



Jesse Arreguín
City Councilmember, District 4

ACTION CALENDAR
February 9, 2016

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Allocating Additional Property Transfer Tax Revenue to the Housing Trust Fund

RECOMMENDATION

Adopt a Resolution modifying Council Budget Development Policies to allocate 25% of Funds from the Property Transfer Tax above \$10.5 million to the Housing Trust Fund. The remaining 75% of funding in excess of \$10.5 million will be allocated to the Capital Improvement Fund (Fund 610)

BACKGROUND

The cost of purchasing a single-family home in Berkeley has increased significantly over the past ten years. Currently the median price for a new home is over \$1 million. A new home selling for the median price of \$1 million generates \$15,000 in transfer tax revenue for the city.. This has resulted in a roughly 67% increase in Property Transfer Tax revenue to the General Fund. Over the past five years, revenues from this fund have increased from \$9,111,630 (FY2011) to \$15,178,243 (FY2015).

In 2006, Council first adopted a Budget Development Policy that allocates any excess transfer tax revenue above \$10.5 million to the General Fund as one-time revenue available for one-time capital improvement expenditures (fund 610). While revenue from the Transfer Tax is inconsistent, staff analysis of historical revenues place \$10.5 million as the reoccurring level. Transfer Tax revenue dipped to \$8 million in FY2010 as a result of the Great Recession, but has been on the rise ever since.

At the December 1, 2015 Council Worksession, City Staff provided updates on the balance of the Housing Trust Fund (HTF) and requests for funding. According to the report, as of November 5, 2015, there is \$2,567,578 available funds in the HTF¹. The report also lists affordable housing developments which are in the pipeline and the total funds needed to move these projects forward. It is estimated the total amount of HTF

¹ As of 11/5/15, the total balance in the HTF is \$3,067,578, but staff is working on a proposal to give \$500,000 to the Northern California Land Trust, leaving an available balance of \$2,567,578. The City Council is also considering several proposals which may change the amount of funds in the HTF by the time this report goes to Council. A copy of the report can be downloaded here: http://cityofberkeley.info/Clerk/City_Council/2015/12_Dec/Documents/2015-12-01_WS_Item_03_Below_Market_Rate_Housing.aspx

needed to complete these projects would be between \$16.8 million to \$36.8 million by 2018, or 6.5 to 14.3 times the total amount currently available.

Since adoption of the Budget Policy allocating funds in excess of \$10.5 million to capital needs, new sources of revenue have become available for infrastructure needs. For example, Measure M (2012), Measure F (2014) and Measure BB (2014) among many other state, regional, and local measures provide recurring funding for transportation, green infrastructure, parks, and other infrastructure projects. During the same time period, funding for affordable housing projects, especially at the state and federal levels, has decreased significantly. Historically, the main source of funding for the Housing Trust Fund was the HOME Investment and Partnership Program, providing on average \$1.3 million a year to the HTF between FY2000-FY2012. This has since been reduced to \$560,000, and it is unclear if the program will even continue in future years.

Adoption of this recommendation to allocate 25% of Property Transfer Tax revenue above \$10.5 million to the HTF would provide the recurring revenue for affordable housing needed to address the crisis that we are facing. For example, under this new policy taking FY 2015 revenues would have resulted in \$1,169,561 to the HTF.

The City Council has previously voted to earmark Transfer Tax revenue for affordable housing. In 1991, in an effort to supplement limited resources for affordable housing, the Council passed an increase in the transfer tax from 1% to 1.5% with the intention of using the additional 0.5% in revenue as a dependable local revenue stream for the Housing Trust Fund and community development activities.

Berkeley is facing an affordability crisis, which is making it difficult for low-income and middle-income residents to afford to live in our city. There is a critical need for more resources for affordable housing. With a number of large multi-family properties to be sold in recent months and a hot residential real estate market, now is the time to dedicate revenue from the Transfer Tax to address one of Berkeley's most critical challenges - the lack of affordable housing.

FINANCIAL IMPLICATIONS

This proposal will not change the rate of the Transfer Tax, currently at 1.5%, and therefore will have no net financial change. This proposal will change the way the monies received from the tax are spent, and will increase funds provided to the Housing Trust Fund.

ENVIRONMENTAL SUSTAINABILITY

No adverse effects to the environment.

CONTACT PERSON

Jesse Arreguin, Councilmember, District 4 510-981-7140

Attachments:

- 1: Resolution
- 2: December 1, 2015 Worksession Report on the Housing Trust Fund

RESOLUTION NO. ##,###-N.S.

