



# REGIONAL HOUSING TRUST WHITE PAPER



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# EXECUTIVE SUMMARY



## INTRODUCTION

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Housing trust funds, or housing trusts, offer a great opportunity to increase housing supply in San Bernardino County, southern California's once affordable residential outpost now on the rise as an economic hub, but with shrinking housing opportunities. There are a variety of administrative structures for housing trusts, but the most impactful is the regional model. Given the limited capacity of local jurisdictions to devote resources to trust administration, and San Bernardino Council of Governments' (SBCOG) well-established role in the region, SBCOG is both qualified to and capable of administering a regional housing trust that would address regional housing needs while minimizing duplication of resources across San Bernardino County. This Executive Summary provides an overview of housing trusts and recommendations for instituting a SBCOG-administered housing trust, which the full white paper discusses in more depth. In addition to expanding on the contents of this Summary, the White Paper includes an analysis of existing housing trusts (Appendix A), including several interviewed for this paper, which serves as the central foundation of the included recommendations.

## FRAMING THE ISSUE

The entire state, including San Bernardino County, faces a significant housing supply and affordability crisis spurred by high land costs, rising construction costs, and limited financing options. While each of these factors has worsened over the last few decades, the most significant change may be the funding void created by lost redevelopment funds, which previously contributed between 30 and 60 percent of per-unit project costs to an affordable housing development.<sup>1</sup> These community challenges have become regional issues with compounding, interrelated impacts on housing supply, homelessness, and economies at the local and regional scale.

In San Bernardino County, housing is a substantial expense, reflecting the largest single monthly expenditure for many individuals and families. Quality housing is not affordable for everyone, and those with lower incomes are most likely to live in unhealthy, overcrowded, or unsafe housing conditions.<sup>2</sup> Housing supply has not kept pace with population growth throughout the region. Instead, growth is being accommodated through increases in persons per household, resulting in household overcrowding.<sup>3</sup>

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1 Washburn, A., July 19, 2020, Personal Communication.

2 San Bernardino County, 2018, Community Indicators Report, [http://www.sbcounty.gov/Uploads/CAO/Feature/Content/SB\\_2018\\_RE-PORT\\_-3\\_.pdf](http://www.sbcounty.gov/Uploads/CAO/Feature/Content/SB_2018_RE-PORT_-3_.pdf)

3 Department of Finance data (Table E-5) indicates that the average persons per household has increased in all jurisdictions in San Bernardino County from 2010 to 2021, including the unincorporated San Bernardino County. Furthermore, the increase in average persons per household is greater than the overall statewide increase.

With a much higher demand (or need) for housing units than there is supply, both home and rental prices have increased to stymie the influx of interest. Significant portions of San Bernardino County pay more than 30 percent of their gross income towards housing payments, and higher housing costs put lower income households at risk of living in substandard housing or of experiencing homelessness. Without a concerted effort to expand the affordable housing supply, increasing numbers of households will become unable to afford housing in San Bernardino County as rents and housing prices continue to rise.

## WHAT ARE HOUSING TRUSTS?

A housing trust fund is a program or independent organization that raises funding to dedicate to housing production, preservation, and related activities. A housing trust can provide a mechanism for local agencies to make ongoing investments in affordable housing using both direct revenues and leveraged matching funds available from State and federal sources, available exclusively for housing trust programs. Housing trusts have many benefits including, but not limited to, serving as a flexible source of gap financing for affordable housing, giving regions the ability to compete for otherwise restricted State funds, increasing homeownership opportunities with down-payment assistance for lower-income families, and supporting homeless assistance.

Housing trusts in California have become increasingly popular in recent years as local and regional jurisdictions across the state seek solutions to the statewide housing crisis. Local and regional housing trusts in California generally share the following three characteristics:

1. They receive ongoing revenues, rather than being dependent on annual appropriations from general funds or similar sources.
2. Funds are primarily designated to support affordable housing, rather than market rate housing or other community goals—State and federal matching funds, as well as most dedicated tax revenues or fees are exclusively available to support affordable housing.
3. They benefit from funding sources not restricted to housing activities, rather than relying exclusively on dedicated housing funds, and may benefit from the flexibility of offsetting public fund allocations with revenue captured from the private sector.



