

# Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

## EXPEDITED SPECIAL CAPITAL IMPROVEMENTS PROJECTS – KENNEDY BILL 15-22: SHRIVER AQUATIC CENTER BUILDING ENVELOPE IMPROVEMENT (P721503)

### SUMMARY

The Office of Legislative Oversight (OLO) anticipates that Expedited Bill 15-22 will have a negative impact on racial equity and social justice (RESJ) in the County, as the benefits of the Bill will mainly accrue to White residents and business owners. OLO anticipates a moderate, negative RESJ impact of the Bill, as it could re-allocate \$12.3 million in local funding for programs benefitting all residents to a subset of high-income residents that are disproportionately White. OLO offers three recommended amendments for Council consideration to improve the RESJ impact of this Bill.

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### PURPOSE OF RESJ IMPACT STATEMENT

The purpose of racial equity and social justice (RESJ) impact statements is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.<sup>1</sup> Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.<sup>2</sup>

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### PURPOSE OF EXPEDITED BILL 15-22

The purpose of Expedited Bill 15-22 is to authorize a capital improvement project whose locally funded cost will exceed \$20,350,000. The Bill will enable the renovation of the Kennedy Shriver Aquatic Center to be classified as a “Special Capital Improvement Project” and allow the Executive Branch to move forward with constructing this project.<sup>3</sup> Under County law, the County Council must authorize “Special Capital Improvements Projects” if their local costs exceed a given threshold, which is set at \$20,350,000 for FY23.

The Executive estimates that the cost of planning, design, and construction for the Kennedy Shriver Aquatic Center, located in the North Bethesda-Garrett Park area, will total \$32,644,000 for the FY23-28 Capital Improvement Program.<sup>4</sup> Since the anticipated cost of renovating the aquatic center exceeds the FY23 local funding threshold by \$12.3 million, the Executive needs the Council’s authorization and approval through legislation to move forward. Expedited Bill 15-22 was introduced to the Council on June 14, 2022.

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### RACIAL EQUITY AND PUBLIC POLICY

The nation’s history of racial and ethnic exclusion as public policy – from land theft and enslavement to voter disenfranchisement, de jure segregation, and race-based government investments that grew a White middle class at the expense of communities of color – has fostered racial inequities in practically every aspect of life. For example, as noted in the Racial Equity Profile for Montgomery County:<sup>5</sup>

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- 43 percent and 49 percent of Black and Latinx residents are homeowners, compared to 73 percent of White residents.
- While they respectively comprise 15 percent of businesses, Black and Latinx-owned businesses each earn less than 2 percent of all revenues in the County.
- The poverty rates of Latinx and Black children are respectively four to five times the poverty rate of White children.
- While Black and Latinx residents each account for 19 percent of the population, they account for 44 percent and 26 percent of arrests.
- Black residents experience the highest rates of mortality for heart disease, stroke, and breast cancer.

Overall, White residents experience better outcomes than residents of color on favorable indicators, and racial disparities often persist even when controlling for income, employment, or education. Researchers consistently note that the persistence of race as a predictor of opportunities and outcomes primarily reflects the impact of systemic racism on Black, Indigenous and Other People of Color (BIPOC) rather than differences in behaviors by race.

Just as a variety of public policies have created and sustained racial inequities over time, public policy through legislation can be a tool for reducing racial and social inequities. For example, legislation can promote racial equity and social justice by advancing policies and best practices that address the underlying racial and social inequities that foster racial and social disparities.

Alternatively, legislation can also undermine racial equity and social justice by ignoring the likely impacts its provisions may have on existing racial and social disparities. For example, legislation can be developed that broadly seeks to promote a public good. Yet, if legislators fail to consider the potential differential impact of legislation on individuals and communities of color, they may, without intent, advance policies and practices that sustain or worsen existing racial and social disparities. To minimize this potential problem, the County's RESJ Act and Amendments (Bills 27-19 and 44-20) requires OLO to evaluate the anticipated impact of each bill and zoning text amendment introduced to the Council.

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### ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Expedited Bill 15-22 on racial equity and social justice in the County, OLO staff considered two related questions:

- Who are the primary beneficiaries of this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

For the first question, OLO compared the demographics of residents in the North Bethesda-Garrett Park area, where the Kennedy Shriver Aquatic Center is located, to the demographics of the County. As noted in Table 1 on the next page, the residents with greatest access to the renovated aquatic center are generally affluent, and Whiter than the County as a whole. Whereas 43.1 percent of County residents are White, 55.9 percent and 83.5 percent of North Bethesda and Garrett Park residents are White. Black and Latinx residents are underrepresented in both communities, while Asian residents are proportionately represented in North Bethesda, but underrepresented in Garrett Park.

