Office of the City Manager

INFORMATION REPORT
February 16, 2016

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, Interim City Manager

Submitted by: Kelly Wallace, Acting Director, Health, Housing & Community Services

Subject: Affordable Housing Programs

INTRODUCTION

By every measure, rents and home sale prices in Berkeley and the rest of the Bay Area are among the highest in the country and continuing to increase sharply, while vacancy rates are near historic lows. For example, in October 2015, Zillow's Real Estate Research group found Berkeley to have an estimated market rent, which Zillow calls an "index rent", of $3,584, an increase of 12% over the past year, and a median sale price of $974,100, an increase of 15% over the past year.[1]

The good news is that the City of Berkeley has already adopted many of the measures other cities are only considering to address housing affordability and displacement. These include:

- The Housing Trust Fund program http://www.ci.berkeley.ca.us/ContentDisplay.aspx?id=6532;
- Affordable Housing Mitigation Fee on new market-rate rental housing http://www.ci.berkeley.ca.us/ContentDisplay.aspx?id=74682 ;
- Inclusionary Housing requirements for new market-rate ownership housing (BMC 23C.12);
- The Rent Stabilization and Good Cause for Eviction Ordinance http://www.ci.berkeley.ca.us/Rent_Stabilization_Board/Home/Guide_to_Rent_Control.aspx ;
- Use of City-owned land for affordable housing, such as Oxford Plaza and Berkeley Way http://www.cityofberkeley.info/Clerk/City_Council/2014/09_Sep/Documents/2014-09-09_Item_13_Exclusive_Negotiating.aspx ;
- The Condominium Conversion Ordinance (BMC 21.28.070);
- The Demolition Ordinance (BMC 23C.08);
- The Relocation Ordinance http://www.ci.berkeley.ca.us/ContentDisplay.aspx?id=4956 ;

[1] http://files.zillowstatic.com/research/public/realestate/ZHVI.San%20Francisco.395057.pdf

- Senior and Disabled Rehabilitation Loan program http://www.ci.berkeley.ca.us/ContentDisplay.aspx?id=10480;
- Other home repair programs by community agencies funded by the City (Center for Independent Living, Rebuilding Together, Community Energy Services Corporation);
- Shelter Plus Care and Square One rental subsidies for homeless households http://www.ci.berkeley.ca.us/ContentDisplay.aspx?id=5562 ;
- Living Wage requirements for City vendors http://www.ci.berkeley.ca.us/Finance/Home/Vendors__Living_Wage_Ordinance.aspx ; and
- The Minimum Wage Ordinance http://www.ci.berkeley.ca.us/MWO/ .

Unfortunately, despite these efforts, market-rate housing costs continue to rise and many households are struggling to afford to live in Berkeley. The Council scheduled this special meeting to discuss affordable housing policy, and this report presents background information for the Council's discussion.

SUMMARY

At the end of 2015, the City's Housing Trust Fund (HTF) contained approximately $3 million, largely from the various mitigation fee programs the City has adopted. Fee revenue has been an important source to support housing development over time, but alone is not adequate or predictable enough to support a high level of affordable housing development. Due to the limited resources available to support affordable housing development in recent years, the City has supported development on a lower per-unit basis than other jurisdictions which are active in affordable housing, which has probably contributed toward the length of time required to assemble financing.

Based on expressed interest from affordable housing developers and calculated based on the City's Regional Housing Need Allocation (RHNA, a state-mandated calculation of the number of units each jurisdiction must accommodate in its Housing Element), meeting the City's housing needs in a more robust way could require $5 to $12 million in local funds annually. Securing a new predictable source of funds would be challenging and this report includes some alternatives. In addition to the increase in business license tax discussed at the November 17, 2015 worksession, there may be an opportunity for a countywide housing bond on the November 2016 ballot. Currently, two staff positions administer the Housing Trust Fund's development funding; significantly higher funding would likely require additional staffing to administer properly.

When the Council takes up revisions to the Affordable Housing Mitigation Fee, staff recommend setting requirements to ensure the City continues to receive a mixture of fees and below-market-rate units. In particular, staff recommend increasing the percentage of in-lieu units that satisfy the fee requirement, and expanding the range of incomes served. Staff also recommend limiting the in-lieu unit option to larger development projects and requiring smaller developments to pay the fee, in order to improve administrative efficiency and help ensure long-term compliance.