MODIFYING COUNCIL BUDGET DEVELOPMENT POLICIES TO REQUIRE THE ALLOCATION OF 25% OF PROPERTY TRANSFER TAX FUNDS ABOVE \$10.5 MILLION TO THE HOUSING TRUST FUND

WHEREAS, Berkeley is facing a housing affordability crisis, which has made it difficult for low-income and middle-income residents to live in our community; and

WHEREAS, current available funds in the Housing Trust Fund (HTF) are \$2,567,578; and

WHEREAS, the amount of funding needed from the HTF for new affordable housing projects over the next three years range from \$16.8 million to \$36.8 million; and

WHEREAS, the cost of property in Berkeley has risen substantially over the last few years, with a number of large multi-unit properties announced for sale; and

WHEREAS, this has resulted in increased revenue from the Property Transfer Tax, increasing from \$9,111,630 to \$15,178,243 over the past five years, an increase of over 67%; and

WHEREAS, the City Council's adopted budget development policies include the following policy, "*Transfer Tax in excess of \$10.5 million will be treated as one-time revenue to be used for the City's capital infrastructure needs (fund 610)*"; and

WHEREAS, this policy by Council starting with the FY 2006 budget was adopted to address the critical shortage of funding for capital improvement needs; and

WHEREAS, since the adoption of this policy, Council has allocated excess revenue above \$10.5 million from the Property Transfer Tax to the Capital Improvement Fund; and

WHEREAS, funding for capital improvements has increased over the past ten years as a result of new bonds, grants, and increased rates from local, regional, and statewide sources; and

WHEREAS, funding for affordable housing projects has decreased over the same time period, especially from federal programs such as the HOME Investment and Partnership Program, which historically provided \$1.3 million in funding to the HTF, but now only provides \$560,000 with the program at risk of being eliminated; and

WHEREAS, additional funding to the HTF is crucial to achieving the goals of the 2015-2023 Berkeley Housing Element for providing housing for low, very low, and extremely low income households.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that its adopted Budget Development Policies are hereby modified as follows:

- Focusing on the long-term fiscal health of the City by adopting a two-year budget and conducting multi-year planning;
- Building a prudent reserve;
- Developing long-term strategies to reduce unfunded liabilities;
- Controlling labor costs while minimizing layoffs;
- Allocating one-time revenue for one-time expenses;
- Requiring enterprise and grant funds to balance and new programs to pay for themselves; and
- Any new expenditure requires revenue or expenditure reductions.
- Allocate 25% of funds from the Transfer Tax in excess of \$10.5 million to the Housing Trust Fund. The remaining 75% of funds in excess of \$10.5 million from the Transfer Tax will be treated as one-time revenue to be used for the City's capital infrastructure needs (fund 610).
- As the General Fund subsidy to the Safety Members Pension Fund declines over the next several years, the amount of the annual decrease will be used to help fund the new Police Employee Retiree Health Plan (fund 903).



Office of the City Manager

WORKSESSION
December 1, 2015

To: Honorable Mayor and Members of the City Council
 From: *DWR* Dee Williams-Ridley, Interim City Manager
 Submitted by: Kelly Wallace, Acting Director, Health, Housing & Community Services
 Subject: Below Market Rate Housing and Housing Trust Fund Program Status

INTRODUCTION

This report provides background information for some of the topics to be discussed at the December 1, 2015 worksession on housing, and to answer specific questions that have been asked of Housing & Community Services Division staff.

CURRENT SITUATION AND ITS EFFECTS

Items to be discussed at the December 1, 2015 worksession include:

- Housing Trust Fund Loan for \$1,000,000;
- Match All National Housing Trust Fund Grants Awarded to Recipient Projects in Berkeley
- Housing Advisory Commission referral: Revise or Waive Housing Trust Fund Guidelines on Predevelopment Funds to Facilitate More Viable Applications to Upcoming Funding Cycles
- Creating a Comprehensive Affordable Housing Action Plan by Considering 27 Housing Proposals and Referring to the Housing Advisory Commission and Rent Stabilization Board.

BACKGROUND

This report provides an update on the Below Market Rate and Housing Trust Fund programs to inform the Council's housing policy discussion on December 1, 2015.

What information do we have about the housing market?

The most recent data about the housing market that staff have appears in the Nexus Study. According to the Nexus Study, the average market-rate rent ranges from \$1,105 for a studio to \$2,914 for a 4-bedroom apartment. It states: "The data presented above indicate that market-rate rental units are generally not affordable to households earning the median income for Alameda County. For many households that earn less than the median income, market-rate rents are substantially higher than the affordable rental amount. The previous (2010) Nexus Study for the Berkeley's Housing Impact Fee found that households earning more than 65 percent of AMI were generally able to afford

market-rate rental units, indicating that market-rate units were substantially more affordable at the time when the 2010 Nexus Study was conducted.”

With regard to multifamily homeownership (condos), the Nexus Study stated “...as of July 2014, the median home sale price in Berkeley was \$785,000, an increase of 21 percent over the July 2013 median.” That price exceeded the pre-recession peak, when the median home sale price was \$713,000. “Only 12 percent of condominiums recently sold in Berkeley were affordable to households earning 100 percent of AMI, and only five percent were affordable to households earning 80 percent of AMI.”

The entire Nexus Study is available online at:

<http://www.cityofberkeley.info/recordsonline/export/16856136.pdf>

The Planning Department is currently working with a consultant to prepare an update to the Nexus Study examining the issue of the replacement of historically affordable units. *What are the City’s BMR rental requirements and how many units have been created?*

In 2010, as a result of the Palmer court decision, the City replaced its Inclusionary Housing Ordinance requirements for rental housing with the Affordable Housing Mitigation Fee. The Inclusionary Housing Ordinance only included an in-lieu fee option for ownership units, not for rental. Developments were subject to whichever requirement was in place at the time they obtained a Use Permit. Together these requirements are referred to as the City’s Below Market Rate (BMR) program.

