



# Memorandum

**TO:** COMMUNITY AND ECONOMIC  
DEVELOPMENT COMMITTEE

**FROM:** Leslye Krutko

**SUBJECT:** SEE BELOW

**DATE:** March 5, 2010

Approved

Date

3-8-10

**SUBJECT: POTENTIAL NEW SOURCES OF REVENUE FOR AFFORDABLE  
HOUSING**

## RECOMMENDATION

It is recommended that the Committee review and comment on the potential revenue sources for the City's Housing Trust Fund.

## BACKGROUND

On December 8, 2008, the City Council approved a City-wide inclusionary housing policy and directed the Administration to prepare an ordinance. In addition to these actions, the Council directed staff to undertake several other policy projects, including an action to research and report back on recommendations for potential sources of funds for the development of affordable housing options (e.g., Housing Trust Fund). This direction was in response to a number of comments made during public meetings, where individuals expressed concern that the development community should not be solely responsible for funding affordable housing development and that other sources of funding should be explored. This report details a number of common funding sources, as well as a few that are more innovative.

## ANALYSIS

Housing Trust Funds (HTFs) have been adopted by many U.S. cities as a response to the need for affordable housing. HTFs act as administrative bodies for the disbursement of grants and loans to for-profit and nonprofit housing agencies, and are funded by a variety of public revenue sources, often through increases in fees or taxes. To be self-sustaining HTFs must have sufficient capital to support on-going administrative costs. A common challenge for all HTFs is to secure on-going, significant sources of funding. Typically, HTFs have to rely on a diverse revenue streams to generate a sufficient capital.

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### *City of San Jose Housing Trust Fund*

On June 10, 2003, the City Council adopted an ordinance that established the San José Housing Trust Fund (HTF). Previously known as the Housing and Homeless Fund, the new HTF was created to take advantage of funding sources available for affordable housing, particularly sources that were more flexible than other State and federal housing funding that restrict the City's ability to provide assistance to homeless residents. As structured, the HTF provides grant assistance to nonprofit organizations seeking to "improve, increase, or preserve the affordable housing stock, and improve the living conditions of very low- and low-income persons." Uses of the fund include, but are not limited to, the original activities allowed under the Housing and Homeless Fund, as well as loans and grants for the preservation, improvement, and development of affordable housing in San José.

At the beginning of the 2007 fiscal year, the Housing Trust Fund had a balance of \$4.4 million. Examples of projects funded include: acquisition/rehabilitation of housing for low-income emancipated youth, one-time rental and move-in assistance, job referral services, transportation assistance, case management services for homeless individuals and families, and funding for the Destination: Home one-stop prevention centers. Additionally, the HTF funds the annual costs associated with the Housing Services Partnership, which provides housing referral and placement services and rental assistance to homeless residents and people at risk of homelessness.

The establishment of the HTF increased the City's ability to leverage outside dollars. For example, the City received \$1,500,000 in monies made available from the State of California Housing and Community Development's 2004 Proposition 46 NOFA. However, for the most part, the fund is dependent on receipt of one-time sources of revenue, including: repayments of specially funded loan programs, in lieu fees, administrative fees from City multi-family housing bond issues, and other miscellaneous revenue sources. Because the funding is all one time in nature, there is a concern that the HTF will soon run out of funding.

### *Housing Trust Fund of Santa Clara County*

In 1998, the Santa Clara County Board of Supervisors, Silicon Valley Leadership Group, affordable housing advocates, local businesses, and foundations organized to create a nonprofit Housing Trust in Santa Clara County. The Housing Trust was supported by voluntary contributions with the goal of addressing a range of affordable housing needs within Santa Clara County. The Housing Trust of Santa Clara set an initial goal to raise \$20 million and leverage \$200 million. The goal was exceeded within two years of its conception.

Today, the Housing Trust Fund of Santa Clara County is sustained through a private-public partnership comprised of Silicon Valley employers, employer foundations, private citizens, and local governments. The City of San Jose and the Redevelopment Agency provide funding to the Housing Trust Fund. With the recent passage of the Redevelopment Agency budget, the City Council included \$250,000 in Housing Department funds for the Housing Trust Fund.

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The Housing Trust Fund has invested \$32 million in the creation of housing opportunities for Silicon Valley's workforce, families, seniors and special needs individuals: \$14 million for first-time homebuyers, \$8 million in loans for the development of new affordable housing, and \$10 million in loans that assisted in housing the homeless.

