

Memorandum



DATE May 20, 2022

CITY OF DALLAS

TO Honorable Mayor and Members of the City Council

SUBJECT Upcoming Agenda Item Number 5: Responsible Banking Ordinance

On May 25, 2022, the City Council will consider a Responsible Banking Ordinance. With the adoption of the ordinance, the City will require any financial institutions receiving municipal deposits to submit an annual report demonstrating their commitment to serving low- and moderate-income and minority neighborhoods. We will also require prospective banking institutions bidding to become the City's depository to provide data on their socially responsible banking practices and use their performance as a factor in determining the winning bid.

Staff worked closely with Economic Development Committee Chairman Atkins and Deputy Mayor Pro Tem Resendez throughout the development of this ordinance. In addition, staff worked with the Texas Banker's Association, a state banking association that represents banking institutions of all asset and deposit sizes, and received feedback from community stakeholders and the National Community Reinvestment Coalition. We briefed this item to the Economic Development Committee on May 2 and have updated the Ordinance to reflect the feedback and comments received, highlighted in yellow on the attachment.

I appreciate your support on this item. Please let me know if you have any questions.

A handwritten signature in blue ink that reads "M. Elizabeth Reich".

M. Elizabeth Reich
Chief Financial Officer

[Attachment]

c: T.C. Broadnax, City Manager
Chris Caso, City Attorney
Mark Swann, City Auditor
Bilierae Johnson, City Secretary
Preston Robinson, Administrative Judge
Kimberly Bizer Tolbert, Deputy City Manager
Jon Fortune, Deputy City Manager

Majed A. Al-Ghafry, Assistant City Manager
M. Elizabeth (Liz) Cedillo-Pereira, Assistant City Manager
Robert Perez, Assistant City Manager
Carl Simpson, Assistant City Manager
Genesis D. Gavino, Chief of Staff to the City Manager
Directors and Assistant Directors

ORDINANCE NO. _____

An ordinance amending Chapter 2, "Administration," of the Dallas City Code by amending Article VIII; providing a socially responsible banking program; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the practices and products, such as loan and investment products, of financial institutions have a measurable impact on the city's tax base, quality of life, and overall economic viability and competitiveness;

WHEREAS, economic viability and competitiveness come from strengthening, and providing opportunities within all areas of the city; and

WHEREAS, financial institutions receive deposits and other forms of investments and accounts from city residents; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Article VIII, "Reserved," of Chapter 2, "Administration," of the Dallas City Code is amended to read as follows:

"ARTICLE VIII.

SOCIALLY RESPONSIBLE BANKING [RESERVED].

SEC[S]. 2-76. PURPOSE.

In return for the privilege of safeguarding and investing the community's wealth and doing business with the city, financial institutions have a continuing and affirmative obligation to serve the credit and other financial needs of all communities, including and especially minority and low-and moderate-income communities and older adults, consistent with applicable laws and safety and soundness. The city shall assess financial institutions' performance in meeting community needs and use this assessment as a factor in its decision to place municipal deposits in and conduct other business with financial institutions.

SEC. 2-77.

CITY BANKING CONTRACTS.

(a) Powers and duties of the city treasurer.

(1) In selecting and monitoring qualified depositories for city moneys in accordance with Dallas City Charter, Chapter III, Section 20, the city treasurer shall have the power and duty to:

(A) require that prospective bidders provide the city with data on their socially responsible banking practices;

(B) use socially responsible banking performance as a factor in determining the winning bid;

(C) accept bids for depository services only from financial institutions that have received a rating of “satisfactory” or “outstanding” in their most recent Community Reinvestment Act review by the Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, or the Federal Reserve Board;

(D) include in contracts for depository services a statement of work in accordance with Section 2-78(a) that provides a framework for socially responsible banking; and

(E) gather an annual report required to be submitted by city depositories by May 1 or the first business day following May 1 if May 1 falls on a non-business day in accordance with Section 2-78. The city treasurer may accept an annual Environmental, Social, and Governance (ESG) report (or other similar document) produced in the ordinary course of business by the financial institution, provided it substantially addresses the requirements set forth in this Section 2-78. If the financial institution does not produce an annual ESG report or the annual ESG report does not substantially address the requirements in this subparagraph, the city treasurer shall require delivery of an annual report in accordance with Section 2-78.

(2) With written notice to the city council, the city treasurer may waive the requirement in Section 2-77(a)(1)(C):

(A) if no qualified bidders apply;

(B) if the federal program is no longer applicable; or

(C) to satisfy a compelling city need.

(3) The city treasurer shall provide an annual briefing to the appropriate city council committee. The committee shall review the implementation, effectiveness, and enforcement of Section 2-77(a)(1)(E) and make recommendations to city council regarding the authorization of city depositories.

(4) The city treasurer may request a voluntary report, consistent with that required by Section 2-77(a)(1)(E), from other financial institutions with which the city does business.

(b) Disqualification from contracting. Any depository that fails to submit to the city the required reporting information in accordance with Section 2-77(a)(1)(E) may be prohibited from entering into any contract with the city as a qualified depository for city moneys for a period of five years.

SEC. 2-78. STATEMENT OF WORK AND REPORTING.

