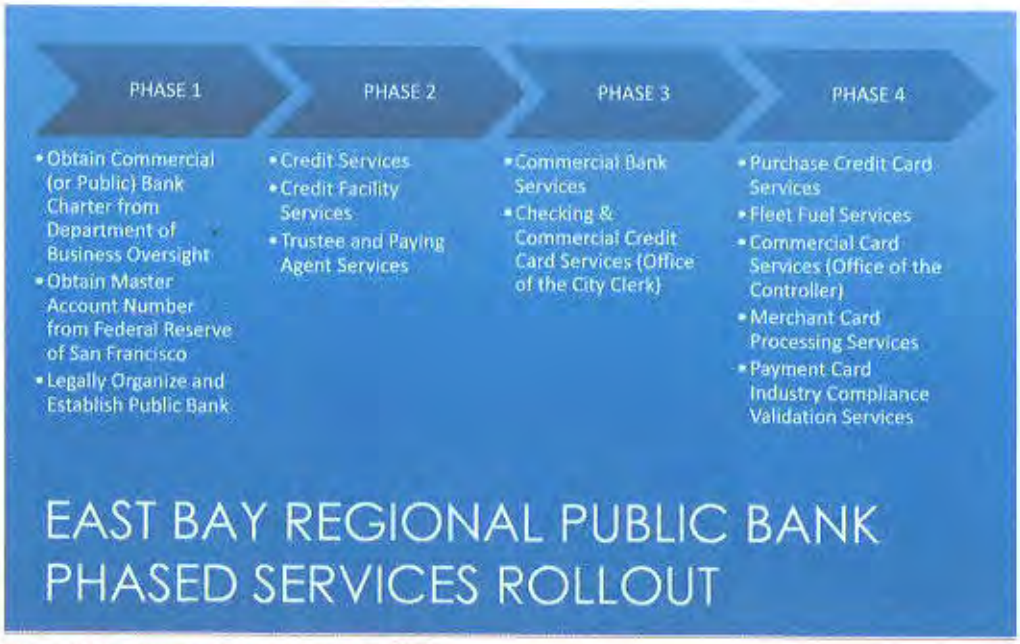
Just like a bank enables participants in the economy to conduct business seamlessly, technology is used by banks to enable many of these important functions. Customer service internet portals enhance client self service, such as bill pay and money transfer. Check clearing technology speeds up processing and reduces risk for all parties, allowing a great degree of confidence in the settlement process. Merchant card processing software and hardware are used to facilitate the payment transactions between customers and a municipality. And so on -- there are many examples of how technology is used to enable banking functions.

TRANSITION IN PHASES

Because a public bank, as envisioned for the participating governments in the East Bay, will be circumspect in its deployment of banking services, technology will be less important than one might expect. However, when possible, technology will be rolled out to support key banking functions. We initially envision them as follows:

- Phase 1 - Credit Services, Credit Facility Services, Trustee and Paying Agent Services.
- Phase 2 - Commercial Bank Services, Checking and Commercial Card Services (Office of the City Clerk).
- Phase 3 - Purchase Card Services, Fleet Fuel Services, Commercial Card Services (Office of the Comptroller),
- Phase 4 - Merchant Card Processing Services, Payment Card Industry Compliance Validation Services.

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Source Marc Armstrong, Commonomics June2018

Many, if not most, of these functions will likely require little customization and can be automated with cloud-based software services or can be contracted out to technology vendors.[74,75]

[74] The Smart Path: Solving for Zero Assets with Blockchain Technology, 4/29/18. Brett Bartlett, Berkeley City Council.

[75] https://getfuturebank.com/wp-content/uploads/2018/01/whitepaper.pdf

FINANCIAL INFORMATION

Public Bank Capital and Sustainability

The initial $50 million in deposits would be invested in treasuries with an average return of 2.54% producing a gross profit on earnings less .44% paid to depositors - leaving 2% for the bank. Revenues after $1 million annual operating budget is estimated to be $51 million in the first year and $53 million in the second year.

If the public bank needs to raise additional capital to expand, it can issue debt (bonds), reduce investment management fees and/or or it can expand non-voting shareholder equity.

NEXT STEPS

- Members are considerate of stakeholder's input to a public bank in the Bay Area. Establishment a Multi-Jurisdicational Working Group (MJWG). The MJWG should formally decide on any next steps after discussions with the State DOB.
- Establish a business plan to evaluateing the state charter strength based on the reasonableness and achievability of the banks' business objectives, lines of business, public benefit activities, proposed management, adequate checkpoints for oversight by state regulators. Issue a RFP to establish a business plan for guidance in implementing the public bank. [9]
- If the decision to move forward includes acquisition, identify a $20-30 million community bank to acquire, capitalization levels and sources of capital.
- The participating members may want to consider the possibility of adding a provision that specifically permits investment in a public bank and/or that also addresses the issue of investment in cannabis or institutions that bank or otherwise handle cannabis funds.
- Revisit interested organizations ready to partner with the members on the banking initiative.
- Schedule the inaugural Public Bank Municipal Summit in partnership with identified stakeholdersfinancial companies and other jurisdictions interested in public banking.

[9] See Office of the Treasurer & Tax Collector, City and County of San Francisco Request for Qualifications for Office of the Treasurer & Tax Collector Municipal Bank Feasibility Quantitative Analysis, March 19, 2018.

CREDITS

APPENDICES

Appendix 1 Private and Public Banking – Enmesh Collaborators and Outreach

Appendix 2 -Focus Group Summary

Appendix 3 -SOW Task Checklist for Oakland Feasibility Study

Appendix 4 – Public Banking Oakland and Neighboring Jurisdictionsparticipating Members

Appendix 5 - Governance Considerations: PBI.org, Commonwealth SA.org and https://friendsofpublicbankofoakland.org/wp-content/uploads/2018/04/FOPB_public_bank_of_oakland_governance_proposal_040918.pdf

Appendix 6 -Summary of Cities and States Creating Socially Responsible Banking, Investment and Financial Services Policies

Appendix 7 - Disaster Recovery

Appendix 8 - Relevant Market Information

Appendix 9 - Association of Bay Area Governments Population Tables

Appendix 10 - City of Berkeley, "Resource Requirements to Implement a Change in Financial Institution." Attachment 3.