CURRENT SITUATION AND ITS EFFECTS

Affordable housing unit production since 2002

Since 2002, City Housing Trust Fund loans have supported the construction of 423 new units and the acquisition or renovation of 613 units, for the creation or preservation of 1,036 units in total. These totals include Harper Crossing, which started construction in December 2015, and William Byron Rumford Sr. Plaza, which will start rehabilitation work this spring.

Housing Trust Fund Developments (2002 to present)

Completed/In progress Projects	**Units**
New Construction	**423**
1320 Haskell Street Condominiums	5
Adeline Street Apartments	19
Ashby Lofts	55
Fred Finch Youth House	10
Harmon Gardens	16
Harper Crossing	42
Helios Corner	80
Margaret Breland Senior Homes	28
Oxford Plaza	97
Sacramento Senior Homes	40
Sankofa House	4
University Neighborhood Apartments	27
Acquisition and/or Renovation	**613**
Allston House	47
Amistad House	60
Berkeley 75	75
Erna P. Harris Court	35
Hillegass Apartments	19
Regent House	6
Savo Island Cooperative Homes	57
Strawberry Creek Lodge	150
UA Homes	74
University Avenue Cooperative Homes	47
William Byron Rumford Sr. Plaza (in progress)	43
Total HTF Units Completed	**1,036**

In this same timeframe, the City has entered into regulatory agreements for 270 units of rental housing restricted under the Inclusionary Housing Ordinance and the Affordable Housing Mitigation Fee.

Funding for the Housing Trust Fund

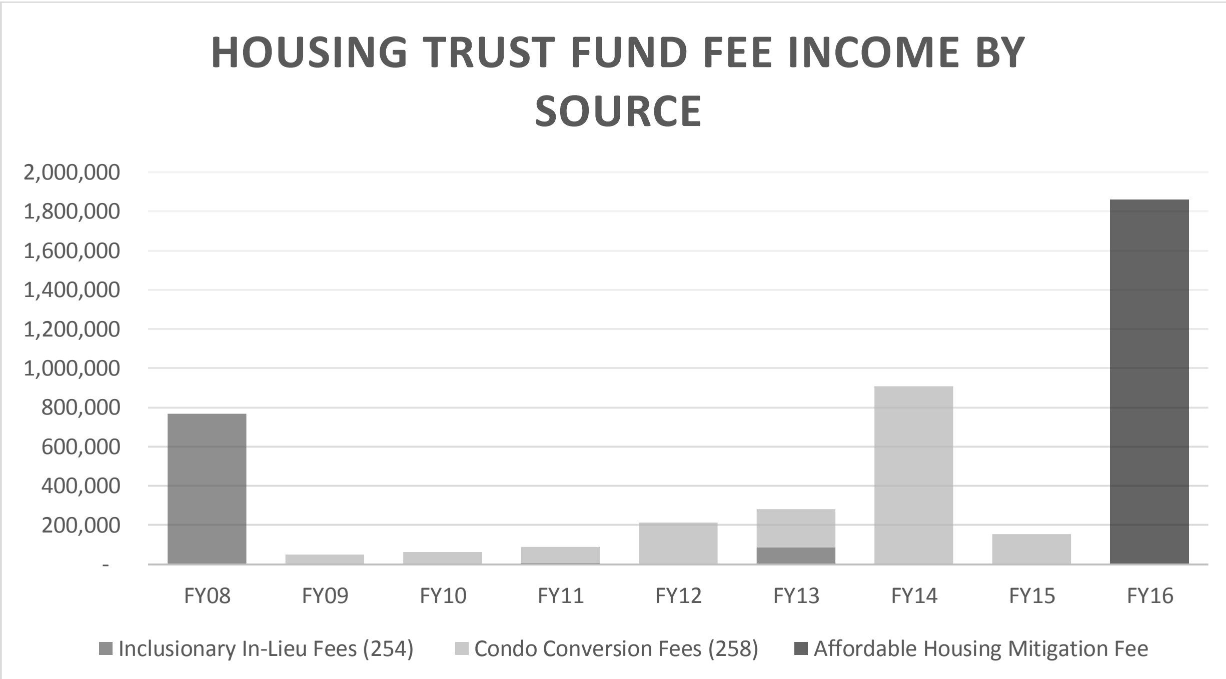
Creating a predictable source of funding for the Housing Trust Fund (HTF) at a substantial level is the most important step the City could take to support the development of new affordable housing. Staff recommend working with Alameda County and the City of Oakland to explore the feasibility of an affordable housing bond measure on the ballot in 2016. The Alameda County Board of Supervisors is expected to discuss this in late January or early February.

