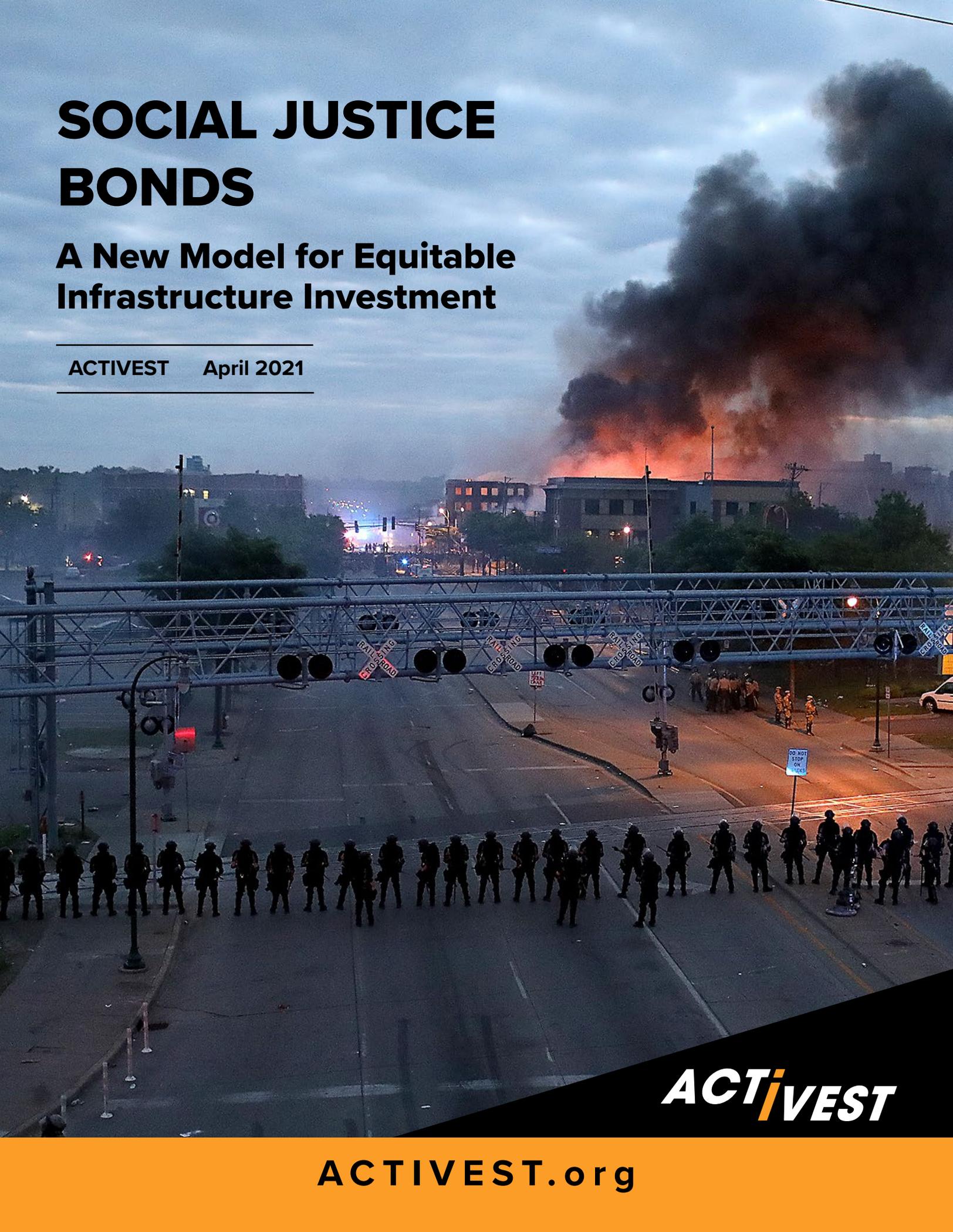


SOCIAL JUSTICE BONDS

A New Model for Equitable Infrastructure Investment

ACTIVEST April 2021



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ACT*i*VEST

ABOUT ACTIVEST

Activest is a voice for fiscal justice: the equity of municipal budgets. We believe that communities that treat their residents fairly are positioned to realize stronger fiscal outcomes. Our approach to advancing racial justice in municipal finance combines economic modeling, financial analysis, and social policy research.

SECTION

01

Social Justice Bonds: A New Model for Equitable Capital Infrastructure Investment

Social justice bonds create an opportunity for investors to fund equitable public works and distribute the benefits of that investment more equitably.



City of Ferguson
POLICE DEPARTMENT
MUNICIPAL COURT

Public Works That Don't Work for the Public

Public works that are funded by community taxes and financed by long-term debt should encourage holistic and equitable economic growth and serve as a tool to increase equity.

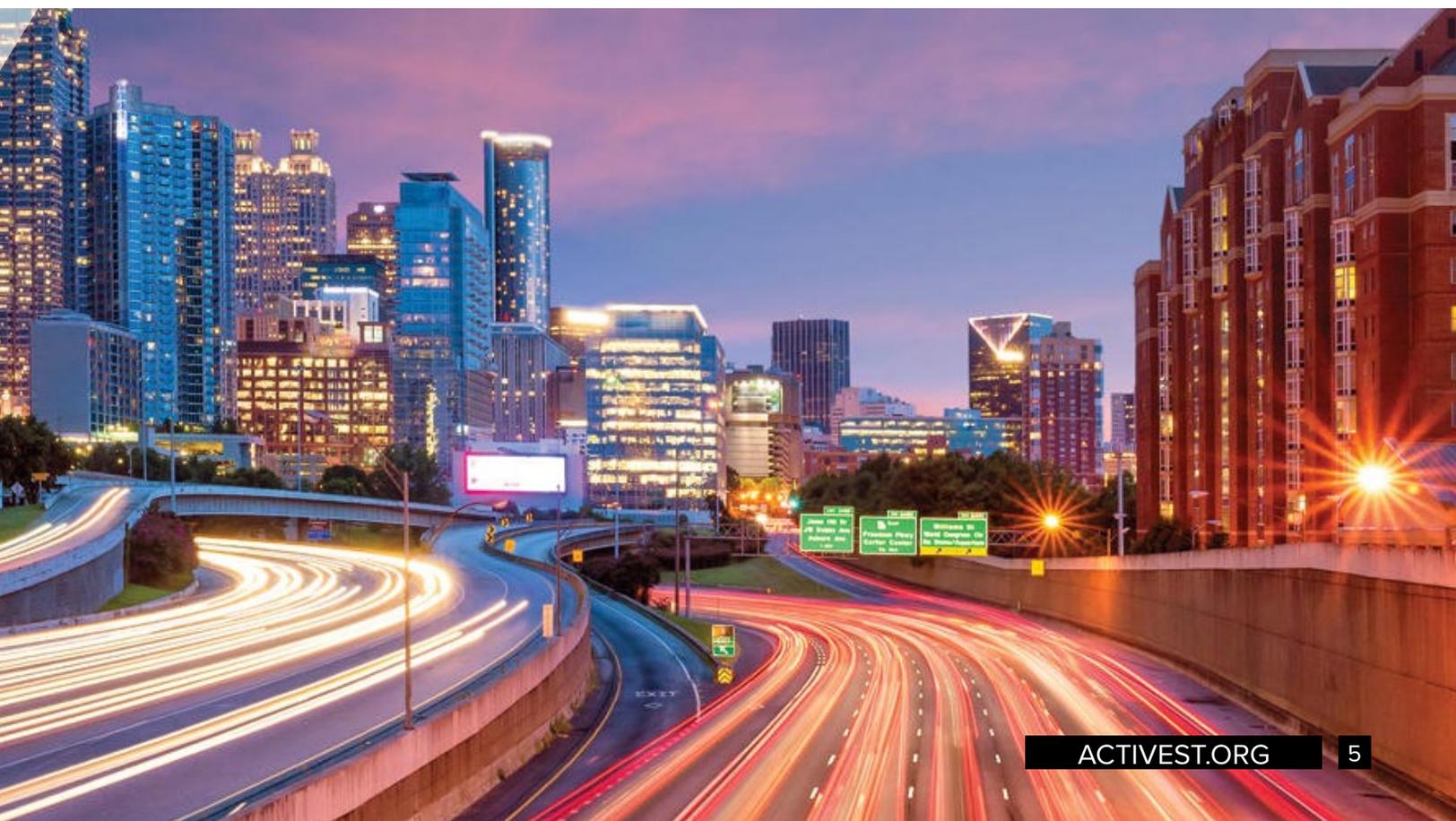
Assets funded by proceeds from bonds last longer than a single budget year; they ultimately shape cities and other municipal entities for decades or even centuries. These bonds typically represent a long-term commitment on behalf of a community: first, the decision to borrow to construct a long-term asset, and second, the community's obligation to pay taxes, in many cases, to fund that commitment.