## HOUSING TRUST ADMINISTRATION, PROGRAMMING, AND FUNDING SOURCES

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The organizational structure, programming, and funding sources of a housing trust are all interrelated and co-dependent. For example, the organizational structure informs what kind of funding opportunities are available to the trust fund, the funding sources impact the programming types that can be supported by the trust, and the funding sources impact the stability of the organizational structure. This is primarily due to the restrictions imposed on funding sources available. Decisions regarding each component of the trust must be considered in relation to the effect on the other two components.

### ADMINISTRATION OPTIONS AND RECOMMENDATIONS

Housing trusts are operated by a variety of organization types and models including individual jurisdictions, a consortium of multiple local agencies, and nonprofit organizations. Each organizational structure has benefits and drawbacks, which the full white paper discusses in more depth. In general, local city- and county-administered trusts benefit from more accessible public funding and institutional government knowledge, but they operate slowly and often lack adequate staff time and resources to devote to a housing trust. Nonprofit models benefit from greater autonomy and flexibility to diversify and leverage funding sources, but they are unable to tap into public funds and some government grants, such as the Permanent Local Housing Allocation funds, which only eligible cities and counties can apply for. Operating under either a public or nonprofit organizational structure, Joint Powers Authority (JPA)-administered housing trusts have risen in popularity in recent years due to their reliable government support, ability to pool resources, and greater flexibility to pursue and leverage funds. Trusts administered by a JPA can operate as a quasi-local governmental organization (holding equal power with other jurisdictions participating in the JPA) or as a nonprofit.

While obtaining seed funding to initiate a trust can be more difficult for nonprofits, they tend to glean funds from outside resources for affordable housing more effectively in the long term. When paired in a hybrid nonprofit/JPA organizational structure, housing trusts have the flexibility and autonomy of a nonprofit with the financial support and government backing of participating cities and counties. Furthermore, utilizing a JPA fosters multi-jurisdictional cooperation, which unites local jurisdictions to address regional issues such as housing, and amasses resources to reduce cost and duplication of efforts. All California-based housing trusts interviewed view JPA-administered trusts favorably. It is recommended that a SBCOG-administered housing trust be

organized as a nonprofit/JPA hybrid to maximize stability and access to funding opportunities.

## FUNDING SOURCES AND RECOMMENDATIONS

There are a variety of revenue streams for housing trusts administered by the State and federal government, local governments, and private sources. Funds available from public entities, especially at the State and federal level, are often stringent, exacting specific requirements in order for housing trust programs to qualify. Private sources, although more difficult to obtain initially, more often provide funding with fewer restrictions or requirements. Appendix B provides an analysis of a variety of public and private sources of revenue ranging from the State-administered Permanent Local Housing Allocation (PLHA) funds to commercial linkage fees to private donations.

A SBCOG-administered trust should consider a variety of revenue sources. The following initial list of sources, both one-time and ongoing, have been preliminarily identified as appropriate for SBCOG to pursue seed funding and establish program stability in the first five to ten years of operation:

- State Permanent Local Housing Allocation (PLHA) program grant funds from participating member jurisdictions
- State-matching Local Housing Trust Fund grant funds
- National Housing Trust Fund grant funds
- Transient Occupancy Tax revenue from participating member jurisdictions
- Inclusionary zoning in-lieu fee revenue from participating member jurisdictions
- Community Benefit Agreement revenue
- Discretionary local revenue from participating member jurisdictions

## PROGRAMING OPTIONS AND RECOMMENDATIONS

A housing trust fund must specify in its bylaws what types of projects, programs, and activities the trust will fund. Activities could include, but are not limited to, new construction of affordable housing, predevelopment activities for affordable housing development, down payment assistance for developers or first-time homebuyers, preservation or rehabilitation of existing affordable housing, land acquisition for development of affordable housing, and establishment of housing for those experiencing homelessness. Housing trusts funnel revenue into defined programs that carry out these intended activities and greater goals. The most common program for housing trusts in California is a revolving loan fund.