### *Potential Revenue Sources*

In order to respond to the City Council's direction, Housing Department staff completed an analysis of potential revenue sources at the local, State, and federal level. The goal of the analysis was to identify sources that can supplement the City's HTF so that it can continue to provide funding for homeless programs and activities ineligible for funding from current sources and to augment the City's affordable housing construction program.

Staff utilized a number of sources for the analysis including, but not limited to: the State of California's Department of Housing and Community Development research on potential revenue sources for a State housing trust fund; information provided by the National Housing Trust Fund; suggestions raised at the Mayor's Blue Ribbon Commission on Affordable Housing and Homelessness; research completed on funding opportunities for housing trust funds in other major U.S. cities; a San Jose Housing Trust Fund Study completed by Hausrath Economics Group (2001); Affordable Housing Incentive Programs completed by Bay Area Economics; Innovative Sources for Financing Affordable Housing completed by the National Council of State Housing Agencies; A Status Report on Housing Trust Funds in the United States completed by Housing Trust Fund Project of the Center for Community Change; and a variety of additional sources.

While completing the analysis, the potential sources were evaluated based on four criteria: (1) ease of implementation; (2) consistency with City policies; (3) impact on the General Fund; and (4) sufficient funds available to support development. Attachment A provides an analysis of the potential sources. Based on the analysis, staff identified several potential sources that the Council may wish to explore. The creation of the Silicon Valley Tax Credit Pool and linking affordable housing to future bond or tax measures should be strongly considered by the Committee. The remaining two sources, a real estate property conveyance tax and incentives for donated land, will require additional research and analysis. Below is more detail regarding the proposals.

### *Creation of the Silicon Valley Tax Credit Fund*

The Silicon Valley Tax Credit Fund (Fund) was initiated over the past twelve months by the Enterprise Community Partners and the Silicon Valley Leadership Group as a result of the serious decline of traditional tax credit investors. Historically, Fannie Mae and Freddie Mac have purchased 40 percent of allocated tax credits. Both entities are no longer purchasing tax credits, which has contributed to a significant decline in both equity prices and available credits. Enterprise Community Partners and the Silicon Valley Leadership Group have been in discussion with local corporations that have a federal tax liability to determine if there is sufficient interest in creating the Fund. The goal is to create a pool of money in the range of \$50-100 million that would be used to invest in tax credit projects in Southern Alameda, San

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Mateo, and Santa Clara Counties. In exchange for the investment, the corporate investor receives a tax credit that reduces its current Federal income tax on a dollar for dollar basis. Additional benefits to the investor include a competitive rate of return with the added advantage of providing affordable workforce housing, a highly visible investment in our local community. One percent of the amount generated would go to the Silicon Valley Housing Trust Fund for administration of the Fund.

#### *Link Affordable Housing to Future Transportation Bond Measures and Tax Increases*

According to a recent Urban Land Institute report, families spend nearly 60 percent of their budgets on housing and transportation costs. The report highlights the need to locate housing close to transportation, employment and retail centers to create long term sustainable communities. New transportation improvements and investments can serve as a magnet for new housing as they pave the way for growth around transit expansion. Linking affordable housing to future transportation tax measures or general obligation bond measures has the potential to raise significant funds for the City's affordable housing program with the added benefit of creating sustainable neighborhoods. The proposal is to set-aside 5 to 10 percent of a tax or bond issue, for transit oriented development that is affordable to lower- and moderate income households. Providing housing options in San Jose near transit accomplishes multiple goals: increases the affordability of working and living in the City; supports a demographically diverse community; and through reduced housing costs it can increase local purchasing power. Adopting a policy that links transportation funding to affordable housing funding would not require a vote of the people, however any specific measure would need the required percentage of voter approval to pass.

#### *Real Estate Conveyance Tax*

Property conveyance taxes are a common source for Housing Trust Funds throughout the nation. A real estate conveyance tax is a tax assessed when the title to a piece of real estate is transferred from one party to another. Also sometimes referred to as a transfer tax, a conveyance tax may be imposed on either an individual or an entity. The tax is usually paid at the time the property is conveyed to the buyer. In San Jose, there is an existing Real Property Conveyance Tax, which is imposed for specific reasons. To increase this tax, a 2/3rds vote of the electorate would be required. However, the real estate conveyance tax has several impediments and legal requirements which will require further research to determine future impacts and the feasibility of such an increase.