Yet the bonds that pay for “public works” often fall short of their goal to benefit local communities directly. In many cases, the assets these bonds fund, the entities that construct the assets, and how the assets are used do not support the economic growth and resilience of the community that funds them.

Lower-income and BIPOC communities disproportionately bear the harm associated with these public work projects—which involve long-term investments of public capital.

That harm can include pollutant emissions, increased traffic around bus stations, solid-waste transfer facilities, loss of potential parkland/public space, loss of small businesses due to construction disruption, and ultimately even displacement of lower-income and BIPOC residents due to higher property values.

There is a growing opportunity for communities to counter these harmful practices by deploying “social justice bonds,” which would create an opportunity for investors to fund equitable public works that are specifically designed to distribute the benefits of that public infrastructure investment more equitably.



Standard Bond Issue

City management identifies a project that can be funded by a bond. This idea may come from an agency that proposes a project (a trail or rail or baseball stadium). But it may also come from other players near to government leaders (economic development and business community leaders).

Government officials and business community leadership hit the campaign trail and try to convince voters the project should be supported on an upcoming ballot.

A majority of voters approve or do not approve of enabling funds for the project in a ballot referendum. (If they do not approve sometimes the bond may be issued anyway at the discretion of the local government.)



Community groups organize around an issue or a project and promote its selection by local government for bond funding. This may even be a project that is floated by purchase of participatory budgeting but is too costly for a single budget year.



Local government or issuing agency reviews a project using a framework of social and environmental justice and equitable governance. Does it correct past harm? Does it end an injustice? Would it build wealth for low-wealth household? Is the issue were deriving revenue from injustice?



The bank and the ratings agency also review the potential bond to see whether it truly does meet the social justice framework: does it correct past harm? Does it end an injustice? Would it build wealth for low end wealth household? Is the issue were deriving revenue from injustice?

Social Justice Bond Issue

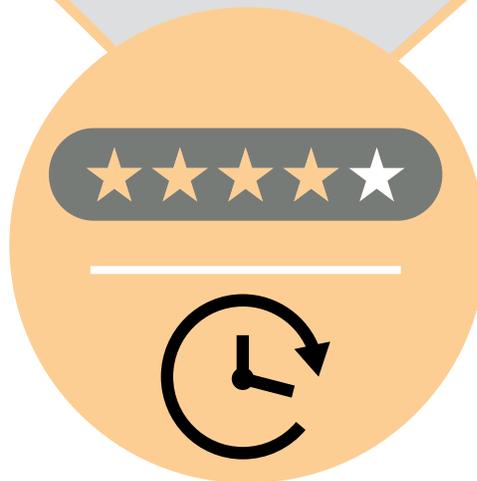
A bank backs the issuance and structures it as a bond to be placed on the market.



Investors purchase the bond and money is made available locally to build the project.



A ratings agency like Moody's or Standard & Poor's reviews the bond and the agency issuing it and assigns a level of risk and an interest rate to the bond.



With the bond issued, investors can now invest in it as always, knowing that it is a social justice bond. Construction happens too, but now the project is building racial and economic justice as it goes.



Over the duration of the bond's life, the issuing agency keeps up with the public, reporting on the measures in the framework and whether they are successful in their aims. The public tracks the framework and can use that information when it votes.



SECTION

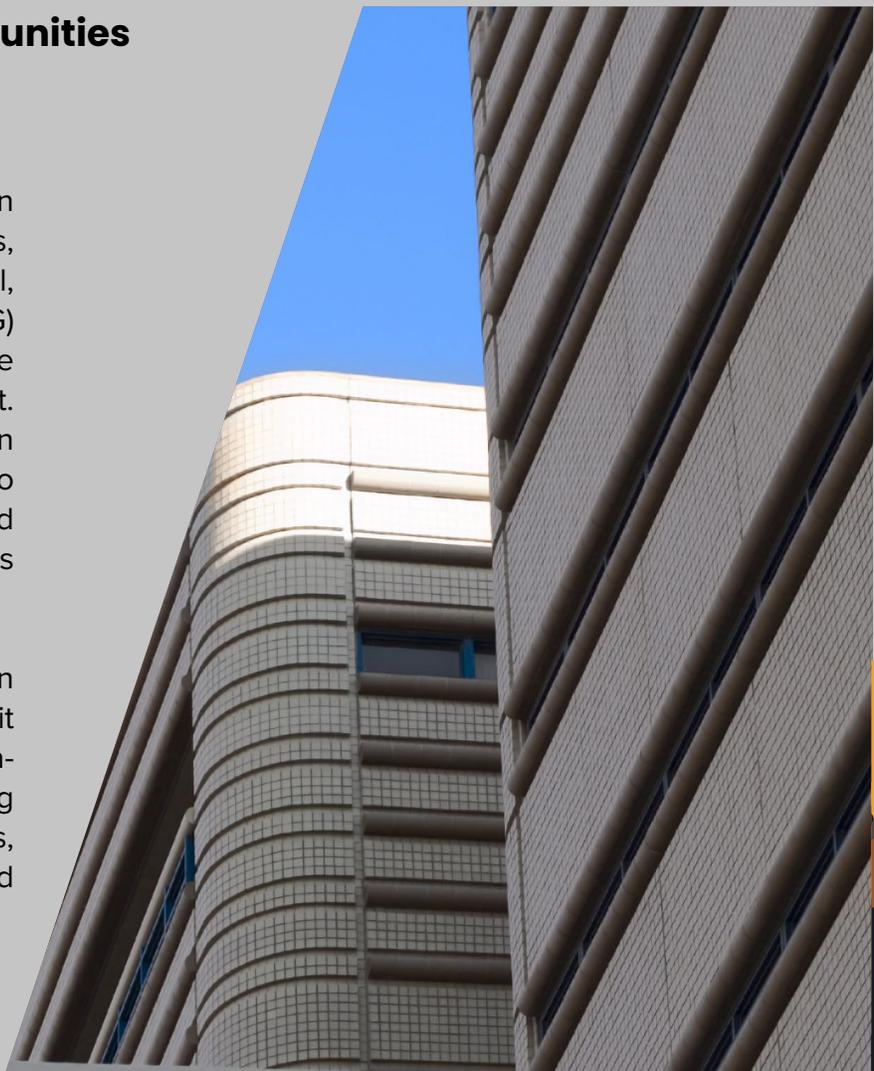
01

Social Justice Bonds: A New Model for Equitable Capital Infrastructure Investment

Creating Other Investment Opportunities for Socially Responsible Investors

The past decade has seen a rapid expansion of socially responsible investment practices, meaning those that factor in environmental, social, and corporate governance (ESG) criteria to generate long-term, competitive financial returns and positive social impact. Some of these investors have purchased “green bonds” to finance projects—those that help to produce better environmental outcomes and follow more stringent environmental standards and reporting.