The Affordable Housing Mitigation Fee (AHMF) requires new market rate developments to provide affordable housing units equal in number to 10% of the market rate units, or to pay a fee of \$28,000 per market rate unit, or provide a combination of units and fee. In February 2013, Council adopted a resolution that discounted the fee to \$20,000 for projects which were already in the development process. This discount is still in place, pending completion of the new Affordable Housing Mitigation Fee Nexus Study. As long as the Use Permit addresses both options, developers have until the Certificate of Occupancy is issued to decide which to provide. In most cases, developers choosing to provide units on site in lieu of paying the fee also receive credit under the state Density Bonus law, allowing them to increase the number of market rate units produced.

As of October 30, 2015, a total of 334 BMR rental units have been created in 27 developments, 330 under the previous Inclusionary Housing Ordinance when paying an in-lieu fee was not an option for rental properties, and four since the adoption of the AHMF. An inventory of developments appears in ***Attachment 1: Below Market Rate Rental Inventory***.

Although program requirements have changed over time, all of the homes created through market rate developments regulated by the City’s BMR requirements are for households earning 81% of area median income or less. Federal programs treat 80% of area median income and below as “low income.” To date, the City has not required

developers to provide “workforce” or “moderate income” housing, meaning definitions above 80% of area median.

How many units have been created and fees paid under the AHMF so far?

As of this writing, one development permitted under the AHMF has been completed: the Aquatic at 800 University Avenue. That project provided four BMR units and a fee of \$280,000. The Varsity at 2024 Durant / 2025 Channing has paid a fee of \$1.58 million and will soon be issued its final Certificate of Occupancy.

One other project permitted under the AHMF is in construction. 1935 Addison will owe \$1.38 million.

The following table shows developments subject to the Affordable Housing Mitigation Fee currently in some stage of working with the Department of Health, Housing & Community Services on a new or revised Regulatory Agreement. This is not a comprehensive listing of all developments with a Use Permit including BMR requirements.

**Developments Subject to the Affordable Housing Mitigation Fee Requirement,
Currently Working with HHCS on a Regulatory Agreement**

| Address | Density Bonus? | BMR Units | Fee |
|----------------------------------|----------------|----------------|------------------------------|
| Dwight 2107/2121 | Yes | 9 | \$0 |
| Tenth 1920 | No | 0 or 1 | \$20,000 or \$240,000 |
| University 1698 | Yes | 4 | \$60,000 |
| University 1808-14 / Overture | No | 4 | \$0 |
| University Ave. 1974 / Stonefire | Yes | 8 | \$200,000 |
| Total | | 25 - 26 | \$280,000 - \$500,000 |

The table below shows other projects HHCS staff are currently working with which received Use Permits under the Inclusionary Housing Ordinance

| Address | BMR Units | Plus Fractional Fee? |
|--|-----------|------------------------|
| Fidelity Building (2319 Shattuck Ave) | 3 | Yes. TBD, for 0.2 unit |
| Parker Place (2598-2600 Shattuck Ave.) | 31 | No. |
| Stranda (2489 MLK Jr. Way) | 3 | Yes. TBD, for 0.4 unit |
| TOTAL | 37 | |

The AHMF assessed on commercial developments is expected to result in the following funds in FY2016:

| Address | Fee |
|--|------------------|
| 740 Heinz | \$180,672 |
| Spengers (4 th /5 th Hearst) | \$51,957 |
| TOTAL | \$232,629 |

How much money for the Housing Trust Fund has the City received through fee programs?

| Fee Program and Fund Code | First Year | Total Received |
|--|-------------------|-----------------------|
| Inclusionary Housing Fund (254) | FY 2006 | \$867,400 |
| Condo Conversion Fund (258) | FY 2009 | \$1,614,305 |
| Affordable Housing Mitigation Fee | FY 2011 | \$1,860,000 |
| Housing Mitigation Fee on Commercial Development (250) | FY 1992 | \$3,269,611 |
| Total | | \$7,611,316 |

*** These figures reflect total cumulative revenues to date from each fee source and DO NOT reflect amount available for future projects.*

What incomes and rents are allowed for BMR rental units?

The older Inclusionary Housing Ordinance included requirements for units affordable to households earning 50% and 80% of area median income, and the current AHMF requires all units to be at 50% of area median income. A few past developments were approved with slightly different terms, including units at 60% and 81% of area median, and are subject to the terms of those regulatory agreements.

The rent schedule established under the Inclusionary Housing Ordinance established rent and income limits based on the square foot size of each unit, rather than number of people and bedrooms, as is customary under federal housing programs. The following table shows the income and rent limits for the most commonly required income levels, 50% and 80% of area median.

Please note, one of the main differences between units produced on-site in developments and those produced through funding from the HTF is that at least 60% of all units in an eligible HTF project must be affordable, and of those, 40% of the units must be affordable to households whose income does not exceed 60% of AMI, and 20% of all units must be affordable to households whose income does not exceed 30% of AMI.