Some housing trust activities are more effective tools for creating affordable housing than others, depending on the resources available and local context. This report recommends that a SBCOG-administered housing trust initially prioritize short-term, low-interest loans in a revolving loan fund to maximize affordable housing development, and then expand over time to longer-term loans, Community Reinvestment Act (CRA) loans, and Community Impact Notes (CINs) as the housing trust grows in size and stability.

## IMPLEMENTATION

It is recommended that the SBCOG-administered trust take the following steps to establish a housing trust over the course of one to two years. The final step listed below will likely take two to three years to implement before the housing trust will have stability and funding for programming and standard operation.

- 1. Trust structure.** Identify interested and eligible jurisdictions for participation; determine JPA structuring SBCOG depending on whether or not the trust achieves participation of SBCOG full membership and participant jurisdictions' interests.
- 2. Housing issues.** Identify housing needs and priorities in the SBCOG region; establish and implement a campaign to foster public support of the housing trust.
- 3. Official trust formation.** Enact intent to establish trust within SBCOG; develop Administrative Plan for housing trust operation; adopt new JPA or amend existing SBCOG JPA for housing trust administration; adopt resolutions to join at the jurisdiction level; form the nonprofit component of the housing trust.
- 4. Activity start-up.** Pursue revenue; transition to ongoing implementation.

# INTRODUCTION

This paper provides an introduction to housing trust funds, or housing trusts, examining trust fund organizational models, operation and administration logistics, and funding sources. This information is examined through the lens of the (SBCOG) to understand the feasibility of establishing a SBCOG-administered housing trust fund and how such a fund should be established to best support housing production throughout San Bernardino County. The analysis culminates with recommendations for administration and operation, revenue sources, and implementation next steps.







## HOUSING TRUST FUND INTRODUCTION

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A housing trust fund is a program or independent organization that raises funding to dedicate to housing production, preservation, and related activities, such as grant funding for construction or rehabilitation, infrastructure, land acquisition, or impact fees; low-interest construction, acquisition, or gap financing loans; and grants or loans that implement home weatherization programs, incentivize the production of affordable accessory dwelling units, support transitional or emergency housing and shelters, or preserve existing multifamily housing.

A housing trust can provide a mechanism for local agencies to make ongoing investments in affordable housing using both direct revenues and leveraged matching funds available from State and federal sources, available exclusively for housing trust programs.

A housing trust fund as a nonprofit model has similarities to a community land trust (CLT), though they serve complementary, rather than duplicative purposes. CLTs are typically structured as nonprofit organizations and can serve a variety of purposes, though they are most commonly used to preserve housing affordability and support lower-income families' ability to build wealth. As the name suggests, the CLT model is based on land acquisition and ownership, recognizing that it is the value of land, not the residential structure, that increases over time. As explained by the organization Community-Wealth.org, a CLT "acquires land and maintains ownership of it permanently. With prospective homeowners, it enters into a long-term, renewable lease instead of a traditional sale. When the homeowner sells, the family earns only a portion of the increased property value. The remainder is kept by the trust, preserving the affordability for future low- to moderate-income families."<sup>4</sup> Locally, the newly formed Inland Empire Community Land Trust works to support the affordability of both for-sale and rental housing.<sup>5</sup> As noted above and described in more detail in the following sections, a housing trust, by contrast, primarily serves to meet the gap funding needs of affordable housing. A housing trust fund could theoretically work collaboratively with a CLT to provide gap funding to assist in the acquisition of the land and production affordable housing.