Just as the industry has developed a common set of principles for green bonds, so should it standardize the definition and ways to measure impact in terms of social justice—drawing from the rich history of advocates, organizers, scholars, and others who have advanced the field of social justice practice.



Social justice bonds would benefit both investors and communities.

Protecting Investors Against Financial Risks of Inequitable Policies

Social justice bonds would benefit both investors and communities. Rating agencies that analyze municipal bonds on behalf of investors consider factors that increase the risk of default or delay in payment. Usually, ratings do not consider the equity of municipal policies with respect to revenue, project selection, and distribution of benefits. Yet these policies have the potential to impede economic development and create serious financial liabilities that profoundly impact a community's long-term creditworthiness. They could instead potentially help facilitate positive, equitable impact.





Overcoming a Legacy of Broken Bonds: Reducing Risks to Communities

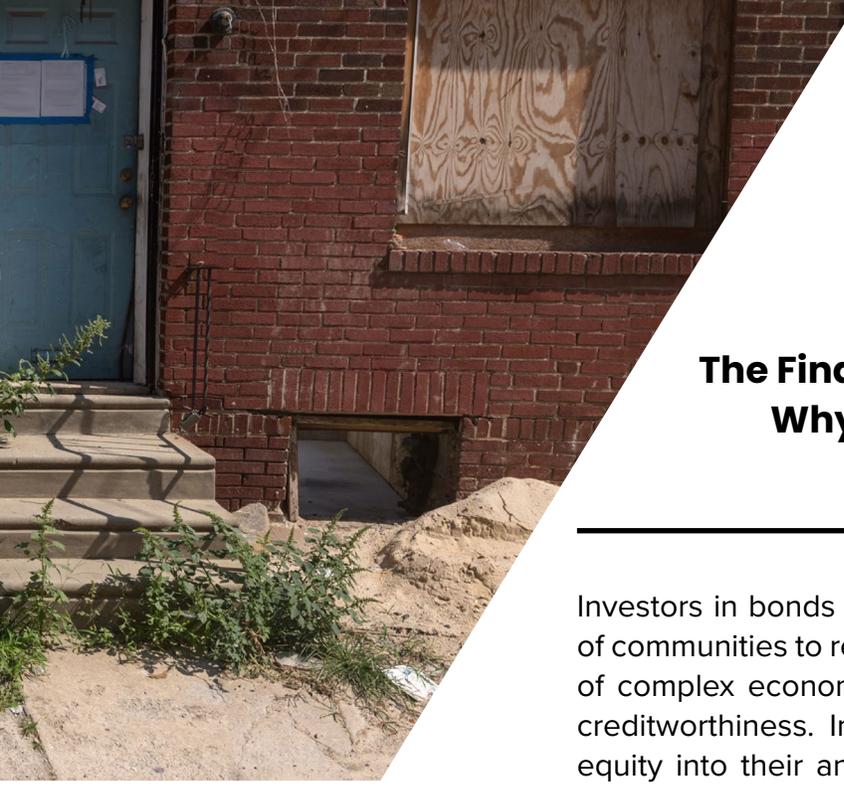
Communities would benefit from social justice bonds in part because they ensure accountability. Municipal bonds, in theory, comprise two commitments from a local government: one to repay a debt, and one to use the borrowed funds to build projects that create future benefits for the community. Historically, many local governments have broken the promises they made to a community when they assumed an obligation. But the legal system and design of the bond ultimately protect investors' and bondholders' financial interests—above those of the community members.

If a community uses proceeds for purposes that jeopardize the revenue stream or otherwise impair the interest of investors, those investors will often take legal action. However, low-income and/or predominantly BIPOC communities often don't have the legal resources or avenues to act when a bond doesn't deliver on the municipality's promises.

Communities would benefit from social justice bonds in part because they ensure accountability.

Particularly in “redevelopment” and “renewal” efforts, there is a vast legacy of broken promises, whereby bond funding is intended to create affordable new housing, but often proves sufficient only to tear down “blight” in communities where residents are low-income and/or predominantly BIPOC. The project rarely creates housing for displaced residents, and instead it clears the way for new development that benefits wealthier—and predominantly whiter—residents and businesses.

Social justice bonds would ensure that municipalities not only consider what to build, and what positive outcomes they are seeking to create, but also include communities in the conversation about what they need and how to develop projects in the most beneficial way.



The Financial Risk of Inequity: Why It Hurts Investors

Investors in bonds are rightly concerned about the ability of communities to repay them. Analysts consider a number of complex economic factors in evaluating communities' creditworthiness. Investors do not often explicitly factor equity into their analyses, and yet inequitable fiscal and criminal justice policies act as a severe drag on economic development, presenting risks for future repayment. Excessive fines and forfeitures trap lower-income individuals into cycles of poverty, impede local economic development, and increase the strain on local support services.

Borrowing for projects that mitigate but do not resolve inequitable policies—such as police misconduct settlements without also funding programs for police reform—allows local governments to continue to create financial liability for future misconduct. For investors, this is the equivalent of a city borrowing to clean up a superfund site in one neighborhood, while it continues to use the same pollutants elsewhere, creating even more sites.

Funding projects that do not distribute benefits equitably only widens existing gaps in wealth and income, as with projects that increase property values and provide a windfall for property owners and city revenues, but displace low-income and BIPOC renters.

SECTION

01

Social Justice Bonds: A New Model for Equitable Capital Infrastructure Investment

Case Studies in Bonds Broken

This review of five cases investigates projects in which unjust practices have led municipalities to break bonds with the communities they allegedly represent. These examples draw a direct line between longstanding institutional injustices targeting BIPOC communities and the destruction of their trust in the financial markets that support infrastructure projects.



The Ferguson Downgrade

The killing of Michael Brown by a police officer in Ferguson, Missouri, not only highlighted widespread inequities in the local justice system. The ensuing social unrest and class action lawsuits also led to months of economic disruption that caused the city's bond rating to be downgraded.¹ The time between the start of the unrest on August 10, 2014, to Moody's initial downgrade on September 15, 2015 was thirteen months.



Moody's Investors Service cited the following factors in announcing the downgrade in 2015:

"The downgrade of the city's GO rating to Ba1 reflects severe and rapid deterioration of the city's financial position, possible depletion of fund balances in the near term, and limited options for restoring fiscal stability. Cumulatively, the city's estimates for fiscal 2015, which ended June 30, 2015, and budget for fiscal 2016, project General Fund reserves to decline by nearly 70% compared to audited fiscal 2014 reserves. Key drivers of this precipitous drop are declining key revenues, unbudgeted expenditures, and escalating expenses related to ongoing litigation and the Department of Justice (DOJ) consent decree currently under negotiation."

Given that the city received 20 percent of its revenue from fines and fees, its rating should have been downgraded sooner. As early as 2008, which represents the earliest publicly available financial reports on Ferguson’s website, the city was drawing 12 percent of revenue from fines. Local government finance experts warn against the practice of “cross-subsidization,” whereby revenue gained from charging a fee for one service is used to fund a different service.

According to the guidance on fines and fees policy from the Government Officers Finance Association (GFOA), “cross-subsidization disconnects the fee from its purpose. This might distort decision making about the fee.” Cities that use increased fines and penalties to plug budget holes become financially dependent on that revenue source, and thereby the continued violations as well. Law enforcement then becomes a mechanism for revenue collection, creating a perverse incentive on policing priorities.