Funding for the HTF currently consists of federal HOME program funds and revenue from fees including the Affordable Housing Mitigation Fee, the Inclusionary Housing Ordinance, the Condo Conversion Ordinance, and the housing mitigation fee on commercial development.

Revenue from fees varies considerably with the real estate market, and the HTF's current balance of about $3 million has not been typical. The HTF currently contains nearly half of all the fees ever deposited in the HTF in the last 23 years, due to the current very active housing market.

The City made $6.68 million in HTF loans for projects completed since 2010, with $611,000 for one new construction project, and $6.07 million for the renovation of eight existing affordable housing projects. It is important that the City continue to fund a mix of projects, including renovations which require an ongoing investment in order to preserve affordable housing and maintain project viability.

The following chart shows income to the Housing Trust Fund since FY 2008 from the Inclusionary Housing, Affordable Housing Mitigation Fee, and Condo Conversion programs. It shows the sporadic nature and limited amount of fee income. Nearly all of the income from the Inclusionary Housing program came in FY 2008 from a single development. The City received an unusually large amount of Condo Conversion funds in FY 2014 due to a large number of sales of previously converted units. The vast majority of Affordable Housing Mitigation Fee income came in FY 2016 from the Varsity development.



HOME funds, while consistently available, have diminished considerably over time to approximately $500,000 per year. HOME funds come with many federal requirements, including onerous commitment deadlines and required scopes of work, that make administering decreasing funds increasingly challenging. In recent years, each federal budget process has involved proposals to greatly reduce or eliminate HOME, though City of Berkeley HOME funding is not expected to change dramatically in fiscal year 2017.

Amount of Funding Needed for the Housing Trust Fund

City funds help affordable housing developments compete at the state level for additional funding, such as 9% Low Income Housing Tax Credits and the new Affordable Housing and Sustainable Communities (“Cap and Trade”) funding program. Having any City funds helps, and having a greater portion of City funds can help projects be more competitive for state funds under scoring criteria related to leveraging. The amount of funding needed for the HTF could be estimated in many ways. The analysis here will be based on (1) developer interest and (2) Regional Housing Needs Assessment (RHNA) numbers from the Housing Element. Together these estimates yield a range of $5.1 to $14.8 million per year to support affordable housing.

Based on developer interest in the City’s 2015 Request for Information

Developer interest: As reported in a December 1, 2015 worksession report, HHCS asked developers to report how much predevelopment and permanent financing they were interested in from the City, and received responses from five organizations regarding eleven projects. Of these, four were for specific sites where the developer or

City has site control, four were for specific sites not owned or optioned by the developer, and three were conceptual. Together, these eleven developments would require $16.8 to $36.8 million over the next three years. Assuming level HOME funding of $500,000 per year, **local funding needed based on reported developer interest: <u>$5.1 to $11.8 million per year</u> 2015 to 2018.**

Based on the City's RHNA Allocation

This estimation of funds needed will start with an estimate of the amount of funds per unit needed to support housing production. In early 2015, the average total development cost for fifteen new construction projects countywide applying to Alameda County was nearly $500,000 per unit ($495,947). This is the best source of data available on current development costs, and the cost of housing development has likely increased since a year ago.[2]

At the November 17 worksession on a tax to raise revenues for affordable housing, Susan Friedland, the executive director of Satellite Affordable Housing Associates, remarked that developments with less than 25 percent local city funding are difficult to assemble financing for. By comparison, the City of Oakland has provided an average of 10 to 15 percent of the total development costs in its 2013 to 2015 RFP rounds for rehabilitation and new construction. The City of Santa Monica reports providing a range of 30 to 45 percent of total development costs for rehabilitation and new construction, depending on the other funds available. Together these support a wide range of funding levels, from 10 to 40 percent of total development costs.

The City has not funded development at this level in the recent past. For the last four projects completed (Berkeley 75, Strawberry Creek Lodge, UA Homes, and UA Cooperative Homes Apartments), which were all rehabilitation projects, the City provided an average of just 6% of the total funding (ranging from 1% to 11%). For Berkeley 75 and UA Coop, the City's participation included low-cost land leases as well as HTF loans. Investment in new construction has been similar; the City provided 10% of Harper Crossing's funding and will consider 17% of Grayson Street Apartments. (Neither is complete). Fund awards have been limited by the total amount of funds available. More information on leveraging is provided below.