North Bethesda and Garrett Park are also high-income communities. The median household income in North Bethesda (\$111,694) is roughly the same as in the County (\$111,812), while the median household income in Garrett Park (\$221,250) is nearly double that of the County. Of note, the median household income of Black and Latinx residents in the County is \$78,246 and \$79,981, compared to \$131,602 for White residents.<sup>6</sup>

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**Table 1: Percent of Residents by Race and Ethnicity, Montgomery County, North Bethesda, and Garrett Park**

Race and ethnicity <sup>7</sup>	Montgomery County	North Bethesda	Garrett Park
Asian	15.4	16.3	4.7
Black	18.6	9.5	0.9
White	43.1	55.9	83.5
Latinx	20.5	14.7	6.9

Source: 2020 Decennial Census (Table P1, P2), Census Bureau.

Other beneficiaries of this Bill include the construction businesses, related firms, and workers in this sector that will have access to the \$12.3 million in additional local revenue afforded by this Bill. Data referenced in Tables 2 and 3 show that construction business owners in the District of Columbia metropolitan area are disproportionately White, while the construction workforce is disproportionately Latinx. Since business ownership often yields greater economic benefits than employment, White business owners are likely to reap most of the economic benefits from this Bill.<sup>8</sup>

**Table 2: Percent of Employer Firms in All Sectors and Construction Sector by Race and Ethnicity, Washington-Arlington-Alexandria, DC-VA-MD-WV Metro Area**

Race and ethnicity	Percent of Employer Firms, All Sectors (NAICS 00)	Percent of Employer Firms, Construction Sector (NAICS 23)
Asian	19.3	4.8
Black	6.8	3.8
White	73.5	91.3
Latinx	6.6	16.3

Source: 2017 American Business Survey (Table AB1700CSA01), Census Bureau.

**Table 3: Percent of Residents 18 Years and Over and Employees in Construction-Related Occupations by Race and Ethnicity, Montgomery County**

Race and ethnicity	Percent of Residents 18 Years and Over	Percent of Employees in Construction-Related Occupations
Asian	16.0	4.1
Black	18.1	6.2
White	45.6	43.6
Latinx	18.6	64.7

Source: 2020 Decennial Census (Table P3, P4), OLO Analysis of 2020 American Community Survey Public Use Microdata Sample (PUMS), Census Bureau.

The second question is more difficult to consider as there are a multitude of racial and social disparities that could be impacted by this Bill. For example, there are differences in recreation access, opportunities to swim, health indicators, effects on housing values and costs, and other outcomes that vary by race and ethnicity that could be impacted by this Bill. Yet OLO's initial finding, that the Bill likely benefits more White residents than BIPOC residents suggests that many of the racial and social disparities most relevant to increased access and enjoyment of a renovated aquatic center will accrue to White residents, thus widening other racial and social disparities of relevance.

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Overall, since Expedited Bill 15-22 would authorize the reallocation of \$12.3 million in local funds to a project that would disproportionately benefit White residents and business owners as well as affluent residents, the net effect of this Bill is to widen racial and social disparities. Given the amount of the authorization, OLO anticipates that the negative RESJ impact will be moderate.

Of note, OLO's analysis assumed that residents of the North Bethesda and Garrett Park communities would be the primary resident beneficiaries of the Kennedy Shriver Aquatic Center renovation. A more comprehensive equity analysis could consider whether the project would benefit residents within a larger or smaller radius and provide a more precise understanding of affected residents and RESJ impact. See 'Recommended Amendments' for more information on equity reviews for capital improvement programs.

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### RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.<sup>9</sup> OLO finds that Expedited Bill 15-22 could widen racial and ethnic inequities because its benefits are most likely to accrue to White residents and business owners. Should the Council seek to improve the RESJ impact of this Bill through incorporating recommended amendments or introducing companion legislation, the following policies can be considered before the Council **appropriates** any local funding to the Kennedy Shriver Aquatic Center renovation authorized under the Bill.

- **Require Equity Review of the Capital Improvement Program.** To understand and address potential racial and social inequities in capital investments, the County could consider conducting a comprehensive equity review of the Capital Improvements Program (CIP). For instance, in 2019, the Baltimore City Department of Planning (DoP) partnered with the Baltimore Neighborhood Indicators Alliance (BNIA) to develop a methodology for conducting an annual equity analysis of the City's CIP.<sup>10</sup> The analysis developed indicators to measure CIP investments across four areas of equity, based on the Urban Sustainability Directors' Network (USDN) equity lens:
  - Distributional Equity: Does the distribution of civic resources and investment explicitly account for potential racially disparate outcomes?
  - Transgenerational Equity: Does the policy or project result in unfair burdens on future generations?
  - Structural Equity: What historic advantages or disadvantages have affected residents in the given community?
  - Procedural equity: How are residents who have been historically excluded from planning processes being authentically included in the planning, implementation, and evaluation of the proposed policy or project?

