

# Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

## EXPEDITED BOND AUTHORIZATION BILL 19-22:

### SUMMARY

The Office of Legislative Oversight (OLO) cannot estimate the racial equity and social justice (RESJ) impact of Expedited Bill 19-22 with available information. A RESJ analysis of \$420.3 million in bond authorization requires an understanding of the anticipated RESJ impact of Fiscal Year (FY) 23–28 Capital Improvement Program (CIP). OLO recommends the County undertake a RESJ analysis of the CIP to understand per capita expenditures by race, ethnicity, income, and census tract.

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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 19-22

Expedited Bill 19-22 has two purposes. The first purpose is to authorize the County to issue up to \$420.3 million in general obligation (GO) bonds to help fund the County's FY23-28 Capital Improvement Program (CIP).<sup>3</sup> The issuance of GO bonds refers to the County taking out loans to fund CIP projects that obligate County taxpayers. For FY23, debt service for CIP projects will account for \$459.9 million, or 7.3 percent of the County's \$6.3 billion operating budget.<sup>4</sup>

The CIP refers to the County's budget for capital improvements: long-term investments typically for public infrastructure such as buildings and roads. The CIP includes capital improvements for each County-funded agency: Montgomery County Government, Montgomery County Public Schools, Montgomery College, Montgomery Parks and Planning, and the Washington Suburban Sanitation Commission (WSSC). The FY23-28 CIP is budgeted to total \$5.3 billion with WSSC projects and \$5 billion without.<sup>5</sup> Excluding WSSC projects, GO bonds are expected to fund 35.9 percent of the FY23-28 CIP while tax revenues, other financing options, and intergovernmental revenues will account for the remainder.<sup>6</sup> Thus, Bill 19-22's bond authorization of \$420.3 million will account for about 23 percent of the GO bonds anticipated to fund the FY23-28 CIP.

The second purpose of the Bill is to allow the County to combine the issuance of \$420.3 million in new bonding authority for the FY23-28 CIP with a reauthorization resolution to issue up to \$787.9 million in GO bonds for prior CIP projects that have not yet begun.<sup>7</sup> The resolution allows the County to reauthorize GO bonds for prior CIPs such that they can be issued and consolidated for sale as a single issue and in combination with issuing and selling bonds for the FY23-28 CIP.<sup>8</sup> The resolution would become effective when Bill 19-22 becomes effective, which would be the date when the bill becomes law.<sup>9</sup> Expedited Bill 19-22 was introduced to the Council on June 21, 2022.

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### RACIAL EQUITY AND CAPITAL IMPROVEMENT PLANNING

Applying a racial equity lens to policymaking requires understanding the historical and cultural context for racial and social disparities. Montgomery County, like the nation as whole, is characterized by a wide variety of racial and social disparities that reflect racial and social inequities in public policy and decision making.

More specifically, public policies that built generational wealth for White people usually did so at the expense of denying Black, Indigenous, and Other People of Color (BIPOC) comparable opportunities. These public policies include histories of land and labor theft, the legacy of racial and ethnic exclusion through state sanctioned violence, Jim Crow laws, voter disenfranchisement, redlining, racial covenants, occupational segregation, as well as New Deal mortgage programs and the G.I. Bill. In the County, current racial disparities resulting from these policies include:<sup>10</sup>

- 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.

The public policies that built generational wealth for White residents have also fostered racial segregation locally. Although White, Non-Hispanic residents accounted for a minority of County residents in 2010, they accounted for the majority residents in the most affluent parts of the County. For instance, a 2017 Urban Institute study found that District 1 (includes Bethesda, Poolesville, and Potomac), which had the largest share of White residents had the highest average household income (\$205,600); conversely, District 5 (includes Burtonsville, Silver Spring, and Takoma Park), which had among the highest share of BIPOC residents had the lowest average household income (\$102,500) and the lowest homeownership rate (53%).<sup>11</sup> The report also found that District 5 residents, especially BIPOC residents, were less likely to have graduated high school, enrolled in college, or have a well-paying job.<sup>12</sup>