Appendix 11 - Stakeholder's Feedback and Letters of Interest (https://friendsofpublicbankofoakland.org/supporting-organizations/)

Appendix 12 – Draft Mission StatementsMission Statement

Appendix 13 - Summary: German public banks help address climate change (Wolfram Morales, September 2017)

Appendix 14 - Relevant Cannabis Legislation

Appendix 15 – How a Public Bank Enables Oakland's Guiding Values Multi-Jurisdictions Public Bank Model Diagram

Appendix 16 - The Copernican Revolution in Banking. https://s3.amazonaws.com/qed-uploads/The+Copernican+Revolution+in+Banking+-+Publication+Version.pdf

Appendix 17 - Bruce Cahan, UrbanLogix. Adjunct Professor, Stanford University. GoodBank™(IO), an independent teaching bank for high-transparency, impacts-aware commercial bankers. Credit scoring alternatives for sustainable banking.

Appendix 18 - David Polk & Wardwell Legal Memo, Bank Regulatory Considerations Related to Establishing a Public Bank in the State of California. November 18, 2017.

Appendix 19 - Virtue & Najjar Legal Memo, Establishment and Operation of a Chartered Public Bank by the City of Santa Fe, New Mexico, October 13, 2017.

Appendix 20- SB885, State Bank of New Jersey Act

Appendix 21- HB5431, Bank of Michigan Act

Appendix 22 - Refund America Project - Roosevelt Institute - Municipal Banking: An Overview Financing Socially Just and Sustainable Forms of Urban Development. Karl Beitel. April 2016.

Appendix 23 - The Winner Takes Almost All.

Appendix 24 – Report of the Comission to Study the Feasibility of Establishing a Bank Owned by the Commonwealth August 2011

Appendix 25 – California Alliance Public Banking Document

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All investment strategies have the potential for profit or loss. Different types of investments involve varying degrees of risk, and there can be no assurance that any specific investment or strategy will be suitable or profitable for a client's investment portfolio.

Information provided is general in nature and does not constitute personalized investment advice. A professional adviser should be consulted before implementing any of the options presented. Any tax and estate planning information provided is general in nature and should not be construed as legal or tax advice. Always consult an attorney or tax professional regarding your specific legal or tax situation.

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CITY OF OAKLAND

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OFFICE OF THE CITY CLERK
OAKLAND

2018 AUG 31 AM 8:43

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Katano Kasaine
Director of Finance

SUBJECT: Public Bank Feasibility Study Prepared by Global Investment Company

DATE: August 20, 2018

City Administrator Approval

Date: 8/30/18

RECOMMENDATION

Staff Recommends That The City Council Receive An Informational Report On The Multi-Jurisdictional Public Bank Feasibility Study Prepared by Global Investment Company (GIC).

EXECUTIVE SUMMARY

The attached study titled, "Multi-Jurisdictional Public Bank Feasibility Study" (***Attachment A***) was prepared in response to the City Council's request for a feasibility and economic impact analysis of establishing a public bank in the City of Oakland ("City"). This study, which was prepared by Global Investment Company ("GIC"), addresses the requirements for establishing a public bank, assesses the ability of a public bank to provide community benefit lending, and analyzes the capability of a public bank to handle cannabis business deposits. City staff along with other participating local governments including the City of Berkeley, City of Richmond, and County of Alameda (collectively referred to as the "Local Municipalities") provided guidance, feedbacks, and questions to GIC to be considered and analyzed in the final study.

Although the study concludes that a public bank *could* provide solutions to unmet financial needs for communities. It does not provide the key answers proposed by the Request for Proposal (RFP) and does not address the requirements of the Statement of Work (SOW) or provide a roadmap detailing the steps and timeline of setting up a public bank. Additionally, the study leaves the City with more questions than answers as it relates to the establishment of a public bank.

BACKGROUND / LEGISLATIVE HISTORY

On November 29, 2016, the City Council adopted a resolution directing the City Administrator to prepare an informational report with the cost estimates of commissioning a study analyzing the feasibility and economic impact of establishing a public bank for the City of Oakland, and providing funding options for the feasibility study (***Attachment B***).

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Finance and Management Committee
September 11, 2018

Staff met with representatives of the Friends of the Public Bank of Oakland to solicit their input and discussed next steps regarding a feasibility study. The Treasury Bureau issued a Request for Qualifications (RFQ) on February 3, 2017 seeking qualified individuals or firms to conduct a Feasibility Study of Public Banking for the City of Oakland (***Attachment C***). The RFQ scope of services focuses on a preliminary comparison of the City's current banking model (including the benefits and risks of current banking practices) with other models, particularly public banking across the nation. Staff provided an update to the Finance and Management Committee on February 28, 2017 on the status of the RFQ process.

On April 25, 2017, staff presented the results of the RFQ process and the cost estimates to commission a feasibility study for the creation of a public bank and analysis of funding options. Only two firms submitted responses to the RFQ, Global Investment Company and PFM Financial Advisors, LLC. The firms were evaluated based on the criteria listed in the RFQ. Also, the report recommended City Council consider appropriating such expenditures ($100,000) as part of the proposed FY2017-19 Proposed Policy Budget instead of FY 2016-17 Midcycle Budget.

On June 13, 2017, staff presented a supplemental report to the April 25, 2017 Finance and Management Committee providing additional details on the proposed scope of work and budget, as well as the feasibility for a regional approach to a public bank. Staff reached out to the following cities:

1. City and County of San Francisco
2. City of Hay ward
3. City of Santa Rosa
4. City of Berkeley
5. City of Emeryville
6. City of Richmond

Based on a more thorough analysis and outreach, staff recommended against moving forward with the feasibility study. Rather, staff recommended that the City continue to monitor the developments of the City and County of San Francisco's Municipal Public Bank Task Force.

On July 18, 2017, staff presented a supplemental report at the June 20, 2017 City Council meeting. Staff was directed to return to City Council with information about the cannabis industry and other neighboring cities' willingness to contribute funds to the feasibility study for a multi-jurisdictional public bank. Staff reached out to the neighboring cities and inquired if they were willing to participate and contribute funding to complete a feasibility study for a multi-jurisdictional public bank. To date, the City has received a total of $58,200 in donations to pay for the public bank feasibility study (County of Alameda: $25,000, City of Berkeley: $25,000, City of Richmond: $5,000 and Others: $3,200).