**Inclusionary Housing Income and Rent Limits by Unit Area
for the Most Commonly Required Income Levels**

| Minimum Square Footage | <400 | 400-599 | 600-699 | 700-849 | 850-999 | 1,000-1,199 | 1,200 and above |
|---|----------|----------|----------|----------|----------|-------------|-----------------|
| Equivalent Unit Type | Studio | Studio | Studio | 1 BR | 2BR | 3BR | 4BR |
| Household Size | 1 | 1.25 | 1.5 | 2 | 3 | 4 | 6 |
| Income Limits @ Initial Certification* | | | | | | | |
| COB Income at 50% of AMI | \$32,550 | \$33,713 | \$34,875 | \$37,200 | \$41,850 | \$46,450 | \$53,900 |
| COB Income at 80% of AMI | \$52,080 | \$53,940 | \$55,800 | \$59,520 | \$66,960 | \$74,320 | \$86,240 |
| Gross Rents² | | | | | | | |
| Inclusionary Gross Rent at 50% AMI | \$814 | \$843 | \$872 | \$930 | \$1,046 | \$1,161 | \$1,348 |
| Inclusionary Gross Rent at 80% of AMI | \$1,302 | \$1,349 | \$1,395 | \$1,488 | \$1,674 | \$1,858 | \$2,156 |
| Inclusionary Gross Rent at 120% of AMI | \$1,953 | \$2,023 | \$2,093 | \$2,232 | \$2,511 | \$2,787 | \$3,234 |

**These figures fluctuate with the latest AMI figures provided by HUD.*

How does the City ensure that rental BMR units are rented to qualified tenants at allowable rents?

The City's compliance program includes five main components:

1. Affordability requirements are included in the Use Permit, and developers are required to enter into a Regulatory Agreement which is secured on the property prior to obtaining a Certificate of Occupancy;
2. Property managers are required to prepare a marketing plan including outreach to low income households and acceptable the City before leasing up the property;
3. Before a tenant can move into each BMR tenant, the property manager must submit complete tenant information, including third party evidence of income, such as pay stubs and bank statements, to the City to review, approve, and confirm the rent calculation;
4. The owner must recertify each household annually to confirm continue eligibility, and provide an annual report online showing compliance; and
5. Staff visit each property every three years to review the physical state of the property and documentation of program compliance.

What is the available balance in the Housing Trust Fund?

The balance of funds in the Housing Trust Fund (HTF) as of this writing on November 5, 2015 is \$3,067,578. As a result of the 2015 HTF funding process, staff are still working with the Northern California Land Trust on their proposal for up to \$500,000 of this balance, leaving \$2,567,578 available.

This total includes the \$280,000 fee paid by the Aquatic under the AHMF, referenced above. It also includes funds which staff had previously recommended setting aside because HUD had indicated its interest in recapturing \$265,579 in HOME funds and \$271,588 in CDBG funds that the City expended on the Prince Hall Arms project in the late 1990s. HUD completed a monitoring visit to the City's HOME program in June of this year with no findings. In September, the City received a letter saying that, because the Harper Crossing affordable housing development project on the former Prince Hall Arms site was moving forward, HUD would no longer move to recapture the HOME funds. Therefore the funds no longer need to be retained for that purpose.

| Housing Trust Fund Available Balance 11/05/2015 | |
|--|--------------------|
| Source of Funds | Amount |
| CDBG | 26,340 |
| Housing Mitigation Fee (Commercial) | 228,525 |
| Inclusionary In Lieu Fee | 225,408 |
| Condo Conversion Fee | 727,305 |
| Housing Mitigation Fee (Residential) | 1,860,000 |
| HTF Total | \$3,067,578 |

Note: At its June 23, 2015 meeting, Council directed staff to continue working with Northern California Land Trust (NCLT) on their request of \$500,000 for their scattered site properties. Any resulting fund allocation would need to come from this balance.

All of the funding now available for allocation in the Housing Trust Fund came from fees, and has accrued over a period of time. Fee income is variable with the market and the timing difficult to predict precisely because it depends on individual development project timelines.

Historically, the most consistent source of funds in the HTF has been HOME funds. From FY 2000 through FY 2012, the City received an average of nearly \$1.3M in HOME funds annually. The HOME allocation peaked in FY 2005 when the City received \$1.5M. From FY 2012 to FY 2013, however, the allocation was cut by over one-half, largely in response to a series of articles in the *Washington Post* about misused funds and failed projects nationwide. The City's FY2016 allocation of HOME funds is \$562,305. Ninety percent of this allocation is placed in the HTF and ten percent is used

for program delivery costs. Earlier this year, the Senate's FY 2016 spending bill included a 93% reduction in HOME funds, effectively eliminating the program in response to budget caps. Elimination of the HOME program would also result in a loss of approximately \$50,000 per year that supports staff working on the HTF. The FY16 federal budget has not been finalized so we are unsure what level of cuts to the HOME funds might be adopted.