This type of revenue hinders economic development because fines and penalties trap individuals into a cycle of poverty, leading to a greater need for intervention via government services. For example, a survey of Alabama citizens involved in the justice system found that 38 percent had committed additional crimes in an attempt to pay off their court debts. Of those, 83 percent had reduced their spending on rent, food, and other necessities to pay off their debts, while 44 percent had resorted to payday loans.² Although this kind of revenue

generation could be considered a leading indicator of potential future problems with repayment of a bond, rating agency analyses do not usually include it.

If anything, rating agencies praise government initiatives to increase fines and fees as a prudent fiscal measure. In fact, Moody’s press release at the time of the 2015 downgrade indicated that Ferguson had performed well financially in recent years:

The declines represent a severe departure from the city’s prior financial performance, which had demonstrated positive operating results between fiscal 2005 and 2013. The estimated fiscal 2015 General Fund results represent a \$2.6 million shortfall compared with the city’s original balanced budget and much greater negative variance than we expected.

Municipalities are highly responsive to commentary from rating agencies, since the financial impact of a downgrade of even a few notches can be significant. Ratings drive interest rates, and a downgrade can cost taxpayers millions. Moody’s more recently downgraded St. Louis, Missouri, claiming it had invested in a non-essential sports facility. A public facility’s essentiality is a subjective quality that reflects the values of whatever agency is evaluating it. Rating agencies routinely express these opinions with respect to many areas of government operations, but have neither the frameworks or the competencies to address the financial implications of inequity and injustice.

Case Studies in Bonds Broken



Financing Police Misconduct Settlements through Debt

Issuance for police misconduct settlements is a particularly pernicious area of the bond market.³ Communities across the country are issuing general obligation bonds to fund police and jail misconduct settlements. A recent report from the Action Center on Race and the Economy (ACRE) shows that numerous municipalities issue “police brutality bonds”—also known as “judgement obligation bonds”—to spread out the costs of settling litigation related to police misconduct.⁴

Funding police settlements through debt, without resolving the underlying conditions that led to the settlements, creates future risk for investors, causing cities to continue to create further liability. Lawsuit settlements related to police or other misconduct are

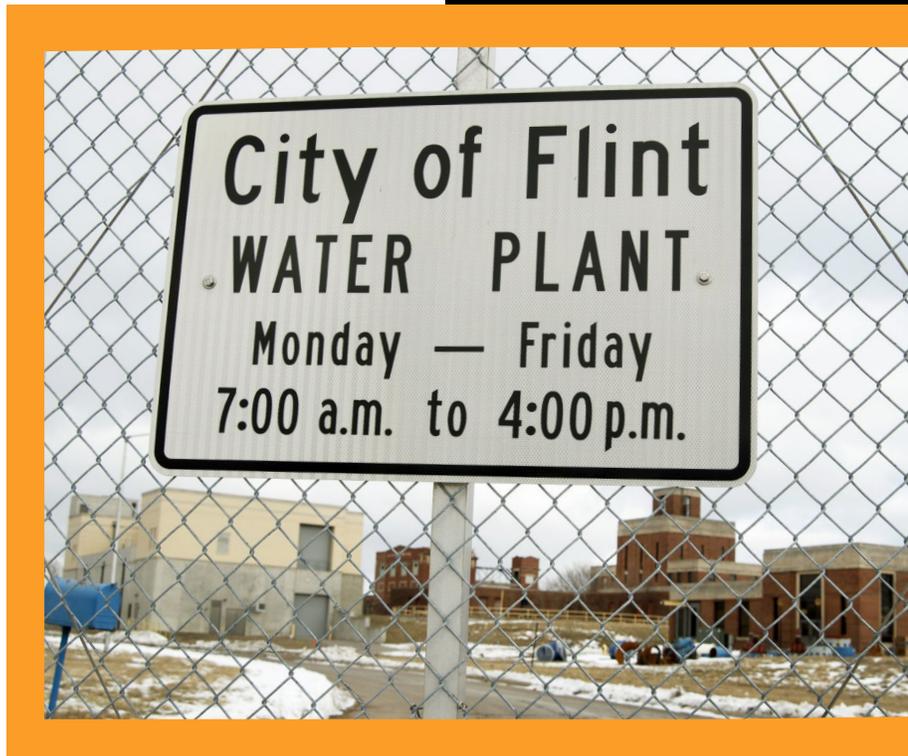
usually small enough that rating agencies generally do not consider them when evaluating the finances of a local government or other bond issuer.

An exception is the case of Larry Nasser, in which Michigan State University (MSU) settled with numerous women whom he had allegedly sexually assaulted. Both Moody’s and S&P Global downgraded MSU’s credit rating prior to the university issuing \$500 million in bonds to pay for the settlement costs. The rating agencies cited as factors in the downgrades the ongoing need for improvements in risk management, uncertainty of additional liability, and the need for greater investment in risk management.⁵ To date, however, rating agencies seem to have not downgraded communities that have failed on risk management with respect to police misconduct.

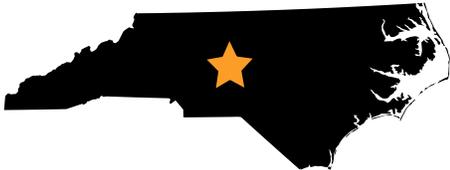
Bonds have traditionally been used to spread the costs of long-term assets across the generation that will benefit from them. In this way, bond financing achieves a form of intergenerational equity. Financial officials will try to match the term of the debt with the life expectancy of an asset.

Debt issued to cover past liability, incurred by poor risk management and unethical behavior, does the opposite: It burdens a generation of residents by committing them to pay for the mistakes and misconduct of a prior generation. In some cases, there may be reparative elements to a settlement, such as reforms of police departments or widespread compensation payments that both avoid future liability and help to redress economic harm created by past conduct. Where these reparations exist, they can deliver greater intergenerational equity by improving conditions for the next generation.

For example, there are municipalities that borrow to comply with the provisions of consent decrees, such as those requiring them to reform police departments. They in turn are paying not only for the mistakes of previous administrations but also for investments that will benefit future generations.



Case Studies in Bonds Broken



Community Risk and Broken Bonds in Durham's Hayti Community

In 1963 voters of Durham, North Carolina, approved a bond to fund the six projects that would make up the city's urban renewal program.⁶ It was clear at the time that BIPOC communities would experience dramatic change as a result. The program would largely raze Hayti, the historic home of Durham's Black middle class and the heart of its business community. This act would clear the old, substandard workers' housing, making way for new development that would improve the quality of housing in the community. The third wave of federal funding would support constructing safe, healthy housing. Black voters turned out to approve the bond in the referendum, believing the government's promise of better housing.

But the third wave of funds never arrived, and the promise of newly constructed homes

disappeared. The City received funding to clear the blight, as it did to construct the highway that would permanently separate Hayti (and several other BIPOC neighborhoods) from the downtown. To this day, the promise that the City made with the bond infrastructure financing represented to Durham's Black community remains broken.



Financing Urban Renewal in the Seward Park Extension Urban Renewal Area

Similarly, in New York’s Lower East Side in 1967, the New York City Housing Authority (NYCHA) established the Seward Park Extension Urban Renewal Area (in 14 square blocks of Manhattan) to replace aging tenements with modern, high-quality housing. As with so many urban renewal programs of the time, the plan was for the City to offer mixed-race and low-income tenants new units in a Cooperative Village, but only after the project’s first phase of “blight clearance.”

When the time came to rebuild on the site, private financiers backed out, leading to a fifty-year period of site neglect. In 1972 NYCHA did build two new towers at the Seward Park Extension, intended to house 360 of the 1,852 families displaced from the site.

Adding to the disruption was that the housing authority used a “racially discriminatory pattern of admissions,” in offering leases most often to families that were white—the majority of whom had not lived there previously—in favor of the original BIPOC

site tenants.⁷ In the subsequent lawsuit, *Otero vs. NYCHA*, the court found the local agency at fault and required it to implement FHA practices to further fair housing opportunities.