Since the release of the original report, the DoP has continued an annual equity review<sup>11</sup> of the CIP through analyzing CIP investments in the City's 55 Community Statistical Areas (CSAs)<sup>12</sup> along with the CSAs' race and income demographics. The analysis also accounts for the varying influence of CIP projects by identifying projects as having local, multi-neighborhood, or Citywide impacts. The annual analysis has prompted several improvements, including more proactive equity analysis during the CIP decision making process.<sup>13</sup>

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- **Invest in Facility Renovations based on CIP Equity Review.** If a CIP equity review revealed lower levels of CIP funding in high poverty areas of the County, increased investment in these areas for facility renovations could help mitigate the negative RESJ impact of this Bill. Conducting an equity analysis of the CIP could include determining the appropriate geographic impact of projects, which would provide a more thorough understanding of whether CIP investments vary by community demographics, and a basis for identifying and prioritizing CIP projects that advance RESJ.
- **Increase Access to Construction Opportunities to BIPOC-Owned Businesses and Workers.** The County's 2014 Disparity Study found that while Black-owned firms accounted for 11 percent of the construction marketplace compared to less than 2 percent of prime contracts with the County.<sup>14</sup> Conversely, White male firms accounted for 74 percent of the construction marketplace and 79 percent of prime contracts, and Latinx-owned firms accounted for 6 percent of the construction marketplace and 13 percent of prime contracts.<sup>15</sup> The County could advance RESJ by proactively identifying and contracting BIPOC-owned businesses for CIP funded projects and other project needs.

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### CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

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<sup>1</sup> Definition of racial equity and social justice adopted from "Applying a Racial Equity Lens into Federal Nutrition Programs" by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools. <https://www.racialequitytools.org/glossary>

<sup>2</sup> Ibid

<sup>3</sup> Expedited Bill 15-22, Special Capital Improvements Projects – Kennedy Shriver Aquatic Center Building Envelope Improvement (P721503), Montgomery County, Maryland, Introduced June 14, 2022.

[https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2022/20220614/20220614\\_3G.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2022/20220614/20220614_3G.pdf)

<sup>4</sup> Ibid

<sup>5</sup> Jupiter Independent Research Group, OLO Report 2019-7: Racial Equity Profile Montgomery County, Office of Legislative Oversight, July 15, 2019. [https://www.montgomerycountymd.gov/OLO/Resources/Files/2019%20Reports/OLO2019-7-6\\_20\\_19.pdf](https://www.montgomerycountymd.gov/OLO/Resources/Files/2019%20Reports/OLO2019-7-6_20_19.pdf)

<sup>6</sup> Table S1903: Median Income in the Past 12 Months, 2020 American Community Survey, Census Bureau.

[https://data.census.gov/cedsci/table?t=Income%20%28Households,%20Families,%20Individuals%29&g=0500000US24031\\_1600000US2431525,2456337&tid=ACSST5Y2020.S1903](https://data.census.gov/cedsci/table?t=Income%20%28Households,%20Families,%20Individuals%29&g=0500000US24031_1600000US2431525,2456337&tid=ACSST5Y2020.S1903)

<sup>7</sup> Latinx is an ethnicity rather than a race. Therefore, Latinx people are included in multiple racial groups throughout this impact statement, unless where otherwise noted.

<sup>8</sup> Brian Headd, "Small Business Facts: The Importance of Business Ownership to Wealth," Office of Advocacy, U.S. Small Business Administration, August 2021. <https://cdn.advocacy.sba.gov/wp-content/uploads/2021/08/17095726/Small-Business-Facts-Business-Owner-Wealth.pdf>

<sup>9</sup> Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

<sup>10</sup> Baltimore Neighborhood Indicators Alliance, "Equity Analysis of Baltimore City's Capital Improvement Plan, FY 2014 – FY 2020", Baltimore City Department of Planning, Baltimore City, Maryland, August 2019.

<https://planning.baltimorecity.gov/sites/default/files/Final%20Report%20-%20CIP%20Analysis%20August%202019.pdf>

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<sup>11</sup> “CIP and Equity,” Baltimore City Department of Planning, Baltimore City, Maryland, Accessed June 22, 2022.

<https://planning.baltimorecity.gov/capital-improvement-program/cip-and-equity>

<sup>12</sup> Community Statistical Areas, developed by the City’s DoP, are clusters of neighborhoods organized around census tract boundaries. See “Vital Signs: Community Statistical Areas,” <https://bniajfi.org/communities/>.

<sup>13</sup> “FY22 Capital Improvement Program Equity Analysis,” Baltimore City Department of Planning, Baltimore City, Maryland, June 2021. <https://planning.baltimorecity.gov/sites/default/files/FY22%20CIP%20Equity%20Analysis.pdf>

<sup>14</sup> Griffin & Strong, PC, “Disparity Study Final Report,” Office of the County Attorney, Montgomery County, Maryland, June 11, 2014. <https://www.montgomerycountymd.gov/cat/services/disparitystudy.html>

<sup>15</sup> Ibid