Some housing advocates and analysts predict that HOME will eventually be eliminated due to the damage to its reputation from the Washington Post investigation and the introduction of the National Housing Trust Fund. Certain federal budget proposals include using NHTF to fund the HOME program, and some housing advocates think NHTF is being considered as a replacement for the HOME program.

When was the last Housing Trust Fund Request for Proposals (RFP) process?

The City last released a Request for Proposals on February 2, 2015. Responses were due March 16, 2015. At its June 23, 2015 meeting, with Resolution 67,084-N.S., the City Council committed a total of \$1,337,000 to Strawberry Creek Lodge and William Byron Rumford, Sr. Plaza. Both contracts were executed in August.

At that time, Council also directed staff to continue working with the Northern California Land Trust (NCLT) to develop a renovation proposal, including a revised scope and budget, for one to two sites that could be funded with local funds, and return to the Housing Advisory Commission's (HAC) HTF Subcommittee and HAC for review. Staff has met with NCLT and NCLT is working on a predevelopment loan proposal to move the project forward.

This was the first RFP conducted by the City since 2012. The 2012 process followed up on developments originally proposed in 2010. Because of the limited and unpredictable amount of funds available in the HTF, it took several years to see these projects through to completion.

What Housing Trust Fund projects have been completed recently?

The following table shows developments completed in 2014 and 2015.

Developments with a Housing Trust Fund Loan, completed in 2014 or 2015

| Development Name | Total Units | Total Amount Of City Financing | Type |
|---------------------------------|--------------------|--|-------------|
| Strawberry Creek Lodge | 150 | \$819,892 | rehab |
| Berkeley 75 | 75 | \$400,000 and land lease plus \$300,000 for Berkeley Housing Authority predevelopment work | rehab |
| U A Cooperative Homes (UACH) | 47 | \$1,213,016 and land lease | rehab |
| U A Homes | 74 | \$1,955,407 | rehab |
| Total | 346 | \$4,688,315 | |

What affordable housing developments are in the pipeline?

The following developments have received a commitment of City funds. More information about their status appears below the table.

Developments with a loan or loan commitment, in predevelopment

| Development Name | Total Units | Total Amount Of City Financing | Type |
|--------------------------------|--------------------|--|--|
| Berkeley Way (City owned site) | TBD | \$50,000 | New construction/ predevelopment loan |
| Grayson Street Apartments | 23 | \$1,095,000 | new construction |
| Harper Crossing | 42 | \$1,821,839 and discounted land sale | new construction |
| William Byron Rumford Plaza | 43 | \$4,665,648 | rehab |
| Total | 108+ | \$7,632,487 | |

Additional information about the status of developments in the pipeline follows.

Berkeley Way. The City entered into a Memorandum of Understanding with BRIDGE Housing and the Berkeley Food and Housing Project (BFHP) in December 2014, and committed a predevelopment loan of \$50,000. Under the MOU, BRIDGE and BFHP will investigate alternatives for developing the site consistent with the priorities identified by Council and included in the Request for Qualifications which resulted in their selection by Council on September 9, 2014. They will meet with the Homeless Commission and

Housing Advisory Commission in November and December 2015 before submitting their proposal to the City by the end of December. Once staff complete their review and any necessary follow up with BRIDGE and BFHP, staff will present the proposal to Council for further direction.

In their response to the City's recent Request for Information, BRIDGE and Berkeley Food and Housing Project provided the following update:

The Berkeley Way project is a proposed mixed use development. The site is currently a City-owned surface parking lot, with 112 public parking spaces. BRIDGE Housing and Berkeley Food and Housing Project ("BFHP") entered into an MOU with the City and are currently working through project feasibility. BRIDGE is proposing to build approximately 120 units of housing, while the BFHP building will include approximately 30 units of permanent supportive housing, 60 units of transitional housing, and services spaces in the HOPE Center. In addition, the proposed project will replace the existing public parking.

Other projects in the pipeline are:

- **Grayson Street Apartments.** The City loaned over \$1 million to Satellite Affordable Housing Associates for site acquisition and certain predevelopment costs. SAHA applied for an additional \$1 million in the 2015 Housing Trust Fund RFP but was not awarded funds. SAHA is currently seeking project-based Section 8 vouchers from the Berkeley Housing Authority and have started working with City staff to evaluate opportunities for Affordable Housing and Sustainable Communities (AHSC) ("cap and trade") funds. Depending on SAHA's success with these sources, they may request additional HTF funds.
- **Harper Crossing.** This SAHA project has full funding and will start construction by December 2015.
- **William Byron Rumford Sr. Plaza.** This Resources for Community Development project has full funding and will start construction in spring 2016.

In addition, staff are still working with the Northern California Land Trust (NCLT) on their request for \$500,000 in the last Housing Trust RFP round. Staff recommend providing a predevelopment loan first, and are currently working with NCLT on their proposal.

How much funding are affordable housing developers seeking for Berkeley projects?

City staff issued a Request for Information (RFI) on November 6, 2015, and submitted the request to individuals representing 30 different developers and housing organizations. Staff received five responses from Bay Area Community Land Trust (BACLT), BRIDGE Housing and Berkeley Food and Housing Project, Northern California Land Trust (NCLT), Resources for Community Development (RCD), and Satellite Affordable Housing Associates (SAHA).