From 1967 to this writing, community disputes have taken root over whether displaced residents are entitled to more compensation and the right to return. The Seward Park Extension Urban Renewal Area site lay otherwise abandoned during those intervening decades, with new development proposals subject to pushback among conflicting community groups. Today the site is finally being developed as the mixed-use *Essex Crossing*⁸, with a substantial component of permanent affordable housing—but only after two generations of needless community tension and blight.

Much of New York’s urban renewal programming was funded at the state level by “moral obligation bonds,” which are issued by state-enabled agencies like the Housing Finance Agency and carry an additional pledge of protection against default. Because bond-funded urban renewal projects had declined in popularity by the 1960s, the NYCHA structured its moral obligation bonds as to not require referenda.⁹

Case Studies in Bonds Broken

Infrastructure without Prior Community Stabilization in the Atlanta BeltLine



In 2008 the City of Atlanta issued a \$64.5 million Tax Allocation District (TAD) bond to finance the project's development of the BeltLine, a monumental 22-mile pedestrian/bike infrastructure project linking many of the city's neighborhoods. The project included \$8.8 million dollars to establish the City's Affordable Housing Trust Fund.¹⁰

In the decade since, the project has been a phenomenal success, leading to \$4.1 billion in private investment in areas surrounding downtown Atlanta.¹¹ However, it has also come under fire for its gentrifying influence. Two key players in the nonprofit BeltLine Partnership, which oversees the initiative, resigned in 2016: project founder Ryan Gravel and the Partnership for Southern Equity's founder and chief equity officer Nathaniel Smith. Both cited concerns of equity and displacement.¹²

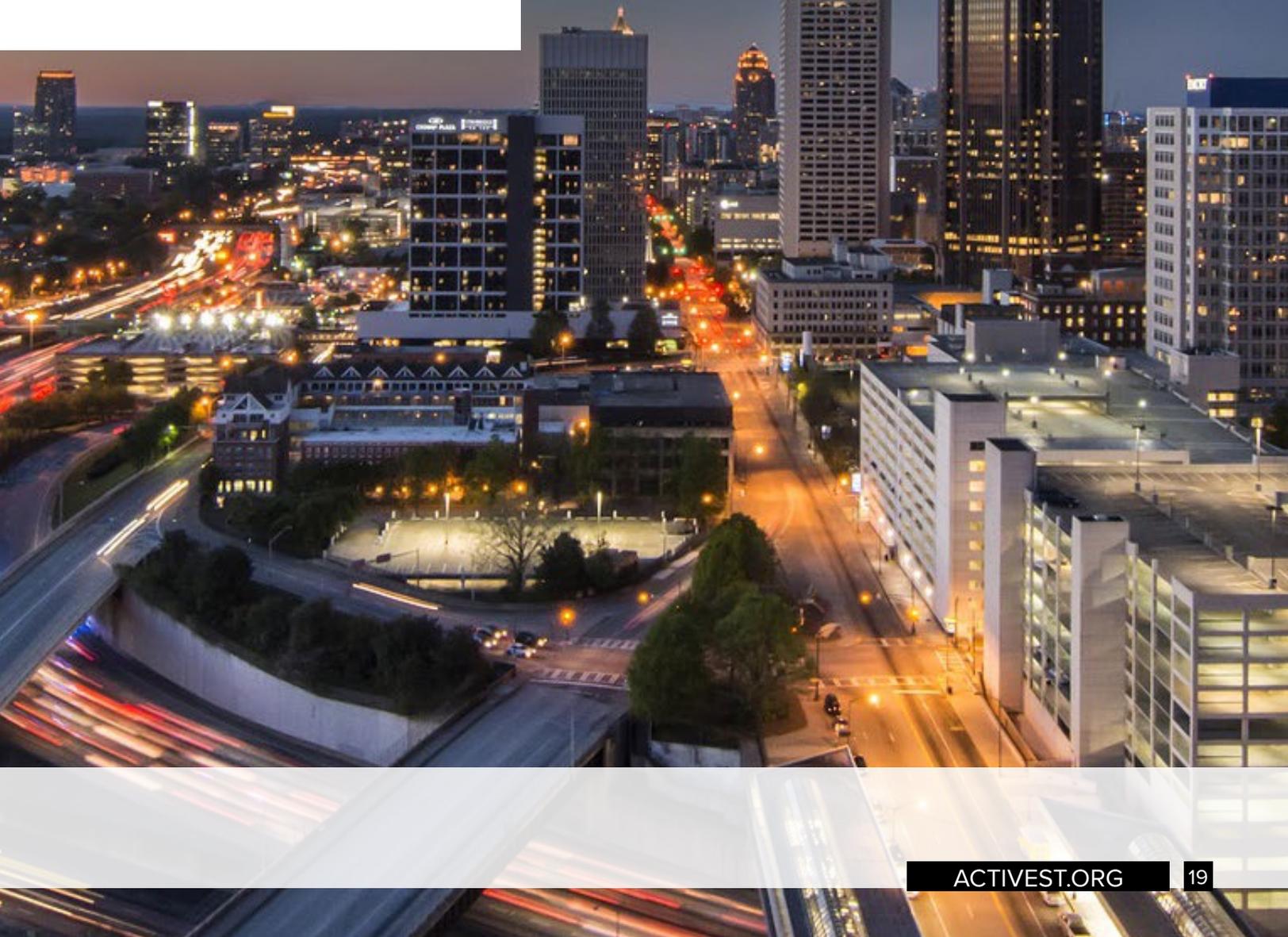
Although affordable housing was part of the plan from the outset, the process of developing it required navigating and coordinating a complex series of steps (zoning, development plans, property

approvals, housing finance) with a number of public and private participants. And yet the BeltLine Partnership achieved the non-housing infrastructure aspects of the project more quickly once residents came to accept the project's transformative vision.

Local government agencies are accustomed to the community holding them accountable for the quality of the infrastructure they create. However, these agencies have not historically been accountable for the impact on existing residents—especially displacement—or for ensuring that projects deliver the housing elements simultaneously and with the same diligence as the other project aspects.

In 2016 the City issued a new BeltLine bond issuance to secure 15 percent of the bond funds (\$18 million) for continued affordable housing construction. However, as Ryan Gravel acknowledges, it is not enough. Continued investment in infrastructure spurs increases in property value and fosters real estate investment opportunities. The problem, according to Gravel, is not simply restricted to the BeltLine as a project, but has broader economic impact:

“The problem is rising taxes and rising rents. So we don’t need to stop making improvements, but we do need to find more financial tools to address and offset these financial challenges that affect our friends, neighbors, and ourselves. We need leadership on these issues, but residents also need to hold project leaders accountable by fighting and voting for initiatives that support and protect durable affordability across the spectrum of Atlanta’s communities. It’s a critical part of our region’s economic competitiveness, but more importantly, it’s the right thing to do.”¹⁴



Toward a More Equitable Model of Infrastructure Investment

Emulating the Example of Regulating Air Quality

When sustainability and environmental impact first became a concern for infrastructure projects, project sponsors did not have the adequate analytical or mitigation tools to address those concerns. Over time, however, municipalities have integrated these tools into capital project development. In the same way, advocates need to develop tools that ensure not only environmental justice but social and governance justice in bond-funded projects as well.

Part of the problem is the lack of a uniform approach to measuring community well-being, including the housing stability of the people in the area where the proposed project is located. This differs from how we analyze the impact of other projects, such as air quality. To examine the impact of air quality initiatives, project sponsors must first determine the existing level of emissions in an area, analyze how their proposed project will affect it, and design appropriate mitigations.