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4 Community-Wealth.org, 2020. <https://community-wealth.org/strategies/panel/clts/index.html>

5 Inland Empire Community Land Trust, 2020. <https://www.ieclt.org/about>

## BENEFITS OF HOUSING TRUSTS

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Housing trusts offer general benefits to communities by providing safe affordable homes for all income levels, including extremely low- or no-income households. They ensure long-term investment in affordable housing; address homelessness, gentrification, and displacement; and advance transit-oriented development and access to upward mobility. The following benefits are particularly applicable in the context of the SBCOG region:

- **Flexible source of gap financing.** A revolving loan fund, as a function of a housing trust, provides access to a flexible source of capital that can be used in combination with traditional sources of revenue to fund affordable housing development. Gap funds provided through a revolving loan fund serve as a bridge between the amount a borrower can obtain to finance housing development in the private sector and the remaining dollars needed to initiate construction.
- **Ability to compete for State funds.** The State makes funds available to housing trusts in California annually with specific requirements for eligible applicants. Operation of a housing trust would expand the region's access to State housing funds to include revenue streams otherwise unavailable, such as Local Housing Trust Fund (LHTF) funds.
- **Homelessness assistance.** Housing trust funds are flexible resources for homelessness assistance, allowing and fostering distinct programs targeted to one or more aspects of homelessness. Housing trust funds can devote portions of their revenue to augment existing emergency and transitional homeless programs, assist supportive service organizations, or create new homeless housing or support services. Homelessness is often a product of housing shortages when extremely low-income households are forced out of the housing market when the demand for housing exceeds the supply, driving up housing prices and the cost of rents. Housing trust funds can help to expand the housing market with both affordable housing for people at risk of experiencing homelessness, and market rate housing to lessen the housing shortage and housing price inflation rates.

## HISTORY OF HOUSING TRUSTS IN US AND CALIFORNIA

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The first housing trust funds in the United States were implemented in Maryland and California during the 1970's. They proved to be effective models for permanent affordable housing revenue streams, and the concept soon spread to other states. Virtually every state in the U.S. now has local and /or State housing trust funds. A few states have created more than one State housing trust fund, including Connecticut, Illinois, Massachusetts, Nebraska, Oregon, and Washington. The Federal Government established the National Housing Trust Fund (NHTF), administered by the U.S. Department of Housing and Urban Development (HUD), in 2008 and began implementing the program in 2016, distributing \$174 million through funding solicitations, generally administered by states. In 2016 approximately \$10.1 million of NHTF funds were allocated to California. Within the state, NHTF funding is further distributed by the California Department of Housing and Community Development (HCD).

Housing trusts in California have become increasingly popular in recent years as local and regional jurisdictions across the state seek solutions to the statewide housing crisis. California has passed legislation encouraging and/or enabling local jurisdictions to dedicate public funds to affordable housing. However, California is one of four states that have created housing trust funds legislatively but do not currently have public revenues committed to the funds. As of 2016, 45 local and regional housing trusts in California generally share the following three conditions:

- They receive ongoing revenues, rather than being dependent on annual appropriations from general funds or similar sources.
- Funds are primarily designated to support affordable housing, rather than market rate housing or other community goals—State and federal matching funds, as well as most dedicated tax revenues or fees are exclusively available to support affordable housing.
- They benefit from funding sources not restricted to housing activities, such as those that could otherwise be devoted to other community goals (e.g. environmental conservation, economic development, or transportation), rather than relying exclusively on dedicated housing funds, and may benefit from the flexibility of offsetting public fund allocations with revenue captured from the private sector.