If more HTF dollars were available and higher awards were made than have been in the recent past, it is possible that the affordable housing developers would be able to assemble complete financing more quickly and move to construction sooner. Of course, with constrained resources, higher awards for each development would mean fewer developments could be funded. Based on the information above, further analysis in this report will use an estimated range of at least 10% of total development costs or $50,000 to 25% of total development costs $125,000 of City funds needed per unit of affordable housing, which represents a substantial increase over current practice but is

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[2]http://fanniemae.com/resources/file/research/emma/pdf/MF_Market_Commentary_072315.pdf

still conservative compared to Santa Monica, which funds 30 to 45 percent, and San Francisco, which targets an investment of $250,000 per new construction unit.

For estimation purposes, this analysis assumes the same level of funding needs for both rehabilitation and new construction projects. In practice, rehabilitation budgets vary widely with the rehabilitation needs of each property and how well the development fits into alternative funding sources. For example, Satellite Affordable Housing Associates' Strawberry Creek Lodge rehabilitation was able to use Low Income Housing Tax Credits and project-based Section 8, and the total City funds were just over 3% of the total development costs. In contrast, William Byron Rumford's mixed-income profile (which includes both restricted units and unrestricted units that rent below the current market) made it incompatible with tax credits and other programs. Resources for Community Development's preservation of that development is supported by 63% City funding. For these reasons, it is likely that some rehabilitation projects will need more City funding than new construction and some will need less.

To estimate the amount of funding needed for the HTF, staff used the following information:

- RHNA housing needs numbers for 2014-2022[3];
- Below Market Rate (BMR) units completed in 2014 and 2015 and units expected in 2016;
- New construction HTF units started and expected to start in 2016;
- An assumption of $50,000 to $125,000 per HTF unit, as outlined above; and
- An assumption of half of Very Low Income (50% of Area Median Income) units coming from the BMR program and the rest coming from HTF projects; and
- An assumption of level HOME funding at $500,000 per year.

Assuming level HOME funding around $500,000 per year, **local funding needed based on production to meet the new construction RHNA target: <u>$5.6 to $14.8 million per year</u> 2017 to 2022.** Since the RHNA number only pertains to additional units (new construction), this way of estimating the need only shows the need for new construction, not rehabilitation of market rate or existing affordable housing. To continue funding rehabilitation and achieve the RHNA numbers, additional funding would be needed.

<u>Leveraging Other Funds</u>

As mentioned above, the City has funded recently completed HTF projects at an average of 6% of the total development costs. This means that 94% of the funding has come from other sources. The greatest single source of funding for affordable housing

[3] City of Berkeley 2015-2023 Housing Element, Section 3.
http://www.ci.berkeley.ca.us/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2015-2023%20Berkeley%20Housing%20Element_FINAL.pdf

development is the Low Income Housing Tax Credit program, which was used by all four of the recent rehabilitation projects mentioned above (Berkeley 75, Strawberry Creek Lodge, UA Homes, and UA Cooperative Homes Apartments). These developments also participated in various other state programs that were designed to work with Low Income Housing Tax Credits.

This high degree of leverage means that proposed development projects must be consistent with other program guidelines in order to be feasible. If local priorities conflict with the priorities of other funding sources, more City funding will be required. For example, for the portion of the Tax Credit program that is most competitive and provides the highest level of funding, points are awarded only for units restricted at or below levels up to 55% of area median income. Increased emphasis on higher income levels, such as those from 80% to 120%, may make developments ineligible or less competitive for state and county funds, and more dependent on local funds.

Possible Sources for the Housing Trust Fund

The City already has **fees on market-rate rental, market-rate ownership, and commercial development** as well as the **conversion of apartments to condominiums**. These programs could be adjusted to increase the amount of revenue collected. Adjusting the Affordable Housing Mitigation Fee on market-rate development, in particular, would impact the number of affordable BMR units created. Possible changes to that program are discussed below under ***Possible Changes to the BMR Program.***

A list of other ideas for funding the HTF appears in ***Attachment A: Possible Alternative Sources for the Housing Trust Fund.***

Possible Changes to the Housing Trust Fund Guidelines

As outlined in the staff report for the December 1 worksession on housing, the City is able to and has committed predevelopment funds in excess of $100,000 when warranted. One change that could improve the predevelopment funding application process would be to allow the City to accept “over the counter” applications, meaning proposals would not have to wait for the City to issue an RFP to apply for predevelopment funding. At this point, the standard process requires developers to wait for a HTF Request for Proposals (RFP) to request predevelopment funds. RFP rounds have been conducted at sporadic and unpredictable intervals due to the available funding. Over-the-counter funding, subject to dollar limits in order to preserve development funding, would allow developers to access seed funding between rounds as opportunities arise. In both the current RFP process and the proposed over-the-counter process, staff would work with the Housing Trust Fund to review applications and development funding recommendations.