On June 29, 2017, the City Council approved the Fiscal Year 2017-2019 Budget, which included $75,000 for the public bank feasibility study. On September 19, 2018, City Council adopted Resolution No. 86905 approving the contract with GIC to complete a feasibility study for a public bank.

ANALYSIS

The City, together with the Local Municipalities, requested a feasibility study to assess whether a publicly owned bank could: 1) help finance community projects, 2) reduce risks in existing financial markets, and 3) provide better financial returns on public investments.

At a minimum, the feasibility study shall include major components of a public bank that addresses the general banking requirements, the ability to provide community benefit lending and the ability to handle cannabis business deposits. The study would also include the costs and governance structures as well as provide the benefits and risks to establishing a public bank under each of the three public banking options. **In addition, GIC was to provide a comprehensive summary of why this structure is feasible or not.** If so, provide a timeline for implementation – from approval of concept to market readiness. Based on the Statement of Work ("SOW") (***Attachment D***), the feasibility study was to specifically:

1. Research the feasibility of public bank options, including:
   a. Public banking for municipalities, which require full service depository banking and related structures (sweep accounts, lockbox, targeted balance, etc.);
   b. Unbanked and cannabis industry considerations; and,
   c. Community reinvestment and lending (small business lending, consumer loans, etc.).
2. Interview stakeholders.
3. Provide a detailed case study.
4. Develop a cost analysis for each option considered.
5. Assess next steps concerning implementation.

The Local Municipalities met regularly with GIC to provide information, data and input throughout the process. Staff assisted GIC with coordinating and providing meeting locations to host various focus groups for stakeholder input. These groups included:

1. Citizen's Focus Group
2. Cannabis Industry Focus Group
3. Small Business Focus Group
4. Treasurer's Focus Group
5. Finance and Banking Focus Group

The Multi-Jurisdictional Public Bank Feasibility Study prepared by GIC dated June 15, 2018 attempts to address two stated goals:

- Can a public bank provide solutions to the unmet financial needs of Bay Area households, businesses, and governments?
- Can such an institution provide banking services to the cannabis industry?

The Local Municipalities reviewed the Multi-Jurisdictional Public Bank Feasibility Study. The parties agreed that the study ***did not*** adequately address the main objective of the study in answering, "Is a public bank feasible?" The study states that public banking ***is*** feasible, but lacks supporting details. For example, the study does not provide an analysis of the key steps to setting up the public bank and required capitalization. Contradictory information is also

presented throughout the study that is counter to the high-level goals of a public bank. **Taken comprehensively, these considerations indicate that a public bank is not feasible at this time.**

The below table are a compilation of comments/questions from the Local Municipalities which includes quotations from the study that the Local Municipalities found unclear and need further clarification and detail:

LEGAL/REGULATION	
	1. "Our state legislature could create a public bank charter that eliminates the need for FDIC insurance, and it could also simultaneously address impediments in state law with regard to deposits by municipalities into the public bank as a non-FDIC insured institution."; "Interested municipalities may want to pursue the possibility of using a public bank for all transactions other than those requiring the use of payment systems."; Access to the Automated Clearing House (ACH) is a need of many, if not all, municipalities to support the electronic payments aspects of their banking business. Access to ACH/EPN services is governed by federal regulations . . . the impediment of non-eligibility of a participating entity for ACH access would remain." (Page 12) 2. If municipalities own the public bank, they would be . . . looked to by federal regulators as a source of financial strength, meaning the municipalities have proven their ability to provide financial assistance to the bank in the event of financial need." (Page 15) 3. "The City of Oakland or other entities may wish to alter their charter to further preserve social responsibility requirements for a public bank, but that is still not a guarantee that it will stay the course." (Page 16) 4. "The fact that a municipality has charter status . . . does not protect it from the reach of state law. . . If . . . municipalities were to decide to engage in investments via a public bank that the state deemed too risky, that could be a violation of state law. . . That fact suggests that, in considering capitalization, or investments in cannabis, or cannabis derived instruments, the public bank . . . could be deemed to be too risky for the City to conduct any business with such entities." (Page 18) 5. The report did not identify institutions and steps needed to

	obtain regulatory approval for the establishment of a public bank. It should identify the challenges and how to resolve such challenges. 6. The study did not provide a clear risk analysis on fiscal and legality or quantify the impact of the credit ratings of the participating Local municipalities.
STRUCTURE	
	1. The study provided Bank of North Dakota (BND), the only existing American public bank as an example. However, the study doesn't seem to address the difference between the BND (purely a wholesale bank) and the proposed Oakland Public Bank (retail bank/providing loans, etc.) nor does it address the difference in the history and economy between the period when the BND started (1930's) and the current period. 2. The study did not address enough the differences between current governmental programs and creating a new institution, a public bank. There was minimal discussion on current government programs which deserved much more analysis. It seems like such an obvious issue, that a new proposed public institution needs to be justified on the premise that no existing institution is able to perform proposed activities. This was lacking. 3. The study lays out the issues where this will be heading (Page 6): (1) Supporting local business needs and creating better services for residents; and (2) supporting needs of municipalities. (The study rejects the idea that the Public Bank should bank the cannabis industry, with which we agreed.) The first goal of the Public Bank appears to boil down to loans to students, prospective home owners and small businesses. It takes the study over dozens more pages to get back to these services. It begins to address these services on pages 27-29. The most detail finely appears on pages 37-41. But the feasibility never becomes clear: Is the study recommending the public bank to make loans or to sell asset-backed securities? 4. In the PURPOSE section two goals are indicated – one in relation to social responsibility and the other related to the availability and affordability of loans for specific populations. Strategies indicated to meet the goals; do not address the social responsibility goal. (Page 9) 5. The SOCIAL MISSION section provides no context explaining