The concentration of White and affluent residents in a subset of County neighborhoods in District 1 begs the question of whether CIP funded projects are also concentrated in these neighborhoods relative to moderate- and lower-income neighborhoods where a majority of Latinx and Black residents live. Although the most recent CIP indicates that racial equity was considered in developing the list of included projects, it remains unclear whether the current CIP or prior CIPs in whole or in part advance RESJ in terms of benefiting BIPOC and/or low-income residents more so than White residents and/or affluent residents. It also remains unclear whether the County contracts with Minority Business Enterprise (MBE) companies to build CIP projects in proportion to their share of County residents or the market of available vendors to execute construction and related services in the Metropolitan Washington Region.

Other local jurisdictions can serve as examples of how to operationalize RESJ analysis in CIP planning, including:

- **Baltimore City:** In partnership with the Baltimore Neighborhood Indicators Alliance, the Baltimore City Department of Planning developed a methodology for conducting an annual equity analysis of the City's CIP. See 'Recommended Amendments' for more details.

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- **Los Angeles:** The Data Team within the Mayor’s Office of Budget and Innovation of the City of Los Angeles is in the process of completing “a comprehensive analysis of equity in capital investment, centralizing data from city departments and summariz[ing] findings in a meaningful and accessible way.”<sup>13</sup> A preliminary equity analysis is available on the project’s webpage, cited in the endnotes.
- **Minneapolis:** In 2016 and 2017 the City of Minneapolis approved ordinances requiring the Minneapolis Park & Recreation Board to incorporate racial and economic equity measures into its capital improvement program. “[T]he ordinances specify the use of relevant, data-driven criteria to address racial and economic equity in allocating capital funds for more than 160 neighborhood parks and nearly 20 regional parks and trails.”<sup>14</sup> Additionally, “metrics and rankings for parks and trails are produced annually as part of the Capital Improvement Program (CIP) and published in the annual budget.”<sup>15</sup>

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### ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Expedited Bill 19-22 on racial equity and social justice in the County, OLO recommends the consideration of two related questions:

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

In the absence of data describing trends in per capita CIP spending by demographic group and census tract, it is impossible for OLO to assess whether the FY23-28 CIP or proposed bonding authority for implementing this CIP worsens or improves racial equity and social justice in the County. A benchmark of how current CIP funding is allocated per capita by race, ethnicity and/or income is necessary to make this assessment relative to the current CIP or prior ones.

Analyzing the RESJ impact of the current CIP and the request for increased bonding authority on BIPOC-owned businesses would also require comparing a benchmark of how prior CIP funding has been allocated to vendors by race and ethnicity to anticipate allocations to MBE vendors in future funded projects.

The absence of a benchmarking study also makes it difficult to describe the racial and social inequities that the passage of Bill 19-22 could weaken or strengthen. Additional data needs to be collected to understand the racial and social inequities impacted by the current CIP and the issuance of bonding authority to execute the CIP.

Anticipating the RESJ impact of Bill 19-22 also requires a RESJ analysis of the tradeoff of shifting funding from programs to debt service in the County’s operating budget. The fiscal impact statement for this bill notes that for a twenty-year term at 5 percent interest rate, average annual estimated debt service is \$78,875 per million dollars in GO bonds issued.<sup>16</sup> As such, for a bond of \$420.3 million, the estimated increase in debt service over twenty years would be \$33.2 million annually. What programs would be cut to offset this increase in debt service in the operating budget? What demographic groups by race, ethnicity, or income would be most harmed by these shifts? What neighborhoods would be most harmed? How do these impacts compare to the demographic groups or neighborhoods that benefit most from CIP investments?

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With the absence of data and outstanding questions regarding which demographic groups and neighborhoods benefit the most from the FY23-28 CIP and bonding authority to implement it, as well as lack of information regarding the racial and social inequities impacted by this bill, OLO cannot discern the potential impact of Bill 19-22 on RESJ in the County.