Advocacy for Other Funding Sources

Currently, the City's housing development resources rely on on-going market rate housing production. The proposed tax on rental housing business license tax would be subject to less market fluctuation, but it would be similarly dependent on market rate housing. Expanding and diversifying funding sources is vital for the sustained production of affordable housing, particularly in light of the growing gap between incomes and housing costs. Advocating for affordable housing sources outside Berkeley is not only important to expanding the overall pool of resources available, but could also help ease demand for housing in Berkeley by expanding housing opportunities elsewhere. There are at least three ways in which the City could support growing the overall pool of resources for affordable housing locally:

Countywide/regional permanent source of funds, such as a bond modeled on San Francisco's Proposition A (described in more detail above). *A Roadmap Toward Equity: Housing Solutions for Oakland, California*, developed by the City of Oakland and PolicyLink in 2015, recommended developing political leadership for developing and passing an affordable housing bond similar to San Francisco's on a regional basis.[4] Alameda County Housing and Community Development staff expect to discuss a General Obligation Bond for affordable housing with the Board of Supervisors in late January or early February. Similarly, the City of Oakland is in a preliminary stage of considering an infrastructure bond which might include housing. Mayor Schaaf's Housing Implementation Cabinet may make a bond-related recommendation.[5] A housing bond would require two-thirds of the electorate for approval, which can make approval challenging.

State funding, including a permanent source. Housing advocates have worked on two notable campaigns for additional state funding. AB35 (Chiu and Atkins)[6] would have expanded California low income housing tax credits (a program that works in conjunction with the federal program) by $300 million. Right now, federal 4% low income housing credits, an unlimited source, are going unused because so much additional funding is required to combine with them.[7] AB35 would have addressed this, but Governor Brown vetoed the measure in October for budgetary reasons.

The campaign for a permanent source most recently took the form of AB1335 (Atkins)[8] which would have funded the state housing trust fund by charging a $75 real estate document recording fee, capped at $225 with exemptions including residential sales. AB 1335 could be taken up again in 2016. Staff will track opportunities at the state level as they unfold.

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[4] http://www.policylink.org/sites/default/files/pl-report-oak-housing-070715.pdf

[5] The Cabinet's recommendations were not available as of this writing in early January. Some of the information it is considering is available online: *https://oakland-home.squarespace.com/*

[6] https://files.ctctcdn.com/4afa27d8301/22e2fcb8-6b15-48c1-99dd-4661e755953b.pdf

[7] The other type of federal tax credits—9%—are extremely competitive and oversubscribed because they provide more funding per project.

[8] https://files.ctctcdn.com/4afa27d8301/da794f03-c0fe-4dfe-9882-c6420c213435.pdf

One opportunity emerged in early January 2015, when California Senate President pro Tem Kevin de Leon introduced the “No Place Like Home” initiative. It combines $2 billion in bond funds for the development of permanent supportive housing for people with mental illness among other housing supports.[9]

Make It Fair campaign for commercial property tax reform advocates reassessing commercial and industrial property at fair market value to counter the reduced taxes paid since Proposition 13.[10] Housing advocates, including Housing California, have endorsed this proposal, which would yield more tax revenue for cities, which could be used for local priorities including affordable housing.

Affordable Housing Opportunity Sites

Affordable housing development depends on having a site for development. The City may have the opportunity to support housing in a few City-owned sites:

Berkeley Way. The City has a Memorandum of Understanding with BRIDGE Housing and the Berkeley Food and Housing Project related to the development of this City-owned parking lot. Staff expect to submit a report to Council on this project in the first half of 2016.

Adeline Corridor Planning Process. This land use planning project is examining the potential for housing in this area, and the use of right of way.

1631 Fifth Street. This former Redevelopment Agency parcel is in the process of being transferred to the City. An RFP process conducted in 2008 for the disposition of the site had only one respondent, Northern California Land Trust (NCLT) which proposed to move the Kenney Cottage to this site. NCLT later withdrew due to its bankruptcy. Staff believe the site is too small for use with typical affordable housing funding programs, such as Low Income Housing Tax Credits. Once the property has been transferred to the City, staff will analyze options for the site and report to Council. One option may be selling the site and depositing the proceeds in the Housing Trust Fund.