	why the social mission of the public bank would need to be mandated, nor does it provide any insight as to the factors that may lead the public bank to stray off "course." (Page 16) 6. The section does not make a strong argument as to how a public bank (as opposed to a private bank) would better serve or reflect to core values of the Local municipalities and their communities. Later in the document (in the section entitled THE NEED FOR A PUBLIC BANK AS A FINANCIAL ENTERPRISE) social concerns are addressed, but there is no link between it and the SOCIAL MISSION section. (Page 25) 7. The referenced to "the federal level of antagonism toward some core values..." is a highly subjective statement that lacks supporting documentation (in the document). It is recommended that the reference be deleted and replaced with references to and examples of the stated and published core values of the Local municipalities with footnotes/hyperlinks to adopted resolutions, ordinances or municipal codes. (Page 16) 8. A discussion of whether or not a Public Bank could become a municipal bank is hardly addressed: how many accounts would be needed? what are the costs? what is account analysis? etc. 9. The study seems to suggest the bank would not be able to secure FDIC insurance. It is suggested the State might be willing to guarantee deposits. Did GIC speak to anyone at the State to assess the possibility the State would do so? Who? What did they find? 10. Explain why private equity investors in the bank would give up control to the public agencies, even though the public agencies haven't put up any equity? Or would they require a matching equity investment from the public agencies? 11. What would be the credit rating(s) for the public bank?
CAPITAL	
	1. "For municipalities to invest in the public bank, one source of funds could be a one-time appropriation from the General Fund. Another possibility could be to use investment reserves." (Page 17) 2. "... reasons why a public bank, in particular, needs scale. One is that a larger bank is better able to diversity and mange risks." The study indicates that it would require a minimum

capital of $30-50 million to start a new public bank. If scale matters, how would the public bank sustain its operations long-term? What is the average capital need for larger banks? (Page 45)

3. The study acknowledges it is not a wise idea for the sponsoring governments to provide the equity capital for the bank. The study suggests the bank could be capitalized with larger "impact investor" who are looking for more than purely financial returns. Did GIC speak to potential investors? Who? What did they learn? What would be their minimal expectations of financial returns? Would that be consistent with the concept of a public bank whose mission is made possible because it doesn't need to return a profit to shareholders? (Page 46)

4. The section "Capitalization", the study suggests issuing bonds, corporate debt, and private placement. What would be the source of re-payment for such debt? How much would that the costs? Also, it listed some public funds (i.e., employee pension, rainy day fund, affordable housing, revolving loans) that could be invested as capital, how does that fit into the "prudent investor standard" when scale matters as referenced in the study and wouldn't that contradicts the strategy of avoiding a large investment of existing public funds. What is considered large? When it comes to the investment of public funds, California state law holds all governing bodies of local agencies as well as municipalities, public and municipal corporations, and those who are authorized to invest on their behalf, "... ..that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, **to safeguard the principal and maintain the liquidity needs of the agency**." (Page 46)

5. The study says the bank should invest in Treasury securities, it also says it should buy municipal bonds. Explain how doing so will enable the bank to increase lending to people and businesses who have difficulty getting loans from traditional banks. Where does the capital come from for such loans if the bank's funding is used to buy bonds?

6. The study is confusing as to how the public funding can be funded. The Fintech Collaboration section does not provide information as to how this can possibly achieve the public banking capitalization it needs. Most of the concepts were introduced but there were not any language on the study that

	would provide the information as to how this can possibly happen.
OTHER KEY CONCERNS	
	1. Possible solutions for the stated needs of a Public Bank aren't fully developed properly. 2. The picture/graphic is unrelated to the subject of social responsibility in banking and is wholly inappropriate for a professional presentation paid for with public funds; one that may become part of the public record of all the Local municipalities. It must be removed and replaces with a related and appropriate graphic. (Page 17)

Status On Other Government's Effort To Establish A Public Bank:

Based on staff's research and analysis, below are the status of other governments' efforts to establish a public bank.

City of Santa Fe: It should also be noted that the City of Santa Fe, New Mexico recent efforts to establish a public bank provides some insight. After completing a public bank feasibility study in 2016, a Santa Fe Public Task Force was created that published a final report dated April 17, 2018 and presented to the Santa Fe City Council on May 9, 2018. Its conclusions, as summarized in the report, suggest that the City of Santa Fe's financial infrastructure is not large enough to create a city-owned public bank, but that the benefits of public banking are sufficient to encourage the City to support consideration of a statewide public bank. More information and details about the City of Santa Fe's effort to establish a public bank can be found on the Banking on New Mexico, A Public Bank for Santa Fe, an initiative of WeArePeopleHere! website at http://bankingonnewmexico.org/.

City of Los Angeles: The City of Los Angeles brought forth a report dated February 26, 2018 on the feasibility, requirements, legislative barriers and potential models for establishment of a Municipal Bank of Los Angeles (MBLA). The report suggested that formation of MBLA under existing law and regulation would be a very difficult process, very costly, and would result in an institution that would not likely qualify to receive City business. Also, the inclusion of City funds in the formation of MBLA in the form of collateral, investment, or deposits, presents risk to the City. The City is obligated to ensure that taxpayer funds are carefully managed. However, should the City Council and Mayor wish to further consider the formation of MBLA, they would need to engaged specialized expertise in State and federal regulations to fully explore the details associated with the requirements to fund and operate a bank, including formation process and long-term operations. On June 29, 2018, the Mayor signed an ordinance to place a ballot measure on the November 6th election to amend the charter to allow for the creation of a city-run bank.

City and County of San Francisco: The City and County of San Francisco formed a Municipal Bank Feasibility Task Force (the "Task Force") to research the viability and advisability of a municipal bank as well as other opportunities to leverage the city's banking and investment practices to promote community goals. The formation of the Task Force was recommended by the Board of Supervisors to identify and pursue opportunities to extend access to credit for small businesses, provide banking services to the cannabis industry and expand capital for affordable housing. Based on the last meeting on June 28, 2018, the Task Force will publish a report and present it to the Board of Supervisor by December 2018. The goal of the report is to provide the Board of Supervisors and the public with a clear and concise analysis of the costs and benefits of a public bank. Also, the report will contain different models with specific costs by service level and formation type, as well as the procedural steps the Board of Supervisor and the public would need to proceed.