(a) Statement of work. The statement of work for financial institutions in which the city places municipal deposits shall include factors related to socially responsible banking that comply with this subsection. With written notice to the city council, the city treasurer may deviate from this subsection to make necessary updates to reflect new devices, products, or technology to this scope of work. The statement of work includes:

(1) a statement of the bank's commitment to implementing a long-term community reinvestment strategic plan to address disparities in its lending and investment activities in the City of Dallas, including how the depository will match or exceed peer lending performance in targeting capital access and credit needs, and a copy of the bank's existing long-term community reinvestment strategic plan, with appropriate redactions for proprietary information;

(2) a statement certifying that the depository institution has policies and procedures in place to prevent it and its affiliates from becoming a high-cost lender or a predatory lender consistent with Office of the Comptroller of the Currency regulations, the Consumer Financial Protection Bureau (CFPB) regulations, or, for state-chartered institutions, practices defined by the FDIC's Supervisory Policy on Predatory Lending; and

(3) a comprehensive analysis of community banking needs and the depository's community involvement and reinvestment, small business lending and community development, home ownership and consumer credit programs, distressed homeowners programs; products and services that are advantageous for the city and its residents, and other ESG practices in accordance with this paragraph.

(A) Community involvement and reinvestment.

(i) The bank shall report to the city on its efforts to invest in low and moderate income areas and minority census tracts.

(ii) The bank shall report if it is collaborating and supporting any non-profit organizations focused on providing financial services, education, and asset building for low-income people in the city.

(iii) The bank shall report if it is collaborating and supporting any organization that provides free tax preparation services in the city that target lower-income workers to help them take advantage of the Earned Income Tax Credit and other tax credits.

(iv) The bank shall report on its community development activities (such as investments, lending, and services) to demonstrate the bank's response to the credit, financial and banking needs of low to moderate income individuals in the city, based on census tracts and/or zip codes provided by the city.

(B) Community banking needs.

(i) The bank shall support and participate in programs that strive to reach traditionally underserved populations as described in the Community Reinvestment Act. These may include unbanked, under banked, and low-income populations.

(ii) The bank shall provide easy-to-understand fee schedules and make a reasonable effort to offer fair, responsible, and affordable small-dollar loans.

(C) Home ownership and consumer credit.

(i) The bank shall:

(a) participate in outreach and educational opportunities aimed at providing information on loan modifications and alternatives to foreclosures for borrowers experiencing financial hardship; and

(b) collaborate with HUD-certified housing counseling services.

(D) ESG practices. The bank shall participate in community-based causes and activities established to create responsible lending and reinvestment in moderate- to low-income neighborhoods and communities of color.

(b) Reporting. Any banking contract must include a requirement that the bank provide information to the city in accordance with this subsection.

(1) Residential lending information.

(A) The bank shall provide the total number and the total dollar amount of residential loans for one- to four-family dwellings applied for and originated during the previous calendar year in each of the following categories:

(i) Home purchase loans, both federally insured and conventional loans.

(ii) Refinancings of home loans.

- (iii) Home improvement loans.
- (iv) Home equity loans.
- (v) Loans for second residences and investment properties.

(B) The bank shall report the number and percentage of loans to low-and moderate-income borrowers and by race and ethnicity.

(C) The bank shall provide peer comparisons for the percent of all loans made by all lenders to borrowers.

(D) The data gathered in accordance with this paragraph must be for the entire city by census tract and/or zip code. The city shall provide the census tract and/or zip code data. For home loans, fixed-rate loans must be reported separately from adjustable-rate loans.

(2) Small business lending information.

(A) The city shall assess a bank's small business lending practices based upon data published by the Consumer Financial Protection Bureau (CFPB). The bank shall provide the city a copy of the most recent available Dallas Data published by the CFPB.

(B) The bank shall provide the number and dollar amount of small business loans originated during the previous calendar year for the entire city by zip code and/or census tract and for minority- and women-owned business enterprises in the entire city. Loans to small businesses with annual revenues above \$1 million must be reported separately from loans to small businesses with annual revenues under \$1 million consistent with CFPB reporting requirements. The bank may use data reporting procedures mandated by the federal Community Reinvestment Act for reporting small business loans with peer comparisons.

(3) Community development loans and investments. The bank shall provide the number and dollar amount of community development loans and investments including loans and investments for affordable housing, small business development, economic development, and community facilities for the entire city by census tract and/or zip code. The bank may use definitions of community development found in federal Community Reinvestment Act regulations. For each loan and investment, the bank shall indicate if the loan or investment was for affordable housing, small business development, economic development, community facilities, and other such categories requested by the city treasurer.

(4) Checking, savings, and loan products. Information on selected checking, savings, prepaid card, small dollar loan, and other products marketed to Dallas residents, including information on fees, interest, and features.

(5) Branch closures. The bank shall provide the city with at least 30 days advance written notice of branch closures within the city or at the same time as the Notice to

Customers consistent with Section 42, “Notice of Branch Closure,” of the Federal Deposit Insurance Act (FDIC).

(6) The bank shall provide an update to the information it submitted as part of its proposal in accordance with Sec 2-78(a), focused on the results of its efforts since the prior submission, and any changes of note to its partnerships, participation, or activities.

[thru 2-80. Reserved.]”

SECTION 2. That Chapter 2 of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 3. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 4. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 5. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

CHRISTOPHER J. CASO, City Attorney

By _____
Assistant City Attorney

Passed _____