Respondents identified a need for \$515,000 to \$885,000 in predevelopment funding from the City of Berkeley. In addition, BRIDGE Housing and BFHP projected a need to \$2 to \$4 million in total predevelopment financing in the event the Berkeley Way project moves forward, and may request predevelopment funding in addition to the \$50,000 they have already received for the feasibility study period. Additional predevelopment funding for Berkeley Way would increase the total above the amount mentioned above.

Respondents were also asked to identify the amount of permanent financing that would be needed for the resulting developments. The total amount of Housing Trust Fund estimated as required to complete all of these projects would be \$16.8 to \$36.8 million by 2018.

The RFI responses are summarized in the following table:

| Project Name, Address and Number of Units | Status of Project | Amount of predevelopment funding sought from HTF | Amount of permanent HTF loan sought and year needed |
|---|---|--|--|
| <i>Bay Area Community Land Trust</i> | | | |
| Brown Shingle Mutual Housing, 2550 Ellsworth St. 13 units, to be a co-op. | Site acquired. 2 units need substantial rehab. | \$30,000-\$40,000 | \$120,000 - 2016 |
| Ludins House. 2839 Ashby Ave. House w/ 8 BRs, to be a co-op. | In contract. Needs some permanent financing and minor rehab. | \$20,000 | \$120,000 gap financing - 2016 |
| Fish House, 1808 Bancroft Way, House w/ 8 BRs, to be a co-op. | Owner has agreed to sell off market; seeking financing; no rehab anticipated | \$20,000 | \$120,000 gap financing - 2016 |
| <i>BRIDGE Housing & Berkeley Food and Housing Project</i> | | | |
| Berkeley Way Parking Lot 2012 Berkeley Way Estimating 150 units plus transitional housing and service space | Currently in feasibility phase. <i>(See narrative in predevelopment status section above for more information)</i> | \$50,000 from HTF (previously awarded) <i>(if the project moves forward, total predevelopment costs will range from \$2 to \$4 million)</i> | \$5-\$8 million - 2018 |

| <i>Northern California Land Trust</i> | | | |
|--|--|--|---|
| NCLT-owned rental rehab. Total of 4 possible sites with 23 units | Existing, occupied affordable housing. In mid-financing of 20yr rehab. | \$20,000-\$50,000 | \$250,000-\$500,000 |
| Small-sites acquisition program/displacement mitigation. Several identified opportunity sites. | Seeking sites. Business planning funds awarded through AHEAD. | \$25,000 per site for pre-development and deposit funds. | Avg project.size 5-10 units, expect 5 sites in 16-17 FY. \$50,000-100,000 per unit in permanent subsidy. (upwards of \$5 million) |
| <i>Resources for Community Development</i> | | | |
| New construction affordable housing. 30-100 units No site secured. | No site identified. In discussions and exploration on several Berkeley sites. | \$100,000-\$150,000 when site identified | TBD. Likely \$75,000-\$100,000 per affordable unit. Date also TBD when site identified. Likely 2016 to 2018. (upwards of \$10 million) |
| Acquisition and rehabilitation of existing rental housing. Likely 30-75 units. No site secured | No site identified. Seeking site and determining feasibility of this approach | \$100,000-\$150,000 when site identified. | TBD. Likely \$75,000-\$100,000 per affordable unit. Date also TBD when site identified. Likely 2016 to 2018. (upwards of \$7.5 million) |
| <i>Satellite Affordable Housing Associates</i> | | | |
| Grayson Street Apartments 2748 San Pablo Ave 23 units | Fee title ownership of fully entitled site; plans at 60% CD; five funding sources secured. | n/a | \$1.4 million / by March 2016 |
| Pipeline project 1 North Berkeley | Community partner owns development site. Negotiating ENA to begin entitlements. | \$100,000-200,000 | \$2 million / by March 2017 |

| | | | |
|--|--|-------------------|--------------------------------|
| Pipeline project 2 San Pablo corridor | Private site identified. Negotiating with seller to establish site control. | \$100,000-200,000 | \$2 million / by March 2018 |
|--|--|-------------------|--------------------------------|

The respondents were also asked for information regarding the other sources of predevelopment funding they commonly used. Developers indicated a range of predevelopment funds used in conjunction with City financing, including developer capital, lines of credit, and loans or grants from organizations such as the Federal Home Loan Bank, Enterprise, Local Initiatives Support Corporation, Low Income Investment Fund, and Northern California Community Loan Fund.

What tasks do City staff have in administering the Housing Trust Fund?

City staff work with developers throughout the development process on a range of tasks:

- Develop Request for Proposals application process and reach out to developers to solicit applications;
- Review proposed projects for feasibility;
- Summarize and review projects with Housing Advisory Commission;
- Report to Housing Advisory Commission and Council on status of projects;
- Draft and negotiate loan documents, which typically include a Development Loan Agreement, Deed of Trust, Promissory Note, and Deed of Trust;
- Coordinate execution of loan documents, typically with time constraints from other funders and HUD;
- Coordinate review and execution of other lenders' required documents, such as subordination agreements;
- Monitor developments during construction period for HUD compliance;
- Track and disburse HTF funds; and
- Act as liaison to other City departments.