State of California. Senate Bill 930 (SB 930) was first introduced in January 25, 2018 that would allow financial institutions to offer limited banking services to the state's legal cannabis businesses. Under SB 930, the State of California would allow for the creation of limited-charter licenses for banks and credit unions overseen by the Department of Business Oversight, the state's financial regulator. The special-charter institutions would be allowed to issue special checks that could be used to pay state or local fees and taxes, rent on property associated with cannabis businesses and vendors of the pot businesses, or to buy state or local bonds or warrants. According to a legislative analysis, there are significant obstacles toward successful implementation of SB 930 as outlined below. On August 16, SB 930 was rejected and held in the Assembly committee.

- **Unresolved tax collection issues.** One of the stated reasons for SB 930 is to help these cannabis businesses pay their state and local taxes. However, it is unlikely local tax collectors will participate in this system. For one, under existing law local tax collectors cannot use a limited charter bank. Second, as a more practical matter, local tax collectors would still need to transfer money in their cannabis depository institutions (CDI) accounts to other financial institutions, which may require security and other personnel. Thus, this new system simply shifts the public safety issues associated with cash transactions to another point in the banking process.

- **Insurance.** This bill requires CDIs to obtain private insurance, a requirement that will be difficult to comply with and will add significant costs to participating CDIs. Typically, deposits at traditional banks and credit unions are insured by federal agencies with risk pooled across institutions and backed by the federal government. In contrast, a private entity willing to insure a CDI will likely charge high premiums given the risk associated with cannabis banking.

- **Federal law.** SB 930 does not guarantee that CDIs will be protected from federal law enforcement. As the Assembly Banking and Finance Committee analysis notes, one unfortunate side effect of this bill could be the concentration of cannabis business assets into one or several easily identifiable institutions, making them an easier target of federal law enforcement action.

Conclusion:

The study is not clear and does not provide answers to the main question "Is a public bank feasible?" The study states that public banking ***is*** feasible, but the study never provided a clear roadmap, structure, or supporting data to support the assertion. Furthermore, the study does not provide an analysis of the key steps to setting up the public bank and required capitalization. In addition, contradictions are embedded throughout the study that appear to counter the goals of the Local Municipalities and further indicates a public bank, owned by the municipalities, is not feasible at this time. **Therefore, staff does not that recommend the City spend additional public funds on the feasibility study at this time.**

Staff further recommends that the City's Finance Department continue to monitor the development of other governments' efforts and evaluate the continued development of their efforts and return to the City Council when there is successful establishment of a public bank. Again, some of the government agencies the City will continue to follow will be:

- *City of Santa Fe.* Establishment of a statewide public bank in which Santa Fe could participate.
- *City of Los Angeles.* The result of the ballot measure in November election amending the charter to allow for the creation of a city-run bank.
- *City and County of San Francisco.* The City and County of San Francisco Task Force final report which will include an analysis of the costs and benefits of a public bank (December 2018).

FISCAL IMPACT

This item is for informational purposes only and does not have a direct fiscal impact or cost. The contract with GIC is in the amount of $98,900. To date, the City has received a total of $58,200 in donations to pay for a public bank feasibility study (County of Alameda: $25,000, City of Berkeley: $25,000, City of Richmond: $5,000 and Others: $3,200) and the City will pay the residual balance of $40,700.

COORDINATION

This report was prepared by the Treasury Bureau in coordination with the Finance Department.

SUSTAINABLE OPPORTUNITIES

Economic: There are no economic opportunities associated with this item.

Environmental: There are no environmental opportunities associated with this item.

Social Equity: There are no social equity opportunities associated with this item.

ACTION REQUESTED OF THE CITY COUNCIL

Staff requests that the City Council receive an informational report on the Public Bank Feasibility Study From Global Investment Company (GIC).

For questions regarding this report, please contact Katano Kasaine, Director of Finance, at (510) 238-2989.

Respectfully submitted,

Katano Kasaine
Director of Finance, Finance Department

Reviewed by:
David Jones, Treasury Administrator

Prepared by:
Dawn Hort, Principal Financial Analyst
Treasury Bureau

Attachments (1):
A: Multi-Jurisdictional Public Bank Feasibility Study
B: November 29, 2016 Finance & Management Committee Resolution
C: Request for Qualifications (RFQ) – Feasibility Study of Public Banking
D: Scope of Services (SOW)

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ATTACHMENT

GIC Response to Pages 4 to 8 of the Agenda Report Executive Summary

GIC experienced Team is comprised of project staff from all over the country, in Northern California: Oakland, Berkeley, San Leandro, Danville, Laytonville and Benicia; crossing Alameda, Contra Costa, Mendocino and Solano Counties. Los Angeles County, Bakersfield and Fresno, Colorado, Virginia and Rhode Island were also a part of the GIC Team members. GIC is also a part of the Multi-Jurisdictional Public Banking Connections established by the San Francisco Municipal Bank Task Force.

We are responding to the staff Agenda Report Executive Summary. It is our belief we have addressed these comments and questions in full already. These are almost the same questions/comments presented to GIC in May. And, subsequently we added our responses to the Final Study Report dated June 15, 2018. There appears to be two questions added, which we first discovered on September 8, 2018.

LOCAL MUNICIPALITIES Comments. *Please note the comments are from the Executive Summary presented in the staff Agenda Report dated August 20, 2018.*	**GIC Responses.** *Please note that revisions to the Preliminary Multi-Jurisdictional Feasibility Study for the Public Bank provided (Attachment 4. Feedbacks/Comments/Questions To The Public Banking Feasibility Study Report.), were primarily added to the Appendices as to maintain: 1) structure to keep the body of report short and 2) the document format already in place, which led with legal and then lending, allowed GIC to provide a faster turnaround of the Final Study, within 10 days.*
LEGAL/REGULATION	
1. "Our state legislature could create a public bank charter that eliminates the need for FDIC insurance, and it could also simultaneously address impediments in state law with regard to deposits by municipalities into the public bank as a non-FDIC insured institution.", "Interested municipalities may want to pursue the possibility of using a public bank for all transactions other than those requiring the use of payment systems.", Access to the Automated Clearing House (ACH) is a need of many, if not all,	➢ Refer to Final Study Report. Page 12.