## HOUSING TRUST APPLICABILITY TO SBCOG

The entire state, including San Bernardino County, faces a significant housing supply and affordability crisis spurred by high land costs, rising construction costs, and limited financing options. While each of these factors has worsened over the last few decades, the most significant change may be the funding void created by lost redevelopment funds, which previously contributed between 30 and 60 percent of per-unit project costs to an affordable housing development.<sup>6</sup> Major housing challenges in the SBCOG region include:

- **Housing supply shortage:** The housing supply has not kept up with population growth. Between 2014 and 2021, 24,202 new housing units were constructed while the population grew by 80,958, indicating that population growth is being accommodated through increases in persons per household.<sup>7</sup> Older generations are living and staying healthier longer and therefore are choosing to stay in their homes. Paired with increasing demands from the Millennial generation seeking housing, homes are in higher demand than they have ever been before.
- **High housing prices:** With a much smaller housing supply than the market demands, both home and rental prices have increased to stymie the influx of interest. Significant portions of San Bernardino County pay more than 30 percent of their gross income towards housing payments. Up to 60 percent of homeowners and up to 80 percent of renters in some communities overpay for housing, meaning they spend more than 30 percent of their income housing, making it far more difficult for renters to save for a down payment on a home.<sup>8</sup>
- **Low rate of new affordable housing construction:** At the end of 2020, San Bernardino County jurisdictions had constructed approximately five percent of very low-income units and 16 percent of low-income units allocated in the 5th RHNA cycle.<sup>9</sup> Depending on the type of housing (e.g. senior, family, or veteran), affordable housing developments in the region typically require between 10 and 20 percent of funding to come from local sources. Despite growing need, a lack a funding sources has inhibited the development of much needed affordable housing in San Bernardino County.

<sup>6</sup> Washburn, A., July 19, 2020, Personal Communication.

<sup>7</sup> Department of Finance data (Table E-5) indicates that the average persons per household has increased in all jurisdictions in San Bernardino County from 2010 to 2020. Furthermore, the increase in average persons per household is greater than the overall statewide increase.

<sup>8</sup> CA Department of Housing and Community Development, AFFH Data and Mapping Resources, <https://affh-data-resources-cahcd.hub.arcgis.com/>, accessed on October 14, 2021

<sup>9</sup> CA Department of Housing and Community Development, 5th Cycle Annual Progress Report Permit Summary, <https://hcd.ca.gov/community-development/annual-progress-reports.shtml>, accessed on October 13, 2021.

A housing trust offers a creative solution to begin to address the funding limitations that stifle the development of affordable housing in the SBCOG region and leverages SBCOG's unique strengths as a convener adept at facilitating collaboration.

In response to recent changes to housing-related legislation, SBCOG has been working closely with its member jurisdictions to provide increased support as it relates to General Plan Housing Elements and their implementation. In 2021, SBCOG's member jurisdictions formed a housing subcommittee to explore regional solutions to providing housing. SBCOG provides a supportive platform for the region through their strong regional voice that can garner political support and access to available resources that cities and counties do not have. SBCOG is in the early stages of developing a regional equity study and a regional housing strategy.

SBCOG is organized as a Joint Powers Authority (JPA), that represents local governments to provide cooperative planning, coordination, and technical support on issues not constrained by political boundaries. As the regional population continues to grow, community challenges become regional challenges that have compounding, interrelated impacts. SBCOG focuses on regional matters important to future growth, including housing, with duties that complement rather than duplicate jurisdictional activities.

Due to its role as a regional council, SBCOG is advisory in nature and lacks traditional government powers of taxation, regulation, or decision implementation. SBCOG currently works through its committee structure and amassed resources to reduce duplication of efforts, which could include establishment of a regional housing trust fund. SBCOG's reliance upon member jurisdictions to follow through on decisions would require that member jurisdictions take individual action to participate in a regional housing trust administered by SBCOG.

SBCOG's JPA explicitly permits the agency to apply for grants under federal, State, or local programs, which could include application for grants in representation of the housing trust. To establish a housing trust fund, SBCOG would modify its joint powers agreement to explicitly permit administration of the trust, with specified limitations for participating cities and the county within San Bernardino County. Other requirements, including funding prerequisites, and SBCOG-specific recommendations are discussed in the following sections.