We must expect sponsors of infrastructure projects to take a similar approach, assessing how equitable the area is where the project would be and the potential equity impact. For example, if displacement is a concern, project sponsors should examine the current status of housing arrangements in the area and evaluate how many individuals own as opposed to rent, their income levels, their race and ethnicity, and how an increase in property values or rent will likely affect them.

Around the Atlanta BeltLine, for example, an analysis would almost certainly find that low-income renters comprise many households, with short-term leases and no protection against rent increases, and those individuals will likely be unable to remain without some provisions to stabilize their rent. Other residents may be low-income homeowners, who will benefit from increased property values—but only if their income can cover the associated costs: higher property taxes and any inflationary effects of consumer costs (given



In exchange for a \$4.8 billion subsidy deal, Foxconn was supposed to create a plant that provided 13,000 jobs, 3 years later, the factory and the jobs never materialized. (source: <https://www.goodjobsfirst.org/blog/foxconn-con>)

that gentrification in an area increases the average prices of food and other commodities there). Squeezed by higher property taxes, low-income homeowners may only be able to benefit from property value increases by selling their homes, thereby exacerbating the problem of displacement.

Just as we now expect and therefore routinely take measures to prevent increased emissions from a new factory or facility, we can reliably predict that certain kinds of development will displace residents from their communities. Planners and regulators should be just as conscious in mitigating this preventable outcome.

Specifically, planners and regulators can support low-income homeowners through

property-tax deferral programs, which offer longer terms—even until the sale of the property. Local governments can fund these deferral programs by charging interest rates that account for both the time value of money and the risk that the property's equity will not be sufficient to cover the taxes upon sale.

Similarly, local governments can support renters through anti-eviction programs, increasing fees charged to landlords to carry out evictions—and then using those funds to prevent evictions—and expanding voucher and income-adjusted programs. Communities can partner with smaller landlords who need to raise rents to cover higher property taxes. For example, Minneapolis agreed to abate property taxes for landlords who agreed to stabilize rents for ten years.¹⁵

Toward a More Equitable Model of Infrastructure Investment

Focusing on People Over Assets

The value of land in most cities is highly correlated with public infrastructure investment. Great cities have historically been built at the confluence of transportation services or near key natural resources. Although these features may have determined the location of a city's initial development, maintaining and developing the connections and services that bring it value require continued public investment, including road and transit infrastructure, water and sewer services, utilities, parks, and natural resources.

With additional infrastructure investments, the land values increase and property owners and the jurisdiction typically benefit from increased taxes. Non-property owners may enjoy access to improved services, but they usually don't receive financial benefits from the increases in property value. Instead, the increase in value often displaces renters, as well as some lower-income property owners, since they cannot benefit from the value increase until they sell, and they may not have the income to cover rising property taxes.

Public infrastructure investment can lead to the increased property values and economic activity that can make a community appear successful without actually improving the lives of most residents. Equitable infrastructure investment instead must improve the wealth and elevate the well-being of a community's current residents, not simply those of its jurisdictions or existing property owners. To do so, it must create pathways that enable more residents to access health, education, and income that provide opportunities to thrive—what a King County, Washington, report terms the “determinants of equity.”¹⁶

This may include reducing the costs of services, such as transportation, energy, and health care, to reduce the impact of wealth and income gaps. Creating sidewalks and increasing bike safety in lower-income areas improves health and opens up more travel possibilities that do not cost users anything. Offering publicly financed healthcare removes financial constraints on residents who may work for lower wages and instead engage in work that is creative, innovative, entrepreneurial, or culturally meaningful.¹⁷

Reparations in Finance: Correcting for Historical Wrongs in Municipal Development

There is a long history of uneven investment in America's municipal landscapes. Generations have alternately hyped and hindered the primary asset that municipalities use to back up bond debt: land. Land value has been inflated, often through zoning mechanisms, which creates increased demand or higher returns for real estate and economic development players. The value of land has been undermined—as in the case of the decades-old HOLC (Home Owners Loan Corporation) risk maps—to devalue BIPOC

communities and prevent those households from accumulating wealth. And from the very beginning governments and private entities have stolen land from BIPOC communities. (See cases of native land in Ocoee, Florida;¹⁸ Forsyth County, Arkansas;¹⁹ and the long history of Jim Crow land theft following lynchings and banishments.²⁰)

Illuminated by recent research on these events—how they paved the way for the accumulation of land as power, and how local governments have not done justice to communities they have harmed—these same local governments now find themselves in a unique moment of opportunity, as they issue bonds securitized by the value of that same land.



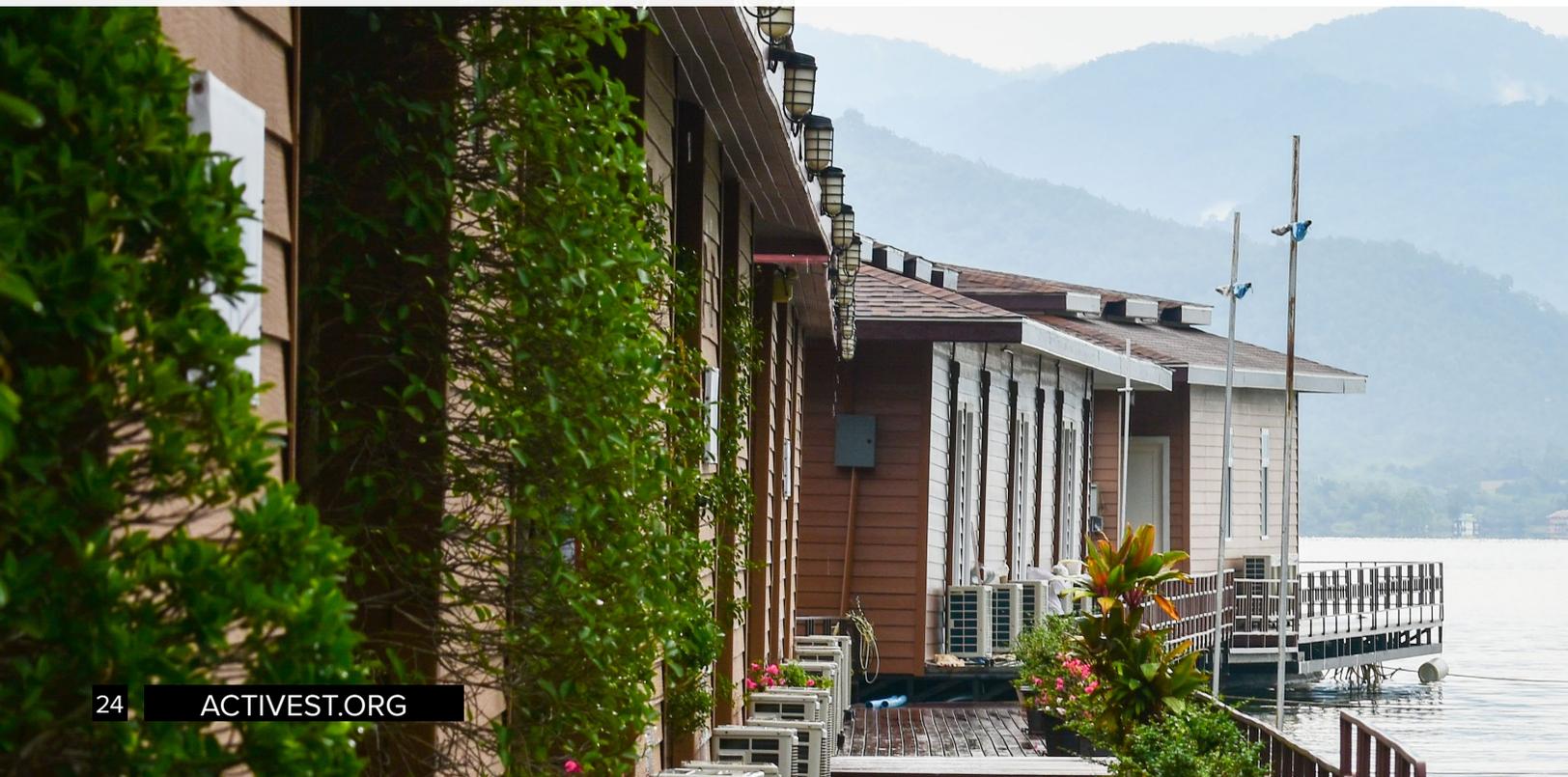
Toward a More Equitable Model of Infrastructure Investment