needs and creating better services for residents; and (2) supporting needs of municipalities. (The study rejects the idea that the Public Bank should bank the cannabis industry, with which we agreed.) The first goal of the Public Bank appears to boil down to loans to students, prospective home owners and small businesses. It takes the study over dozens more pages to get back to these services: It begins to address these services on pages 27-29. The most detail finely appears on pages 37-41. But the feasibility never becomes clear: Is the study recommending the public bank to make loans or to sell asset-back securities?	➢ See Appendix 1. Private and Public Banking. ➢ See Appendix 2. Outreach Summaries.. ➢ See Appendix 7.Benefits. ➢ See Appendix 8. Relevant Market and Participation. ➢ See Appendix 12. A Social Mission – Divestment. ➢ See Appendix 14. Relevant Cannabis Legislation. ➢ Attachment 5 - Redline Version of Draft Multi-Jurisdictional Public Bank Feasibility Study - Tracking Changes from Preliminary to Final. (Refer to diagram on Page 55.) ➢ We did not propose asset backed securities. But, it is an option.
4. In the PURPOSE section two goals are indicated – ne in relation to social responsibility and the other related to the availability and affordability of loans for specific populations. Strategies indicated to meet the goals: do not address the social responsibility goal.(Page 9)	➢ See Appendix 6. Summary of Cities and States Creating Socially Responsible Banking, Investment and Financial Services Policies. Summary of Cities and States Creating Socially Responsible Banking, Investment and Financial Services Policies. ➢ See Appendix 12. A Social Mission – Divestment.
5. The SOCIAL MISSION section provides no context explaining why the social mission of the public bank would need to be mandated, nor does it provide any insight as to the factors that may lead to public bank to stray off "course".(Page 16)	➢ Final Study Report. Page 16. Attachment 5. - Redline Version of Draft Multi-Jurisdictional Public Bank Feasibility Study - Tracking Changes from Preliminary to Final. Page 20. ➢ See Appendix 1. Private and Public Banking. ➢ See Appendix 2. Outreach Summaries. ➢ See Appendix 4. Lending and Guiding Principles. ➢ See Appendix 5. Governance Considerations: PBI.org and Friends ofPublicBankofOakland.org/ governance proposal Governance Considerations. ➢ See Appendix 12. A Social Mission – Divestment. ➢ See Appendix 13. Summary: German Public Banks Help Address Climate Change (Wolfram Morales, September 2017) Summary: German Public Banks Help Address Climate Change (Wolfram Morales, September 2017). ➢ See Appendix 23. The Winner Takes Almost All. ➢ See Appendix 25. California Alliance Public Banking Charter (Proposed).

	➢ See Appendix 27. CRC Small business Study, Displacement, Discrimination and Determination: Results from a Statewide Survey in California. CALIFORNIA REINVESTMENT COALITION Small Business Owners Struggle to Access Affordable Credit. ➢ See Appendix 28. Disaster Recovery. ➢ See Final Study Report, Footnote 25 (Page 16).
6. The section does not make a strong argument as to how a public bank (as opposed to a private bank) would better serve or reflect to core values of the Local municipalities and their communities. Later in the document (in the section entitled THE NEED FOR A PUBLIC BANK AS A FINANCIAL ENTERPRISE) social concerns are addressed, but there is no link between it and the social mission section. (Page 25)	➢ See Appendix 1. Private and Public Banking. ➢ See Appendix 2. Outreach Summaries - (25+ pages of raw data is available upon request.) ➢ See Appendix 4. Lending and Guiding Principles. ➢ See Appendix 7. Benefits. ➢ See Appendix 8. Relevant Market and Participation. ➢ See Appendix 11. Stakeholder's Feedback and Letters of Interest. (https:friendsofpublicbankofoakland.org/supporting-organizations/). ➢ See Appendix 12. A Social Mission – Divestment. ➢ See Appendix 13. Summary: German Public Banks Help Address Climate Change (Wolfram Morales, September 2017) Summary: German Public Banks Help Address Climate Change (Wolfram Morales, September 2017.) ➢ See Appendix 28. Disaster Recovery. ➢ See Appendix 29. Fintech and Collaboration. Fintech and Collaboration.
7. The referenced to "the federal level of antagonism toward some core values..." is highly subjective statement that lacks supporting documentation (in the document). It is recommended that the reference be deleted and replaced with references to and examples of he stated and published core values of the Local municipalities with footnotes/hyperlinks to adopted resolutions, ordinances or municipal codes. (Page 16)	The Trump Administration announced in 2017 that it believed cannabis to be a dangerous substance and did not intend to honor the Obama Administration approach to not enforcing federal law regarding cannabis in the states where it has been legalized at the state level. See: http://www.latimes.com/politics/la-na-pol-trump-marijuana-20170223-story.html The Trump Administration reiterated this position in January of 2018 See https://www.nytimes.com/2018/01/04/us/politics/marijuana-legalization-justice-department-prosecutions.html The Administration then went on to tighten Small Business Administration policies such that banks may not provide an SBA loan to any business directly or indirectly related to or working with an entity in the cannabis industry. See SBA Policy Notice, Control No. 5000-17507 (April 3, 2018) at https://www.sba.gov/sites/default/files/resource_files/SBA_Policy_Notice_5000-17057_Revised_Guidance_on_Credit_Elsewhere_and_Other_Provisions.pdf See also *Trump Administration Bars SBA Loans to Cannabis Industry*

	Support Businesses (May 5, 2018), Cannabis Business Executive at https://www.cannabisbusinessexecutive.com/2018/05/trump-administration-bars-sba-loans-cannabis-industry-support-businesses/ This change was made despite a well-publicized Trump Administration statement that it would not take a hard line on enforcement of federal laws as to cannabis. See https://www.usatoday.com/story/news/2018/04/13/trump-agrees-leave-state-legal-marijuana-programs-alone/515376002/
8. A discussion of whether or not a Public Bank could become a municipal bank is hardly addressed; how many accounts would be needed? What are the costs? What is account analysis? Etc.	It is important to note that GIC attempted several times to retrieve detailed banking information from all participating local municipalities. GIC received information from the City of Oakland and about a week prior to June 15th deadline received cities Berkeley and Richmond. But, not from County of Alameda. The County of Alameda is issuing an RFP. ➢ See Appendix 1. Private and Public Banking. ➢ See Appendix 22. Refund America Project – Roosevelt Institute – Municipal Banking: An Overview Financing Socially Just and Sustainable Forms of Urban Development. Karl Beitel. April 2016. ➢ See Appendix 24. Report of the Commission to Study the Feasibility of Establishing a Bank Owned by the Commonwealth, August 2011. ➢ See Appendix 26. Participating Members Municipal Funding - Municipal Finance and Banking. **I FOUND THE MONEY!** Let me explain how I found the money. Refer to Appendix 26, Participating Members Municipal Funding – Municipal Finance and Banking. The Annualized Daily Collected Balance of Cash Deposits for fiscal year 2016 to 2017, each of the jurisdictions, namely, the cities of Richmond, Berkeley Oakland and the County of Alameda show their annualized cash deposits collected through their bank accounts as $300 million for Richmond, Berkeley $376 million, Oakland $570 million and Alameda County estimates between $1 billion to $2 billion. The number of participating members' bank accounts include: Richmond 30, Berkeley 12, Oakland 59, and Alameda will be issuing an RFP for their banking services in 2019. The number of bank transactions and the other services are also listed. Participating members have a range in cash balances throughout