Possible Changes to the BMR Program

Bay Area Economics has completed a new Affordable Housing Mitigation Fee Nexus Study which was presented at a Council worksession on July 14, 2015. This nexus study could support a maximum mitigation fee of up to $84,400 per new market-rate rental unit and $96,300 per new market-rate ownership unit. The economic feasibility analysis in the nexus study determined that the maximum fees allowing a reasonable return, therefore not discouraging development, would be $34,000 for rental units and $75,000 for ownership units. Similarly, the current ordinance allows developers to

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[9] http://sd24.senate.ca.gov/news/2016-01-04-senate-announces-%E2%80%9Cno-place-home%E2%80%9D-initiative-tackle-homelessness-california
[10] http://www.makeitfairca.com/

satisfy the Fee requirements by providing below market rate units equivalent to 10 percent of the number of market rate units, but the new nexus study shows a need to 25.55% of new rental households and 29.16% of new ownership units. The Council has the opportunity to change the current Affordable Housing Mitigation Fee requirements in response to these findings.

Generally, staff recommend setting the fee and unit requirements at levels which will yield a mixture of fees and units. Unless and until a new predictable source of funding is secured for the Housing Trust Fund, Affordable Housing Mitigation Fee revenue will be important to funding affordable housing development in Berkeley. Of the six developments subject to the Affordable Housing Mitigation Fee currently in or near construction and working with HHCS, five have indicated their intent to provide units. All five received density bonuses for providing affordable units. Based on this experience and the City's experience with the Inclusionary Housing Ordinance, it seems unlikely that many more projects would opt to pay the fee if the amount of the fee were increased significantly.

Staff recommend increasing the percentage of in-lieu units required and expanding the affordability levels, as supported by the nexus study. The City's Inclusionary Housing Ordinance for rental housing, now unenforceable, required developers to provide 10 percent of the units affordable at 50 percent of area median income and 10 percent at 80 percent of area median income. Housing units were produced under that requirement, demonstrating that it was not a barrier to development. The new nexus study supports a similar number of units at similar affordability levels. For example, East Bay Housing Organizations (EBHO) advocates requiring 20 percent of units to be affordable as the alternative to paying a fee, with affordability levels as follows:

- 5% for people with incomes at 30% of the area median income (AMI),
- 4% for people with incomes at 50% AMI,
- 5% for people with incomes at 80% AMI
- 6% for people with incomes at 100% AMI[11].

Revised in-lieu terms could help meet the current gap between new subsidized units (typically below 60 percent of area median income) and new market rate units, which the nexus study found to be affordable at close to 100 percent of area median income.

<u>Requiring Fee Payment at Building Permit Issuance</u>

Under the Affordable Housing Mitigation Fee, the fee payment and/or regulatory agreement are due at the certificate of occupancy, when construction is complete. The developer has until that time to decide whether they will provide units or fees. The requirement to pay the fee and/or record a regulatory agreement could be moved to the building permit issuance or any earlier construction document if applicable. Developers

[11] East Bay Housing Organizations letter to City Council dated January 21, 2016.

usually prefer to pay the fee later on in the project for financial reasons. The City of San Francisco requires payment at the first construction document. The Housing Advisory Commission endorsed this change at its January 2016 meeting and will submit a related report to Council.

Differentiation between Small and Large Developments

When the Affordable Housing Mitigation Fee ordinance is revised, staff recommend establishing **two tiers of the program to differentiate between smaller and larger developments**. Five BMR units might be a reasonable dividing point. Projects requiring 5 or more BMR units would either have to pay the mitigation fee or could choose to provide BMR units in lieu of the fee. Developments with 4 or fewer BMR units would be required to pay a fee and would not have the option of providing BMR units in lieu. This would likely improve compliance and reduce the administrative burden. At the front end, this would eliminate the need for staff to spend time negotiating regulatory agreements with smaller, less experienced developers who more frequently have smaller developments. This process tends to take more staff time because these developers have less experience with similar programs and fewer resources to help them understand and evaluate the requirements.

Over the life of the BMR units, larger developments tend to have higher capacity property management staff who are better able to comply with the program's tenant screening and documentation requirements. A property manager responsible for 5 or more BMR units has more regular interaction with, and therefore more expertise with, the BMR program requirements than a development with one or two units, which means they are less likely to make errors and require less on-going assistance to comply.