#### *Provide Incentives for Donated Land and Money*

Another potential source would be to create incentives for donated land and money to a Housing Trust Fund. Accepting donated land or monetary contributions would require the establishment of a nonprofit 501(c)3. Generally, creating a nonprofit 501(c)3 is a straightforward process with low implementation costs. However, the creation of a nonprofit 501(c)3 would directly compete with the County's Housing Trust Fund. As a result, staff recommends additional analysis and

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collaboration with the Housing Trust of Santa Clara County on efforts to provide incentives and donated land to affordable housing programs.

**EVALUATION AND FOLLOW-UP**

Based on comments received, staff will conduct additional research and analysis and will bring forward any potential sources at a later date.



LESLYE KRUTKO  
Director of Housing

For questions please contact Leslye Krutko, Director of Housing at (408) 535-3851

**ATTACHMENT A  
POTENTIAL REVENUE SOURCES**

Revenue Source	Description	Nexus to Affordable Housing	Adoption Requirements/ Feasibility
<p>Link affordable housing to infrastructure, tax measures or General Obligation Bonds</p>	<p>Link affordable housing to other infrastructure bonds, ensuring that there are funds available to develop new units.</p> <p>General Obligation Bonds have been a successful vehicle to fund affordable housing in other local jurisdictions.</p>	<p>N/A</p>	<p>There is substantial revenue potential from linking affordable housing to infrastructure and General Obligation Bonds.</p> <p>In San Jose, the voters approved several recent GO bond issues. The state of Washington biannually issues infrastructure capital bonds that dedicate 15% of the funds to a Housing Trust Fund.</p> <p>GO and infrastructure bonds are a one-time source of money and may be sued only for the acquisition and improvement of real property.</p> <p>Requires a 2/3 vote of the electorate.</p>
<p>Silicon Valley Tax Credit Pool</p>	<p>The Silicon Valley Tax Credit Pool would create a blind pool for the investment in future tax credit investment. This concept is a work in progress with the idea being that individual businesses and corporations will be contacted for their potential participation in such a pool.</p>	<p>N/A</p>	<p>There is substantial revenue potential from a tax credit pool.</p> <p>Delayed start-up time, potential implementation date is 12-18 months.</p> <p>This will be a competitive process, and not all of the investment dollars will end up in San Jose.</p> <p>This is a successful model. Merritt Capital has completed 12 such pools in the last 20 years and have raised between \$25-50 million per pool. Similar pools exist in other parts of the country including Ohio.</p>

Revenue Source	Description	Nexus to Affordable Housing	Adoption Requirements/ Feasibility
Real Property Conveyance Tax	This tax is set at \$1.65 per \$500 of property value. In FY 2007-08, it raised \$26.8 million. A 0.35 increase, bringing the total to \$2 would raise \$5.7 million.	N/A	<p>Property conveyance taxes are a common source for Housing Trust Funds throughout the nation.</p> <p>In San Jose, there is an existing Real Property Conveyance Tax, which is imposed for specific reasons. To increase this tax, a 2/3rd vote of the electorate would be required.</p> <p>Real estate transaction taxes are opposed by Realtors.</p>
Provide Incentives for Donated Land, Bequest, and Donations	Provide incentives for donated land, bequest, and money for affordable housing.	N/A	<p>Donated land would need to be donated to a non-profit.</p> <p>Low implementation costs.</p> <p>Low revenue and unstable funding source.</p> <p>Compete with County HTF; this should be a collaborative effort with the HTF.</p>