# TRUST FUND OPERATING STRUCTURE

## ORGANIZATIONAL STRUCTURE

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Housing trusts are operated by a variety of organization types and models including individual jurisdictions, a consortium of multiple local agencies, and nonprofit organizations. These organizations often apply for grant funding to augment funds or to provide start-up resources. Some of the largest and most viable revenue sources in California have relatively strict eligibility requirements, typically restricting funding availability to cities, counties, or tribal governments and/or 501(c)(3) nonprofit organizations. Organizational models with the ability to attract the primary funding sources appropriate for a governmental agency, such as SBCOG or its member jurisdictions, to operate are examined below.

### LOCAL CITIES AND COUNTIES

Local cities applying for funding would be considered a Local Housing Trust, whereas a county or consortium of multiple cities would be considered a Regional Housing Trust. Local cities and counties are eligible for State and federal funding that may not be accessible to other types of agencies or organizations. Cities and counties have the benefit of established networks to initiate conversations regarding housing needs. Additionally, elected officials often trust city staff as the in-house experts on planning and housing-related issues. An established relationship of trust may spur initial support for a housing trust from elected decision makers, helping to get the trust off the ground. However, the amount of staff, time, and funding needed to administer a housing trust can raise challenges for some local cities.

### LOCAL JURISDICTION—JPA VARIATION

Local cities and counties can also enter into a joint power agreement to cooperatively provide funding for affordable housing in a greater region. Housing trusts operating as a Joint Powers Authority (JPA) receive reliable government support, often through membership requirements and dues established in the JPA's bylaws, and benefit from coordination among jurisdictions. JPA's have many of the same powers as the JPA's member jurisdictions, though they do not have the authority of eminent domain or the ability to issue bonds without a credit rating. SBCOG could operate as an equal member under this agreement, and SBCOG's current experience operating as a JPA would translate smoothly into administration of a housing trust with this JPA variation.

## NONPROFIT

Nonprofit organizations may have greater difficulties obtaining seed funding to initiate a housing trust fund due to fewer available federal or State grants with applicant restrictions and no prior resume of affordable housing development upon initiation. However, nonprofits have greater autonomy to pursue private industry money, bank investments, and collaborations with multiple local and regional jurisdictions, effectively diversifying and creatively leveraging funding sources to increase community dollars funneled to affordable housing. Nonprofits have the flexibility to serve as a financial intermediary and can be approved to operate as a Community Development Financial Institution (CDFI), enabling them to issue CINs and further diversify their sources of revenue. In addition, employing a combination of sources to fund the housing trust diversifies income sources, ensuring the trust is fiscally stable in the long-term. As they grow and become more successful over time, nonprofit housing trust models tend to more effectively bring in larger donations from outside resources and leverage those funds more effectively towards affordable housing development.

## NONPROFIT—JPA VARIATION

Nonprofit housing trusts have the flexibility to form a JPA. As discussed in a previous section, a housing trust acting as a JPA is largely given the same powers as the JPA's member jurisdictions. San Mateo's Housing Endowment and Regional Trust (HEART) is structured as a JPA/nonprofit partner housing trust, in which HEART holds equal power as the County and cities in the trust. Under their JPA agreement, cities and the County are required to contribute a portion of their general fund appropriations to HEART annually. The portion is based on the jurisdiction's population, the number of jobs in the jurisdiction, and the projected rate of growth.

A JPA cannot act as a CDFI, thereby constraining its ability to capture revenue through CINs. JPA/nonprofit housing trusts have the option of forming a subsidiary to be eligible as a CDFI. Operation as a JPA/nonprofit, rather than a consortium of local jurisdictions/JPA, further increases the housing trust's flexibility to pursue and creatively source new funds. San Mateo's HEART is one of the few JPA/nonprofit partner housing trusts in the West, but their model has successfully received funds from a diverse array of sources.