Requiring a Priority for Housing Choice (Section 8) Voucher Holders

In its December 1, 2015 Council worksession and its December 3, 2015 report to the Housing Advisory Commission, the Berkeley Housing Authority (BHA) addressed the use of Section 8 (now known as Housing Choice) vouchers in BMR units. The Inclusionary Housing Ordinance encourages the use of Section 8 in the resulting units while the Affordable Housing Mitigation Fee does not address it. Although property managers can receive a higher rent from units rented to Housing Choice Voucher-holders, about half of the developments with BMR units have no BHA voucher-holder tenants.

One argument against using Section 8 vouchers in BMR units is that it results in a smaller total number of housing opportunities. Theoretically 20 BMR units could be rented to 20 households, and 20 voucher holder households could secure market rate housing, resulting in 40 affordable housing opportunities. If the 20 vouchers are used to pay rent in the 20 BMR units, the net result is just 20 affordable housing opportunities. However, in the current market, BHA reports that only 15% of voucher holders are able to secure housing within time limits because the cost of housing is so much higher than the voucher payment standard. Prioritizing vouchers in BMR units would help increase the percentage of successful voucher holders, and would allow the BMR units to be available to households with lower incomes.

BACKGROUND
The June 23, 2015 Council report on the Housing Trust Fund Request for Proposals process and the December 1, 2015 worksession report both give details about the current state of funding for the Housing Trust Fund and provide additional background information for this report.

Staffing

HHCS's Housing Services Unit consists of 5 FTEs: a Senior Community Development Project Coordinator, three Community Development Project Coordinators, and an Associate Planner. About 3.5 of these FTEs work on housing programs including:

- The Housing Trust Fund (HTF) administration and monitoring,
- Below Market Rate housing administration and monitoring,
- Condominium Conversion regulatory agreements and subordination requests,
- Monitoring former Redevelopment Agency properties,
- Servicing older City housing-related loans, including subordination requests and repayments,
- Staffing the Housing Advisory Commission,
- Housing policy issues, in collaboration with the Planning Department, including policy reports and worksessions; and
- Other housing-related activities including the possible redevelopment of Berkeley Way and leases of City-owned land.

Current staffing is adequate for the continued functioning of these programs at the current levels. Each HTF-funded project includes a myriad of details that need to be addressed in order to ensure compliance with HUD requirements, City contracting requirements, and good real estate lending practice, and to help leverage other funding sources by negotiating City requirements in conjunction with other lenders.

As the portfolio of units to be monitored increases, the need for staffing for monitoring may increase. Increases in the housing funds available may increase staffing needs as well. For example, moderate increases in funding that resulted in larger value loans for a similar number of projects would not affect staffing. Large increases in funding would require additional staffing to administer.

In the past, when more funding was available and the City was participating in the large and complicated Oxford Plaza/David Brower Center project, the department had an additional Community Development Project Coordinator assigned to development, a Senior Management Analyst who worked part of the time on housing policy issues, and a Housing Services Manager. Staffing has been reduced over time for budget reasons.

ENVIRONMENTAL SUSTAINABILITY
No direct environmental sustainability effects are associated with the content of this report.

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Attachments:
1: Possible Alternative Sources for the Housing Trust Fund

Possible Alternative Sources for the Housing Trust Fund

Discussion of new possible sources appears in Attachment A: Options for Sources for the Housing Trust Fund:

A **tax on market rate rental housing** was discussed at the November 17 worksession. The analysis for this proposal looked at increasing the business license tax on rental properties from the current rate of 1.081% to 2.88%, 3.88% or 4.88%. Such a vote could be adopted with a majority vote of the electorate, as long as the proceeds are not limited to use for housing. The analysis included several possible exemptions, including buildings within the first ten years of construction, BMR units, units with long-term rent-controlled occupancies, and units receiving rental assistance through Section 8, Shelter Plus Care, or a similar program. In the resulting scenarios, the revenue increase ranged from about $4.5 million to $12 million per year.

The tax on market rate rental housing has the potential to yield significant resources for the Housing Trust Fund. The proposed exemptions are logically consistent with supporting affordable housing. The feasibility and efficiency of collecting such a tax will depend on the number and type of exemptions included. For example, exempting a unit with a long term tenancy would require the property manager to provide and City staff to verify and track documentation of the length of tenancy. A unit occupied by a tenant with a Shelter Plus Care certificate issued by Alameda County would require a different type of documentation.