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### RECOMMENDED AMENDMENTS

The RESJ 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>17</sup> OLO finds that it cannot discern the RESJ impact of Expedited Bill 19-22 on current racial and ethnic inequities in County. Should the Council seek to understand the RESJ impact of this bill and other bills relative to the Capital Improvement Program and authoring GO bonds for CIP projects, the following policies can be considered before the Council *appropriates* any funding to CIP projects funded with GO bonds authorized under Bill 19-22 or the parallel resolution reauthorizing bonds for projects in prior CIPs:

- **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>18</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>19</sup> of the CIP through analyzing CIP investments in the City's 55 Community Statistical Areas (CSAs)<sup>20</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>21</sup>

- **Increase Access to CIP 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>22</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>23</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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Further, given the magnitude of the Bill in terms of funding and scope, it is essential that RESJ analysis about winners and losers inform the development of the CIP bills and that these bills be introduced as normal rather than expedited bills to afford OLO staff sufficient time to complete a thorough RESJ analysis. As such, the Council may want amend RESJ Act (Bills 27-19 and 44-20) to codify the expectation that bills introduced by Council President on behalf of the County Executive that exceed a specific fiscal threshold must be either be accompanied by the draft RESJ statement completed by the Executive Branch that describes the anticipated RESJ impact of the legislation and/or be introduced as a non-expedited bill to afford OLO staff sufficient time to produce a meaningful RESJ analysis.

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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 19-22, Bond Authorization, Montgomery County, Maryland, Introduced June 21, 2022.

[https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2022/20220621/20220621\\_4B-6A.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2022/20220621/20220621_4B-6A.pdf)

<sup>4</sup> “Debt Service,” Montgomery County Operating Budget, Montgomery County, Maryland, Accessed June 28, 2022.

<https://apps.montgomerycountymd.gov/basisoperating/Common/Department.aspx?ID=90D>

<sup>5</sup> “FY23 Recommended Capital Budget and FY23-FY28 Capital Improvements Program (CIP),” Office of Management and Budget, Montgomery County, Maryland, January 2022.

[https://www.montgomerycountymd.gov/OMB/Resources/Files/omb/pdfs/fy23/ciprec/FY23\\_Recommended\\_Capital\\_Budget.pdf](https://www.montgomerycountymd.gov/OMB/Resources/Files/omb/pdfs/fy23/ciprec/FY23_Recommended_Capital_Budget.pdf)

<sup>6</sup> Page 35, “FY23 Recommended Capital Budget and FY23-FY28 Capital Improvements Program (CIP)”

<sup>7</sup> “Resolution to Consolidate Previously Authorized Notes for Sale and Issuance as Single Issue,” Expedited Bill 19-22, Bond Authorization

<sup>8</sup> Ibid

<sup>9</sup> Ibid

<sup>10</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>11</sup> Leah Hendey and Lily Posey, “Racial Inequities in Montgomery County 2011-15,” Urban Institute, December 2017.

<https://www.urban.org/research/publication/racial-inequities-montgomery-county-2011-15>

<sup>12</sup> Ibid

<sup>13</sup> “Capital Improvements Equity Analysis,” Mayor’s Office of Budget and Innovation, City of Los Angeles, California, Accessed June 28, 2022. <https://storymaps.arcgis.com/stories/4b4649cd06814b3aa67bfe98a069db22>

<sup>14</sup> “Racial Equity,” Minneapolis Park & Recreation Board, City of Minneapolis, Minnesota, Accessed June 28, 2022.

<https://www.minneapolis-parks.org/about-us/racial-equity/>

<sup>15</sup> Ibid

<sup>16</sup> “Fiscal Impact Statement,” Expedited Bill 19-22, Bond Authorization

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<sup>17</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>18</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>

<sup>19</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>20</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>21</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>22</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>23</sup> Ibid