Revenue Source	Description	Nexus to Affordable Housing	Adoption Requirements/ Feasibility
Document Recording Fee	<p>The Blue Ribbon Commission estimated that, Countywide, a \$10 fee/tax per transaction would create about \$4 million annually; a \$20 fee/tax per transaction would create about \$8 million. This amount might be high given current economic conditions.</p>	Yes	<p>Document Recording Fees are a common source for Housing Trust Funds in other parts of the nation. However, in California, State law limits the imposition of a Document Recording Fee.</p> <p>A Document Recording Fee is a county fee that is imposed to recover the cost of recording documents in a county's recorders' office. SB 521 (Torlakson), 2006, would have allowed Contra Cost County to increase its document recording fees. AB 239 (De Saulnier), 2007 would have allowed Contra Costa and San Mateo counties to increase their document recording fees. Neither bill was approved.</p> <p>If State legislation was approved, a fee could then be approved by a majority vote of the County Board of Supervisors. This type of fee could be subject to legal challenge.</p> <p>Opposed by Realtors.</p>
Tax Base Sharing	<p>All taxing jurisdictions within a certain area contribute 40% of the tax money raised from rising commercial industrial property values into a regional pool that is then redistributed (based on a set formula) back to some localities to reduce disparities between richer and poor communities.</p>		<p>Tax base sharing provides a regional approach to the affordable housing crisis and will likely generate moderate revenues.</p> <p>Difficult to implement and a constitutional amendment would be required because of issues with Proposition 4.</p> <p>Does not require a vote by the electorate.</p> <p>Implemented successfully in Minneapolis and St. Paul.</p>

Revenue Source	Description	Nexus to Affordable Housing	Adoption Requirements/ Feasibility
Residential Construction Tax	The City collected \$118,000 from this tax in FY 07-08, a more than 50% reduction from prior years. Should this tax be increased, it is unlikely to result in a significant amount to money for affordable housing.	N/A	<p>This City has an existing residential construction tax that is to be used for specified purposes. Increases to the tax, or a revision to the specified purposes, would require a 2/3rd vote of the electorate.</p> <p>The amount of money received from this tax is relatively small given the effort it would take to obtain voter approval.</p>
Commercial Linkage Fee	A commercial linkage fee charges a per square foot fee on commercial development. At \$1 per square foot, this would raise an estimated \$880,000 annually.	Yes	<p>This fee would need to be analyzed to determine whether it meets the legal requirements for the imposition of a development fee.</p> <p>The City is currently creating incentives for the development of new commercial space. The imposition of a new fee may serve as a disincentive.</p> <p>The fee would be a stable and significant revenue source.</p> <p>Linkage fee programs exist across the nation including: San Francisco (CA), San Diego (CA), and Cambridge (MA).</p>
Building and Structure Construction Tax	Currently set at 1 3/4% of 88% of construction valuation. Over the past year, the tax generated \$9.6 million. An increase to 3% would result in an additional \$3 million annually.	N/A	<p>The San Jose Municipal Code details the eligible uses-improve roadway conditions on major arterials (Fund 429). Increases to this tax or a revision to the specified purposes would require a 2/3rds vote of the electorate.</p> <p>Boulder (CO) utilized this approach to create a Housing Excise Tax.</p>

Revenue Source	Description	Nexus to Affordable Housing	Adoption Requirements/ Feasibility
Business Tax	It is unclear how much revenue this tax increase would generate. Currently, the tax is set at \$150 per business for up to eight employees, with an additional charge of \$18 per employee up to a maximum pf \$25, 000.	N/A	<p>If the City were to consider increasing the business tax for affordable housing purposes, a 2/3rds vote of the electorate would be required.</p> <p>The potential amount of money received from this tax is relatively small given the effort it would take to obtain voter approval.</p>
Work with Local Construction Trades to establish a funding stream for contributions.	This requires a collaborative effort with local unions and/or trade associations to provide monetary donations to a Housing Trust Fund.	N/A	<p>An example: Local 26 in Boston, MA won the first housing trust fund in the country for its union members in 1988. Since then it has created a homeownership program with these funds that works to overcome the obstacles that have keep union members from the dream of homeownership.</p> <p>This would require low implementation costs and would most likely require setting up at non-profit 501 c3.</p> <p>Low revenues and would compete with the County HTF.</p>
Increase Redevelopment Set-Aside (20% Increment)	Consider increase to 20% Lower-Moderate funds from 1-10%.	Yes	<p>Ease of implementation since RdA project areas already exist in the City.</p> <p>Sufficient source of funding although politically difficult.</p> <p>Other cities have completed similar proposals including Los Angeles (CA), Pasadena (CA), and Santa Rosa (CA).</p>