While the process for a single unit is relatively simple—even factoring in follow-up for incomplete documentation—completing this process for every unit in the City requesting an exemption, a number potentially in the thousands, would require a significant amount of staff time. The City's last effort to collect documentation on every unit every year, the Gas Heating Certification Program, was amended to require documentation every five years before being eliminated entirely due to the administrative burden. Administering such a tax would require additional staffing and could not be absorbed into existing staffing.

A **per-square-foot tax on all residential and commercial properties** was suggested by the Berkeley Rental Housing Coalition at the November 17 worksession. This would require a two-thirds vote of the electorate, which makes it more difficult to pass.

Expanding the business license tax to include rental properties with four or fewer units was also suggested by the Berkeley Rental Housing Coalition at the November 17 worksession. This would require a majority vote of the electorate if the use of the proceeds were not limited to housing.

A local density bonus program has also been discussed by Council. At its April 28, 2015 meeting, the Council passed a referral to the City Manager, Housing Advisory Commission, and Planning Commission to develop a local density bonus ordinance that would allow developers of market-rate housing to pay a mitigation fee to qualify for a density bonus. The referral outlined the concept of allowing developers to pay into the

Housing Trust Fund to qualify for a density bonus, instead of providing affordable units as under state density bonus law.

Tax increment "boomerang" funds have been dedicated to affordable housing by Alameda County, Oakland, and San Francisco. "Boomerang" is a term that has been used to refer to tax increment revenue that previously would have gone to redevelopment agencies before they were eliminated, but now goes directly ("boomerang") to jurisdictions' general funds. When redevelopment agencies existed, twenty percent of these funds would have been dedicated to low and moderate income housing activities. Because Berkeley was already in the process of winding down its redevelopment activities before the elimination of redevelopment agencies statewide, the elimination of the Berkeley Redevelopment Agency probably made little if any impact on the amount of tax revenue going to the City, and at this point, has been budgeted into the General Fund.

A **new real estate transfer tax** of $9 per each $1,000 on all sales with a value over $1 million was considered, but not adopted, by Santa Monica voters. The measure would have increased the transfer tax rate from $3 per $1,000 to $12 per $1,000.[12] A similar measure would require two-thirds of the vote. Voters did pass the companion advisory measure to apply the proceeds to affordable housing, which only required a simple majority.[13] According to the Bay East Association of Realtors, Berkeley and Oakland have the highest local transfer taxes in Alameda County of $15 per $1,000 of the sale or transfer price in addition to the countywide rate of $1.10 per $1,000.[14] By comparison, San Francisco's transfer tax is equivalent to $7.50 per $1,000 on properties valued at $1 to $5 million, $20 per $1,000 for properties at $5 to $10 million, and $25 per $1,000 per properties above $10 million.[15]

Other cities have, with approval from the voters, raised or dedicated **property tax revenue** to pay for affordable housing development. Seattle voters have passed a property tax increase ("Housing Levy") to fund housing five times, first in 1981 and most recently a seven-year measure in 2009 which provided $145 million for housing.[16] In California, property taxes are limited by Proposition 13. In November 2015, San Francisco voters approved issuing $310 in general obligation bonds which will be repaid through property taxes.[17] This type of measure requires a supermajority (2/3rds of the vote). San Francisco's 2015 housing measure passed with 74% approval.

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[12] http://santamonicacityca.iqm2.com/Citizens/Detail_LegiFile.aspx?Frame=&MeetingID=1042&MediaPosition=&ID=1421&CssClass

[13] http://www.smgov.net/departments/council/agendas/2014/20140708/s2014070808-B.htm

[14] http://www.bayeast.org/gov/transfer-tax

[15] http://www.sfassessor.org/recorder-information/recording-document/transfer-tax

[16] http://www.seattle.gov/housing/levy/

[17] https://ballotpedia.org/City_of_San_Francisco_Housing_Bond_Issue,_Proposition_A_(November_2015)

Other sources of funds identified by the Housing Trust Fund Project, a project of the Center for Community Change, include:[18][19]

- **Transit occupancy tax revenue**;
- **Business license fees**;
- **Proceeds from sale or lease of City-owned property**;
- **Sales or use taxes**; and
- **Document recording fees**.

More analysis would be needed on most of these possible sources to determine their potential locally.

[18] http://housingtrustfundproject.org/housing-trust-funds/city-housing-trust-funds/
[19] http://housingtrustfundproject.org/wp-content/uploads/2011/10/2007-Housing-Trust-Fund-Progress-Report-2.pdf