Learning from Alaska's Permanent Fund: Sharing the Value of Infrastructure Investments Directly with Communities



Some communities are already taking steps to address their complex and compromised history, financial and otherwise. Alaska's creation of a Permanent Fund provides a dividend to each resident for the use of the state's common natural resources. Residents need not own property or mineral rights to benefit. Using this as a model, municipalities could create an "Infrastructure Value Dividend" that would empower individuals in communities that gain value from public investment to benefit personally from that value. This tool could also provide reparative payments to individuals whose potential to earn income was disrupted

and held back by inequitable choices the local government may have made in the past. For example, the Federal Aid Highway Act of 1958 forcibly relocated entire BIPOC communities nationwide for the construction of the interstate highway system, and those individuals who were most impacted never received adequate compensation. As Jaspin Elliot describes in *Buried in the Bitter Waters*, governments terrorized BIPOC communities into moving in order to seize their land.^{21,22} Today, dividends should seek to remedy the effects of past governmental action—and inaction—that has disproportionately harmed BIPOC communities.



Tying Community Benefit to Municipal Bond Issuances

Local governments often need voter approval for bond issuances. To obtain this, local economic development officials or representatives of local government and its partners promote and market the opportunity. Citizens bear the burden of understanding the nuances or context of the proposed investment, given that they will generally only encounter it in the voting booth, with a short description of the project and the amount of debt the public would take on to finance it. Investors and their market proxies, such as rating agencies, may be more inclined to investigate a project, but usually from the narrow lens of creditworthiness, rather than a project's "community worthiness": whether it is worthy of undertaking the long-term obligation that future residents would bear.

Financial managers at the local government level generally try to match the financing of an asset to the length of the asset's useful life. This makes sense from an inter-generational perspective; members of a community use an asset while they pay for it. In most areas, there is no straightforward process by which local governments consider and choose to develop capital projects. Projects can arise through the normal course of operations, due to population growth; as a result of deferred maintenance (e.g., rebuilding an aging drinking water system); or to literally capitalize on an unexpected economic development opportunity. Traditionally, there has been no way a member of the general public could directly propose a large capital (or other) project to the local governing body for approval.

Toward a More Equitable Model of Infrastructure Investment

Community Oversight and Evaluation

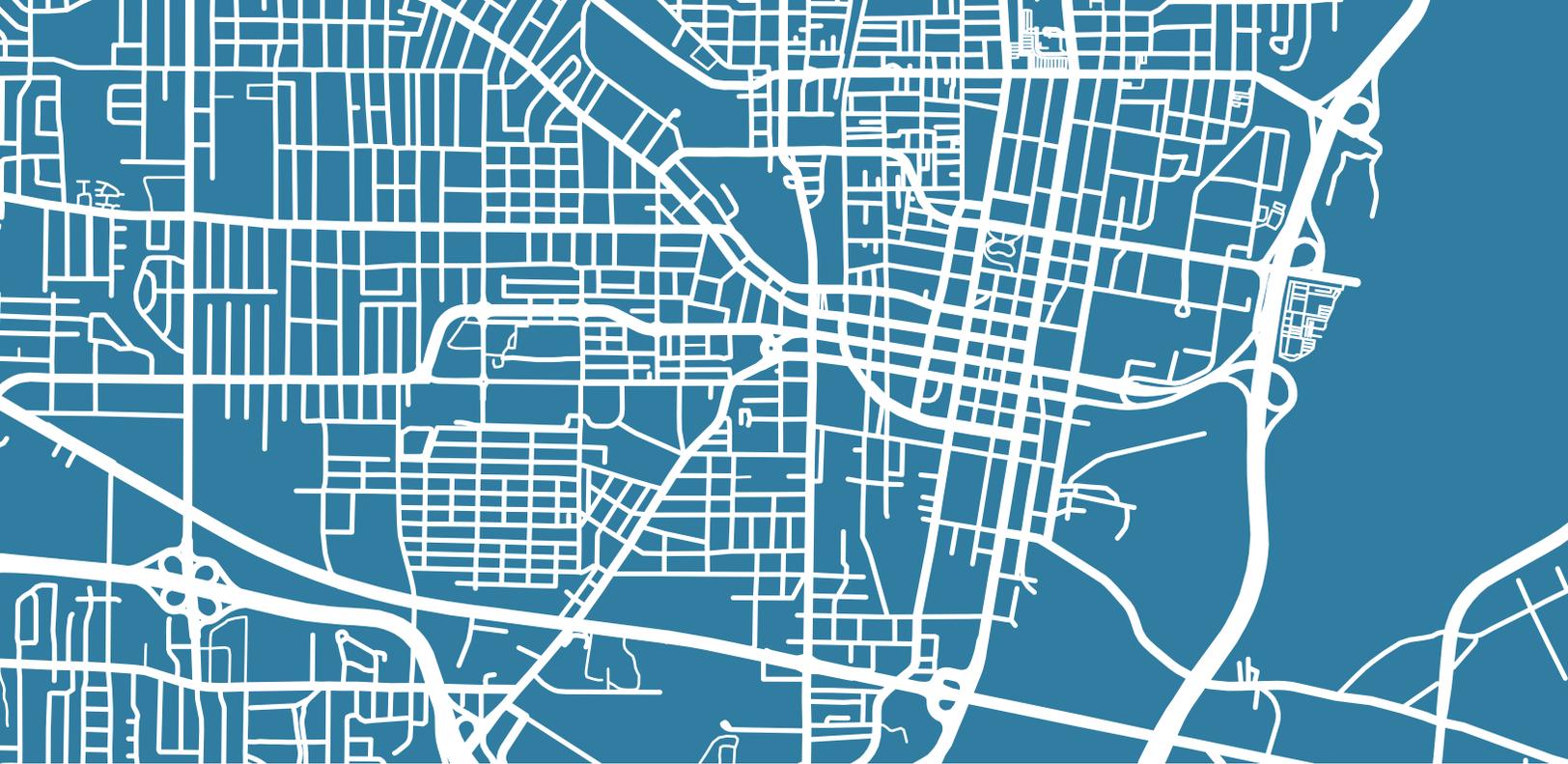
Once a municipality considers its slate of capital projects for development, professional financial managers are usually the ones who decide which projects to bond. The public often has little input into the decision of which projects merit advancement, though local statutes or policy may require a referendum on their approval. Members of the public may be able to merely vote “Yes” or “No” on the specific projects municipalities choose to put forth, but usually they do not get to choose among or prioritize them. Policymakers also generally don’t openly present the voters with the opportunity costs, that is, which projects they had to delay in order to advance the chosen ones through the referendum process.

Once a bond passes, it may not return to the public realm for debate. The public will likely have limited influence on the design and construction of the project. Its completion will undoubtedly get attention from the media, which may photograph city council members at an opening or groundbreaking. But the public is generally also left out of all subsequent management and operational decisions.

In some cases, local governments create—or are mandated to create—“bond oversight committees” (BOCs) to review the progress of bonded projects and expenditure of bond proceeds. California has mandated BOCs for school bonds since 2000, when the state’s voters approved an amendment to the California Constitution (Proposition 39). This lowered the required voter approval from two thirds to 55 percent for school districts that provide: a specific list of projects, a committee of appointed citizens to oversee the expenditure of funds, an annual performance audit, and a financial audit of the bond funds and bond projects.