## ORGANIZATIONAL OVERSIGHT

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When operating outside of an individual city's or county's purview, housing trust funds have an advisory body, or board of directors. This board can provide the housing trust fund with a broad range of expertise and provide a way to maintain a connection with the communities served and their needs. Virtually all boards of directors have some responsibility for developing or advising on the policies that govern the fund. In some cases, the board helps recommend applicants for funding.

The board of directors can also help buffer the housing trust fund process from politics when controversial decisions – such as constructing new high-density multifamily projects in established lower-density neighborhoods – are made. Representation on the board of directors can range from interagency coordinating bodies, with staff from different agencies, to a broad membership of housing advocates, low-income individuals, service providers, bankers, realtors, apartment owners, developers, and others. Not all participating jurisdictions need representation on the board either. In the VCHT, for example, only five seats of the 12 participating jurisdictions are reserved for government representation. Regardless of affiliation, members in the board of directors should all have experience with low-income housing or homelessness. The executive director of the trust should also sit on the board.

While the voices that comprise the board of directors should be varied and diverse, they should be condensed into a relatively small group to ensure efficient communication and collaboration. Boards are best kept relatively small to allow representation without compromising the operational efficiency of oversight. Decisions should be made by majority vote, not unanimous consensus.

# HOUSING TRUST FUNDING SOURCES AND OPERATING COSTS



## FUNDING SOURCES

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Some of the most common forms of revenue sources for housing trusts in California include dedicated fees (such as commercial linkage fees or housing impact fees) implemented by jurisdictions to support the development of housing, redevelopment tax increment set-aside funds, discretionary local revenues, grant and charitable contribution funds, loan repayments and commercial development loans, and State-funded local housing trust funds. Common housing trust fund revenue source types and examples of each are listed below:

- **State and federal grants**, such as the California Permanent Local Housing Allocation and National Housing Trust Fund Program
- **Bonds**, such as general obligation and revenue bonds
- Tax increment funds and taxes, such as real estate tax increments, real estate transfer taxes, and transient occupancy taxes
- **Fees**, such as development impact, commercial linkage, document recording, business license, and inclusionary zoning in-lieu fees
- **Revolving loan funds**, which are revenue replenishing programs housing trusts can administer
- **Private sources**, such as donations and community benefit agreements

Trusts should have diversified revenue sources that include dedicated funds, such as inclusionary housing program fees or a portion of a transient occupancy tax (TOT), so that the trust does not have to compete with other priorities during annual budget reviews of local governments or charitable organizations, allowing the trust to plan for long-term housing investments and minimize funding uncertainty. Appendix B includes a description and additional information on a variety of housing trust funding mechanisms.

## HOUSING TRUST FUND OPERATING COSTS

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### TRUST ESTABLISHMENT COSTS

Many successful housing trust administrators report that the majority of housing trust start-up investments funded administrative costs. The County of Ventura Housing Trust Fund (CVHTF), for example, reported that approximately 90 percent of funds were allocated to administrative costs in its first few years of operation, prior to rolling out any programming. This is because housing trust start-ups often require significant personnel time to set up collection systems; layer seed funding; and solicit public, nonprofit, and private agencies for seed funding. Over time, CVHTF's administrative costs have decreased overall and revenues have increased. In 2019, administrative costs accounted for 77 percent of CVHTF's expenses, or 51 percent of all annual income received. Start-up time frames for other housing trusts are discussed in Appendix A.

For San Mateo's HEART, the County of San Mateo provided seed grant money from its General Fund. During the first few years of operation, over 85 percent of funds were allocated to administrative costs, primarily for general trust management and set-up. Most of the grant funding and private contributions in the subsequent few years went towards start-up costs. In 2015, the Chico-based North Valley Housing Trust (NVHT) received a three-year commitment of \$40,000 per year as start-up funds from the City of Chico. In 2020, NVHT was able to leverage local contributions with matching funds from locally-contributed PLHA funds, State matching funds, and several grants to initiate NVHT's revolving loan fund. NVHT no longer receives funds from the City of Chico and all matching fund sources since their start-up have changed. This evolution of funding sources is common for housing trusts given ongoing changes to eligibility requirements and depletion of available grants.