Related to the developments mentioned above, City staff in the Housing and Community Services division are in contact with development staff at Satellite Affordable Housing Associates and Resources for Community Development staff on a weekly basis, and in frequent communication with BRIDGE.

Why didn't the City apply for Affordable Housing and Sustainable Communities (AHSC) ("cap and trade") funds?

Earlier this year the state's Strategic Growth Council released the first RFP for the new Affordable Housing and Sustainable Communities program, funded through cap and trade funds. Through this program, housing funding was only available for specific development projects. The City could not have applied for funding for the Housing Trust Fund. Applications had to be submitted by the developer/sponsor or a local jurisdiction on behalf of the specific development project.

At the time applications were due, there were two projects in Berkeley that would have been eligible for the funds, both sponsored by Satellite Affordable Housing Associates: Harper Crossing and Grayson Street Apartments. SAHA decided not to apply for either. For Harper Crossing, SAHA had identified a funding strategy combining Alameda County boomerang funds and Low Income Housing Tax Credits, which was successful. For Grayson Street Apartments, both SAHA and staff thought the development was too small to be competitive. Based on the experience of the first funding round, SAHA believes Grayson Street may be competitive, and has approached the City to work together on an application. A successful application may require the City's participation in a related infrastructure project.

What is the City's role in predevelopment?

Predevelopment funding for affordable housing development typically pays for the costs necessary to prepare a feasible development project. The City's HTF guidelines, last revised and adopted by the City Council in 2009, allow for the use of HTF funds for predevelopment. The HTF guidelines allow for expenses related to architectural fees, market research consultants, expenses related to acquisition of property, preliminary financial applications, reasonable and customary costs of obtaining firm construction loan commitments, architectural plans and construction specifications, zoning approval fees, engineering studies, legal fees, and other costs directly associated with activities prior to development of the property.

Staff are currently working on closing a \$50,000 predevelopment loan to BRIDGE Housing for the Berkeley Way project, and recent projects with predevelopment loans include William Byron Rumford Sr. Plaza, Harper Crossing, and Strawberry Creek Lodge, among others. Due to limitations and timing restrictions in the HOME program, staff recommend using exclusively local funds for predevelopment activities.

The HTF Guidelines indicate that predevelopment loans will typically be for less than \$50,000 unless the HAC recommends a higher amount based on the project's needs and Council approves it, consistent with the City's contracting requirements. (All contracts over \$50,000 must be approved by Council.) If the project moves forward, the predevelopment loan is usually combined into a permanent loan. The Guidelines also specify that no more than \$100,000 or ten percent, whichever is less, of available Fund resources committed to pre-development activities in any single fiscal year.

There are several reasons for limiting the amount of predevelopment funds in a project:

- Predevelopment funding is available from other funders;
- Predevelopment loans are at higher risk of not being repaid and the projects not moving forward, since predevelopment funding is necessary to determine whether a project can proceed; and
- It is a good practice to size any type of development loan to the specific project's needs rather than a previously determined value.

That being said, the City easily can, and frequently has, waived these limits to support developments. For example, the City provided \$75,000 in predevelopment funds for RCD's University Avenue Cooperative Homes project, completed this spring, and waived the 10%/\$100,000 cap to provide \$300,000 to the Berkeley Housing Authority for the public housing rehabilitation project completed a year ago. No changes the HTF Guidelines are necessary to continue this level of support.

What opportunities will result from the National Housing Trust Fund?

The National Housing Trust Fund (NHTF) was created by the Housing and Economic Recovery Act of 2008. That bill required Fannie Mae and Freddie Mac to transfer a percentage of their new income to the NHTF, which will be distributed to states to administer. Because of the sluggish recovery, contributions were suspended until January 1, 2015. HUD expects to start distributions to states by summer 2016. Funds are designated for rental housing for extremely low (30% of area median income) and very low income (50% of area median income) households, with up to 10% allowed to go into homeownership for extremely low and very low income households

AB90, signed by Governor Brown in October, designated the state Department of Housing and Community Development (HCD) to administer the funds through new or existing programs after it develops an allocation plan. The state's analysis projects that for every \$250 million generated for the NHTF, California will receive \$30 million.

HCD has not yet circulated draft NHTF guidelines so the scoring criteria are unknown. It is likely that they will include points for local funding, since this is common in other funding programs. The City would not be eligible to apply directly for NHTF funds. The City's HTF funds, as well as discounted land sales and leases, frequently help projects compete for state funds. For example, in HCD's Multifamily Housing Program, leveraging other funds counts for a total of 20 out of 160 points. Typically the commitment of local funds is needed at the time of application, before the state awards funds. In the past, projects have applied for HTF awards and then applied for state funding.

The City's ability to award HTF funds to help projects leverage NHTF will hinge on the amount of funds available in the HTF.

How much housing has been created through the Housing Trust Fund?