	the year, so we've noted the low-volume, if there was a range and the actual number if this is the actual number provided by the participating member jurisdiction. At any given time during the year, members' daily cash balances average between $1 billion-$3 billion. If these bank accounts were consolidated into a public bank, the interest earned on these deposits could be divided among the participating members to address various needs and/or to fund programs. In addition, participating members are affiliated with other agencies and governments who might consider deposits into a public bank, if it were to exist. The next sheet titled, "East Bay Regional Public Bank Integration Partners Sustainability Chart", gives some idea on how the public bank could sustain financially long term. Some of the sample Integration Partners listed are related to Berkeley, Richmond, Oakland and Alameda County. Some of these "Integrated Partners" include affiliated agencies, such as: Ports, Housing, Universities and Colleges, Health Systems, School Districts and more. Educational systems include UC Berkeley and the Peralta Community College District. Others include the retirement plan for the County of Alameda, ACERA, and Successor Agencies like those of the cities of Richmond and Oakland. These Agencies could borrow money from the public bank to pay off their balances. The current debt payments for these cities just about equal the revenue generated from the incurred debt. In summary, just if a "hand full" of these agencies made their deposits (or a fraction of), into a bank. If we totaled these illustrated examples, the grand total is over $12 billion in deposits. A percentage could be deposited into a public bank, which generates interest from those deposits. Another Integrated Partner could be the California State Association of Counties (CSAC); a potential state wide partner has about $5.8 million according to their annual 2017 budget. The next sheet describes the Participating Members of Banking Service Fees. This sheet gives an idea of what each one of the participating members are spending on annual banking services and related services, such as, general banking and merchant services, armored car and interchange assessment fees etc. Although this

may be a low estimate, I did my own research related to members banking services. The City of Oakland provided 1 year of bank statements for year. Richmond and Berkeley provided some information. I was able to find much of the information listed independently. As mentioned earlier, the County of Alameda is prepared to issue a Request for Proposal (RFP) for Banking Services, to be issued in 2019.

The most exciting sheet is the Participating Members Municipal Finance sheet, which describes the participating member's average cash balances that exist in short term cash and pooled investments for the fiscal year of 2016 to 2017.

The average account balance in column two is what I used in the calculation; idle cash sitting in the Local Agency Investment Fund also known as (LAIF) and money markets. Each one of the participating municipalities has a LAIF, with the exception of Berkeley.

During our outreach with the Participating Members Working Group and the Treasurer's Focus Group, it was noted that a potential 10% of the LAIF could potentially be used for funds that could be transferred into a public bank.

In this example listed, if we were to use 10% of the combined LAIF, excluding Berkeley, the amount is $115 million multiplied by 10%, which is $11.5 million in potential funds that could be used to deposit into a public bank.

The second Table on this sheet is the Estimated Increase In Return on Investment for participating jurisdiction's idol cash. It is not uncommon for more than 40% of collected funds to sit in Oakland's Short Term and pooled investment accounts. Historical yield for the short term cash and pooled investments are 1% to 1.3%. In this Table we use 10% of the total combined short term Cash and Pooled Investments from all four participating member's jurisdictions, which total 6.5 million. If 65 million were able to earn a 1% increase in yield or achieve a reduction in fees over five years, the result could generate an additional $325 million for member's portfolios - restricted use for public bank deposits.

The second part of the Estimated Increase In Return On Investment Table provide an estimated increase in the historical yield (assumed continued increase in interest rates) of an additional increase of .2%. In this example, the estimated increase provides an additional $65 million in fees over five years, which could also be restricted, used for public bank operations. The estimates provide additional capital possibilities that could be generated just by a shift in

	investments. When totaled, the potential new funds total $466 million, which could be used to fund bank deposits.
9. The study seems to suggest the bank would not be able to secure FDIC insurance. It is suggested the state might be willing to guarantee deposits. Did GIC speak to anyone at the State to addresses the possibility the State would do so? Who? What did they find?	➢ Many interviews and meetings were held. One of the meetings was with the State of California, Department of Business Oversight, the Department of Financial Institutions and other related affiliates. The diagram shown in the Attachment 5. Redline Version of the Preliminary Multi-Jurisdictional Feasibility Study Public Bank Report was removed for the final due to its content and staff stated the preliminary report had too much reference to Cannabis. Refer to Attachments 4. Feedbacks/Comments/Questions to the Public Banking Feasibility Study Report. ➢ A few examples are shown in See Appendix 11. Stakeholder's Feedback and Letters of Interest (https:friendsofpublicbankofoakland.org/supporting-organizations/) Letters of Interest. Dress Wedding is one of the Co-Founders of the largest dispensary in Oakland, Harborside. Byron Phillips is SVP, NorCal FDC, a guarantor of loans in California.
10. Explain why private equity investors in the bank would give up control to the public agencies, even though the public agencies haven't put up any equity? Or would they require a matching equity investment from the public agencies?	➢ See Appendix 12. A Social Mission - Divestment ➢ Refer to Attachment 5 - Redline Version of Draft Multi-Jurisdictional Public Bank Feasibility Study - Tracking Changes from Preliminary to Final. Page 55. ➢ It is contemplated that the public agencies would invest in the bank using a joint powers lease revenue bond.
11. What would be the credit rating(s) for the public bank?	Standard & Poor's (S&P) released Bank of North Dakota's credit ratings in its November 7, 2017 review of the Bank. See below. ➢ Final Study. Page 31. Footnote 68. BND: *Issuer Credit Rating: 'A+/A-1'* *Deposit Rating: 'AA'* *Short-term Deposit Rating at 'A-1+'* *Stand-alone Credit Profile at 'a'*