Revenue Source	Description	Nexus to Affordable Housing	Adoption Requirements/ Feasibility
20% Tax Increment	Only relevant if new project areas are created that would generate additional 20% tax increment. This source is already fully utilized and committed.	Yes	To create a new project area, blight would need to be determined and the City would need to take steps to create a new project area, including working with other local entities. This would have an impact on future General Fund revenues as the City's proportionate share of the increased property tax revenue would not be paid to the City's General Fund.
80% Tax Increment	Increase the amount of 80% funds available for housing purposes by an unspecified amount.	Yes	The City's 80% Redevelopment Funds are limited at this time, due to the cap on borrowing, and the fact that much of the 80% increment is committed to debt service. Additionally, the State has recently taken funding from the City's Redevelopment Agency, and has indicated that this take may be made permanent (i.e., assessed annually). This is a significant impact on the City's Redevelopment Agency, impacting its ability to continue to fund projects that are a priority of the Mayor and City Council. The City would have to determine how spending more redevelopment money on housing will impact other priorities including economic development.
Employment Tax on an inverse scale to workers' wages	Charge businesses a tax on an inverse scale of workers' wages. The funds would go to a dedicated fund for affordable housing.	Yes	Substantial revenue potential similar to the linkage fee.  Stable source of funding and requires businesses to mitigate their impact on the local community.  Conflicts with the City's current emphasis on economic development.  Requires 2/3rd vote by the electorate.

Revenue Source	Description	Nexus to Affordable Housing	Adoption Requirements/ Feasibility
Impact fee for industrial land conversions	A fee imposed when land is converted from industrial use to residential use.	Yes	<p>As a fee, would require a vote of the local legislative body.</p> <p>This fee would need to be analyzed to determine whether it meets the legal requirements for the imposition of a development fee.</p> <p>This could be perceived as an incentive to convert industrial land and may be in conflict with the Employment Lands Framework.</p>
Sales Tax Increase	Sales tax is generally set at 9.25% of which San Jose gets 1% which is paid to the General Fund and the remaining 8.25% goes to other government agencies or for specified purposes. Last year, this 1% raised \$149 million. Using this same number, an increase of .25% would generate \$37 million annually	N/A	<p>This could result in a large amount of funding for affordable housing.</p> <p>A tax imposed for affordable housing purposes would require a 2/3rds vote of the electorate.</p> <p>The sales tax is a regressive tax, impacting lower-income residents more than people with means.</p>
Parcel Tax	Assess a parcel tax.	N/A	<p>A tax would require a 2/3rd vote of the electorate.</p> <p>The City of San Jose has a parcel tax for libraries which is set at \$27 a year for single-family houses and condominiums (and less for other structures), that is expected to generate \$6.7 million this year.</p> <p>This would likely be unpopular with the voters.</p>

Revenue Source	Description	Nexus to Affordable Housing	Adoption Requirements/ Feasibility
Utility users' tax	Increase tax paid by individuals and businesses on utility services or collect unclaimed utility deposits (which currently go to the State).	No	Revenue potential depending on rate increase. Tucson (AZ) uses unexpended funds from Utility Services LI Assistance Program as a fund source for affordable housing programs. Memphis (TN) collects unclaimed utility deposits.
Broadband and internet tax	Implement a tax on broadband and internet and/or examine land leases for towers in San Jose.	No	Moderate revenue potential and stable revenue source. Funds could be bonded. This may not be practical in the long term as internet users push cities to go WiFi.
Hotel tax/transient occupancy tax	Increase tax on hotel, motel, and other lodging services	Yes	Moderate revenue potential, although unlikely to be enough to fund affordable housing development. Several cities across the State utilize a hotel tax/transient occupancy tax including: San Francisco, Long Beach, Mammoth Lakes, & San Diego.
Documentary stamp tax	Add a fee to be paid on real estate transactions.	Yes	Stable and substantial source of revenue. Realtors oppose. Similar approaches utilized in the following cities: Indianapolis (IN), Philadelphia (PA), Cambridge (MA) - 1% fee on real estate paid by purchaser. States utilizing this approach include: Florida, Vermont, District of Columbia, Ohio, Delaware, and Washington.

Revenue Source	Description	Nexus to Affordable Housing	Adoption Requirements/ Feasibility
Voluntary tax check off	Voluntary tax-check off would be dedicated to affordable housing.	No	<p>Example: Voluntary income check off for filers who receive returns can elect to donate \$10 or more to a Housing Trust Fund for affordable housing development.</p> <p>Unsure how this method would be implemented and would likely have low revenue potential.</p> <p>Utilized by the state of Louisiana.</p>