Local governments tend to promote oversight committees as “protecting the taxpayer dollar” by ensuring that projects utilize funds for appropriate purposes. Although these committees may ensure that the municipality uses the bond proceeds on the projects named in the referendum, they typically don’t have any say in choosing projects, who executes them, or how they are implemented in the community.

As volunteers or appointees, committee members also tend to represent whiter,



wealthier, and more educated segments of the community, and/or may benefit peripherally from the projects, such as small business owners, architects, and the like. BOCs do not generally consider whether municipalities have designed projects to reduce inequities or avoid negatively impacting underserved communities. For example, committee members' conceptions of "equity" may be primarily geographic, ensuring that each neighborhood school receives the same level of funding, without factoring in the current conditions of facilities, number of students, or other aspects that might suggest a reallocation of funds based on need.

Once the project is complete, the public also does not have much input as to how the municipality manages the repayment or the impact of the debt on its finances. If the local government is highly rated and manages the debt well, residents may not even notice the debt at all. It may be only in the case of a default that residents might face some of the tough questions posed by liquidity. Due to investor primacy, a municipality might be forced to cut back dramatically on essential services or pension payments.

Given what we know about the culturally and economically gentrifying effects that localized investments can have—NYC's High Line or the Atlanta BeltLine, for example—municipalities should choose to direct bond revenues directly to those most disadvantaged by our economy's current structure. Municipalities must prevent the type of displacement that occurs as a byproduct of "catalytic" infrastructure investment in unprosperous areas. Bonds that instead distribute investment directly to those most impacted and compensate for legacy disinvestments can effectively create economic balance and mitigate the damaging effects of boom and bust cycles.

Social Justice Bonds

Given that municipal bonds are the primary tool for infrastructure investment by state and local governments, one key way to make these investments more equitable is to change the paradigm in terms of bond structure and focus. We can use specific environmental, social, and governance (ESG) tools to measure social and racial equity of both the municipality issuing the bonds and the project or the specific community where it is located. Some useful questions at the outset could be: What is the water quality in the project's community? How many instances of police brutality have there been in both the larger issuing municipality and the community where the project is located? And what percentage of the issuing entity's operating budget is derived from fines and fees?

The appendix delves into greater detail about performance measures for these issues of equity for each specific type of project. The questions therein can serve as a roadmap to help policymakers and communities begin to engage—and ultimately address—inherent inequities that have plagued communities in the wake of municipal infrastructure projects throughout our history as a nation.

QUESTIONS FOR DEVISING EQUITABLE INFRASTRUCTURE

The central question in all equitable planning is: How well does the infrastructure support and meet the needs of underserved populations from a functional perspective? Performance measures for equitable infrastructure service include the following.

A. Infrastructure Types

TRANSIT

WATER &
WASTEWATER

STORMWATER



ENERGY

B. Equitable Infrastructure StrategiesCO-BENEFITS &
MITIGATIONSMITIGATIONS
& IMPACTSCOMMUNITY
VOICE

SPENDING

RESTORATIVE
FEATURES

**TRANSIT**

- Does the project create new or enhanced transit connections for historically underserved communities?
- How many additional jobs/educational institutions are within a 30-minute ride/one bus- or train-fare of underserved communities?
- Is the quality of the infrastructure—whether for lighting, shelters, and/or bus stop benches—equitable in neighborhoods with different income levels?
- Are the safety and ADA features of access to transit (sidewalks, crossings) the same for low-income and underserved neighborhoods as it is for others?
- Is the transit service aligned to the needs of transit-dependent populations?
- Is non-rush hour service available for low-income residents working shifts that are off-peak hours?
- What are the income levels and race(s) of most of the people using the new or improved service?
- Are lower-income individuals paying a percentage of their income in fares that is equivalent to what higher-income households pay?
- Is wayfinding accessible to individuals with limited English proficiency (LEP)?
- Is access for individuals with disabilities equivalent (cost, time to reserve, etc.) to that of people without disabilities?
- Are there barriers (lack of or unreliable elevators) that block access?

**WATER AND WASTEWATER**

- Does the project provide clean water to historically underserved communities?
- Are failures (leaks, water-quality test failures) more common in underserved communities?
- Is the quality of the infrastructure equivalent to infrastructure found in higher-income areas? (e.g., the water infrastructure quality that led to Flint’s crisis as opposed to the water infrastructure built in Michigan’s higher-income communities.)
- Do low-income individuals pay a percentage of their monthly income for service rates that are equivalent to the percentage median-income households pay?

**STORMWATER**

- How is street flooding distributed across communities?
- Is flooding more likely in low-income communities (due to lack of parkland/tree cover/lawns to absorb stormwater, etc.)?
- Has housing for lower-income communities been developed in areas that are less controlled/more prone to flooding?
- Have higher-income communities demanded greener stormwater solutions, while “gray” solutions are the norm in lower-income areas?

**ENERGY**

- Does the service provide reliable, clean energy?
- Is the quality of the grid in low-income areas equivalent to that in wealthier areas?
- Are lines underground in wealthier areas, but above ground in lower-income areas?
- Are service rates affordable to low-income individuals?



CO-BENEFITS AND MITIGATIONS

- How well does the service provide co-benefits (and avoid negative impacts) to the community?
- Is the quality of infrastructure equitable across different communities? Does a pumping station in a wealthy neighborhood look the same as a pumping station in a low-income neighborhood?
- When a utility repair requires street construction, do wealthier areas demand greater amenities/mitigations (lighting, bike lanes, signal improvements) that lower-income areas don't have either the staff or the negotiating power to request?



MITIGATIONS AND IMPACTS

- How much do low-income communities bear the burden of emissions/pollution? (In San Francisco, for example, analysis showed the low-income, predominantly BIPOC community of Bayview Hunters-Point has less than 4 percent of the city's population but more than 25 percent of the pollution burden.)
- Does the service provide ancillary services, such as classroom or meeting space in a bus terminal or a fountain/park features as part of a wastewater facility?
- Is the space designed for programming and events that represent a variety of interests? Does the community have access to the space, and does it provide activities the community wants (types of music, sports, etc.)?
- Is community space accessible to multiple communities? (In San Francisco's Mission district, for example, "tech bros" take precedence over BIPOC children because they're able to reserve soccer fields via online apps.)

**COMMUNITY VOICE**

- Did project leaders solicit the community for opinions/ideas during project conception and implementation?
- Did project leaders consider community requests as part of the process of developing project plans?

**SPENDING**

- How much of the contracting dollars associated with the project go directly to minority-owned businesses? (One sample guideline would require that, for every \$100 million provided to contractors, \$20 million goes to contractors who qualify as minority-owned.)
- How much of the salaries associated with the project go to low-income workers of color? (Over three years of construction, a project paid out \$2 million in salary to 100 workers: twelve were BIPOC workers, who received 6 percent of the total salary budget, whereas 88 were white workers, who received 94 percent of the salary budget.)
- How much of the economic benefits attributed to the project accrue to low-income and BIPOC households? If, in the cost-benefit analysis, a project is estimated to produce \$300 million in economic benefit, are those benefits distributed equitably, targeted to lower-income individuals, or accruing primarily to the benefit of wealthier residents?
- How much of the economic benefit accrues to property owners vs. renters?

**RESTORATIVE FEATURES**

- How well does the project address historical inequities caused by infrastructure or structural racism? If an area experienced redlining, how is the project supporting minority homeownership?
- If redevelopment has historically negatively impacted BIPOC businesses, how will the project acknowledge that history and avoid this in the future?

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