	➢ Final Study Page 36. ➢ See Appendix 1. Private and Public Banking. ➢ See Appendix 7. Benefits. ➢ See Appendix 8. Relevant Market and Participation. ➢ See Appendix 17. Bruce Cahan, UrbanLogix. Adjunct Professor, Stanford University.
CAPITAL	
1. "For municipalities to invest in the public bank, one source of funds could be a one-time appropriation from the General Fund. Another possibility could be to use investment reserves. "(Page 17.)	➢ Refer to Final Study Report. Page 17. ➢ It is contemplated that 75% of the banks revenue will come taking in deposits and loaning out money, earning the difference between its cost of funds and its yield on earning assets. The other 25% will come from investment banking activities such as private placements for local businesses and bank qualified municipal bond issues for bay area schools and municipalities (under $30 million).
2. "...reasons why a public bank, in particular, needs scale. One is that a larger bank is better able to diversity and mange risks." The study indicates that it would require a minimum capital of $30-50 million to start a new public bank. If scale matters, how would the public bank sustain its operations long-term? What is the average capital need for larger banks? (Page 45)	This question is new and was not on the Attachment 4. Feedback/Comments/Questions to The Public Banking Feasibility Study Report, provided in June. However, The following were added to the final study delivered on June 15th: ➢ See Appendix 7. Benefits. ➢ See Appendix 8. Relevant Market and Participant Information.
3. The study acknowledges it is not a wise idea for the sponsoring governments to provide the equity capital for the bank. The study suggests the bank could be capitalized with larger "impact investor" who are looking for more than purely financial returns. Did GIC speak to potential investors? Who? What did they learn? What would be their minimal expectations of financial returns? Would that be consistent with the concept of a pubic bank whose mission is made possible because it doesn't	➢ SOW did not require GIC to raise money. Instead identify those who may have interest. A better response can be better defined in a business plan. ➢ Many interviews and meetings were held. One of the meetings was with the State of California, Department of Business Oversight, Commission Jan Owen and, the Department of Financial Institutions, and other related Departments. The diagram shown in the Preliminary Multi-Jurisdictional Feasibility Study Public Bank Study Report submitted in May, was removed from the final. See Attachment 4. Feedbacks/Comments/Questions to The Public Banking Feasibility Study Report identified a graphic that should be removed or replaced. GIC removed this graphic/diagram. The feedback provided stated the preliminary study report had too much reference to Cannabis. .

need to return a profit to shareholders? (Page 46)	➢ See Appendix 1. Private and Public Banking. ➢ See Appendix 7. Benefits. ➢ See Appendix 8. Outreach Summaries. ➢ See Appendix 11. Stakeholder's Feedback and Letters of Interest (https://friendsofthepublicbankofoakland.org/supporting organizations/). ➢ See Appendix 29. Fintech and Collaboration. ➢ Example of Poppy Bank, Santa Rosa and NorCal FDC pilot with the State DBO and fire victims. Refer to See Appendix 11, for Letter of Interest from Byron Phillips, SVP, NorCal FDC.
5. The study says the bank should invest in Treasury securities. It also says it should buy municipal bonds. Explain how doing so will enable the bank to increase lending to people and business that have difficulty getting loans from traditional banks. Where does the capital come from for such loans if the banks funding is used to buy bonds.	➢ After liquidation of bonds/bills, the proceeds could be deposited into other bank affiliates working with the State. ➢ Must work with the State on investment options. Final Study Report. Footnote: 76. Page 42. ➢ A legal opinion was requested from State Department of Business Oversight on the concept had not been proposed before and would need to conduct further research. (Refer to Attachment 5 - Redline Version of Draft Multi-Jurisdictional Public Bank Feasibility Study - Tracking Changes from Preliminary to Final. diagram on Page 55.
6. The study is confusing as to how the public funding can be funded. The Fintech Collaboration section does not provide information as to how this can possibly achieve the public banking capitalization it needs. Most of the concepts were introduced but there were not any language on the study that would provide the information as to how thus can possibly happen.	➢ See Appendix 29. Fintech and Collaboration was added after received Attachment 4. Feedback/Comments/Questions to the Public Banking Feasibility Study Report. Page 1. "GIC spoke directly to each one of these companies and others. In line with their mission, some Fintech companies are willing to sit down with participating members to discuss innovative ways to fundraise for the public bank. In addition, to funding certain activities related to its establishment. Technology companies like LendUp! have investors who may entertain, as a social responsible investment, a public bank. New technologies lower fees and interest rates could add value."
OTHER KEY CONCERNS	
1. Possible solutions for the stated needs of a Public Bank aren't fully developed properly.	GIC suggest in the Next Steps Section to conduct a business plan to further provide detailed solutions and other important data. In addition to accepting offered funding from Fintech to launch

	Multi-Jurisdictional Public Banking Summit. Refer to See Appendix 29. Fintech and Collaboration. Fintech and Collaboration.
2. The picture/graphic is unrelated to the subject of social responsibility in banking and is wholly inappropriate for a professional presentation paid for with public funds; one that may become part of the public record of all the Local municipalities. It must be removed and replaces with a related and appropriate graphic. (Page 17)	➢ Please refer to Attachment 4. Feedback/Comments/Questions to the Public Banking Feasibility Study Report. and page 18 of the Preliminary Report. There is no graphic. ➢ Please refer to the diagram (graphic) on page 51 of the Preliminary Report. I thought this graphic they wanted removed due to its reference to cannabis and the creation of a Cannabis Industrial Bank since Cannabis is not legal on the Federal level. So, we deleted it from the final study and not the graphic intended evidently by members. ➢ When revised and resubmitted there was no feedback about the remaining content until the Agenda Report dated August 30, 2018. ➢ GIC would be happy to remove the graphic on page 17, if it is offensive. ➢ It is important to note that the Study Consultants are diverse in culture and had not issues with the graphic.

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