A total of 1,388 units of affordable housing have been created through the Housing Trust Fund since its establishment in 1990. An inventory appears in **Attachment 2**.

ENVIRONMENTAL SUSTAINABILITY

This information report does not recommend any course of action and has no direct environmental effects.

POSSIBLE FUTURE ACTION

Future action will be determined by the Council's actions at the worksession.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Fiscal impacts depend on the course of action chosen by the Council.

CONTACT PERSON

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Attachments:

- 1: Below Market Rate Rental Inventory
- 2: Housing Trust Fund Inventory

Attachment 1: Below Market Rate Rental Inventory

| | PROPERTY ADDRESS | DEVELOPMENT NAME | Total BMR Units |
|------------------------|--|-----------------------------------|------------------------|
| 1 | Addison Street, 651 | Avalon Berkeley | 14 |
| 2 | Addison Street 2002 | ARTech Building | 4 |
| 3 | Allston Way, 2116 | Gaia Building | 18 |
| 4 | Allston Way, 2161 | Allston Place | 12 |
| 5 | Bancroft Way, 2398 | Wesley House | 1 |
| 6 | Center, 2055 | Berkeley Central | 23 |
| 7 | Cherry, 2801 | 2801 Cherry | 1 |
| 8 | Fulton, 2310 | Stadium Place | 15 |
| 9 | Haste, 2110 | Fine Arts Building | 20 |
| 10 | Kittredge, 2020 | Library Gardens | 35 |
| 11 | Martin Luther King Way, 1950 | New Californian (Trader Joe's) | 22 |
| 12 | Martin Luther King Way, 2500 | | 2 |
| 13 | Oxford, 1910 | Berkeleyan | 2 |
| 14 | San Pablo, 2700 | Avenue West | 6 |
| 15 | San Pablo, 3015 | Higby | 15 |
| 16 | Shattuck, 1385 | 1385 Shattuck | 8 |
| 17 | 1797, Shattuck / 2101 Delaware *2 buildings | Hillside Village | 21 |
| 18 | Telegraph, 2616-20 | Telegraph Bay Apartments | 4 |
| 19 | Telegraph, 3001 | Telegraph Gardens | 6 |
| 20 | University, 700 | 4th & U Apartments | 31 |
| 21 | University, 800 | Aquatic | 4 |
| 22 | University, 1116-1132 | Campanile Court | 13 |
| 23 | University, 1370 | Acton Courtyard | 20 |
| 24 | University, 1627 | Renaissance Villas | 6 |
| 25 | University, 2004 | Touriel | 7 |
| 26 | University, 2119 | Bachenheimer | 7 |
| 27 | Heinz, 800 | Durkee Building | 17 |
| Total BMR Units | | | 334 |

Attachment 2: Housing Trust Fund Inventory

| Development Name | Total # of Units |
|--|------------------|
| 1133-1139 Hearst Street | 32 |
| 1320 Haskell Street Condominiums | 5 |
| 1340 Blake Street | 5 |
| 1534 Prince Street | 6 |
| 1849 Shattuck | 24 |
| 1900 Alcatraz Avenue | 9 |
| 2207 Haste Street | 7 |
| 2425 California Street | 6 |
| 2500 Hillegass Street | 19 |
| Addison Court Cooperative Housing | 10 |
| Adeline Street Apartments | 19 |
| Allston Commons (1 of 2) | 10 |
| Allston Commons (2 of 2) | 2 |
| Allston House | 47 |
| Amistad House | 60 |
| Ashby Apartments | 6 |
| Ashby Commons | 6 |
| Ashby Court Apartments | 20 |
| Ashby Lofts | 54 |
| Berkeley 75 | 75 |
| BFHP Transitional House | 13 |
| Bonita House | 15 |
| BUILD-Seventh Street | 6 |
| Casa Buenos Amigos Hsg Cooperative | 4 |
| Channing House | 4 |
| Crossroads Village Mutual Housing Assoc. | 26 |
| Dwight Way Apartments | 16 |
| Erna P. Harris Apartments | 35 |
| Fairview House Cooperative | 9 |
| Fred Finch Youth House | 15 |
| Harmon Gardens | 16 |
| Haskell Street Condominiums | 3 |
| Hearst Studios | 8 |
| Helios Corner | 80 |
| Hope Home | 4 |
| Idaho Street | 1 |
| Lorin Station | 14 |
| Mable Howard | 40 |
| Margaret Breland Senior Homes | 28 |
| McKinley House | 7 |
| MLK House | 11 |

Attachment 2: Housing Trust Fund Inventory

| | |
|------------------------------------|--------------|
| Oxford Plaza | 97 |
| Regent House | 6 |
| Rosevine | 10 |
| Sacramento Senior Homes | 40 |
| Sankofa House | 4 |
| Savo Island Cooperative Homes | 57 |
| Shattuck Senior Homes | 27 |
| Strawberry Creek Lodge | 150 |
| U A Cooperative Homes (UACH) | 47 |
| U A Homes | 74 |
| University Lofts | 29 |
| University Neighborhood Apartments | 27 |
| William Byron Rumford Plaza | 43 |
| TOTAL | 1,388 |