### ONGOING ADMINISTRATIVE COSTS

The organization authorized to administer a housing trust fund on behalf of a local jurisdiction must be clearly designated in an ordinance or resolution and identified in the trust's administrative guidelines. Administration includes holding, investing, and managing the fund account, with administrative costs typically covered by a percentage of the fees collected for the fund itself. Most regional and local jurisdictions cap administrative costs at 10 percent of the fund to maximize the creation of housing. Other external sources of administrative funding could include other public agency programs, interest earned by the fund, or fees charged for applications or other services provided by the trust fund.



A 2011 study performed by the Washington State Department of Commerce, titled the “Affordable Housing Cost Study,” found that developing housing trust fund-expertise with in-house staff, as opposed to contracting with various outside parties for different housing trust activities, allows for more informed analysis of proposed and ongoing housing activities. Experienced staff insights into potential risks and opportunities that could alter costs incurred from trust fund activities help reduce uncertainty and minimize unnecessary expenditures. Consolidating resources to employ in-house trust fund staff effectively minimizes administration and project-level costs. For a SBCOG administered housing trust, participating member jurisdictions would authorize management of their dedicated revenue sources to SBCOG.

## EXISTING HOUSING TRUST ADMINISTRATIVE STAFFING MODELS

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With 1.5 full-time staff members, Ventura County’s CVHTF provides a good model for a relatively small trust. Since receipt of seed funding in 2006, CVHTF took about seven years to raise enough funding through the 2008 Housing Recession to initiate a revolving loan fund in 2013. As of 2019, operating/personnel costs account for 77 percent of their yearly expenses of approximately \$298,000. The remaining expenses cover costs of loan servicing, developing a new housing land trust, fundraising efforts, and overseeing the loan program.

In comparison, the Chico-based NVHT was founded in 2015 and has only one employee working 0.75 time. This trust is relatively small due to its rural location in Butte County where there are very few large corporations, limiting access to the types of corporate donations that are more readily available in cities and economic hubs. NVHT is currently only making its second loan, with about \$40,000 in annual administrative costs comprising 8 percent of the organization’s annual operating budget of \$500,000. The funds used for housing programs are separate from the operating budget and are expected to reach \$2 million through grants and State matching funds this year. These funds are separated because some grants and donations restrict eligible activities.

San Mateo’s HEART has two full-time staff and an annual operating budget of about \$500,000. HEART has avoided increasing staff to keep operating costs low and preserve the low interest rates of its loans, keeping them competitive. Loan underwriting and bookkeeping are both performed several times per year by consultants because HEART has found that intermittent contracting, rather than hiring more in-house staff, has reduced operating costs. HEART also partners with the County to receive legal services and occasional help with underwriting.

## ADMINISTRATIVE COST MINIMIZATION STRATEGIES

Compared to local trusts, regional housing trusts are better able to minimize costs by capturing economies of scale through consolidated administrative and operations expenses. SBCOG has extensive practice in fostering cost savings through collaborative planning. Existing housing trust fund administrators interviewed for this paper recommended such consolidation to minimize resource expenditure, capitalize on shared information, and better leverage funds for housing throughout the region. In addition, existing trust administrators cite the benefits of relieving local governments of the administration and management of some affordable housing work, which has been difficult to manage internally since the dissolution of redevelopment agencies in 2012.

Other housing trusts reduce costs by sharing office space with other agencies or operating within larger agencies to minimize overhead. Existing trusts also reported retaining services, such as bookkeeping and website creation, at low or no cost through partnerships with participating local jurisdictions or regional public agencies. Small nonprofits recommend forgoing annual fundraising events, which are common sources of revenue for more established trusts, due to the large energy and time demands. These trusts reported that directly asking potential donors for money without hosting an event has been an effective alternative fund raiser without the added cost.

# HOUSING TRUST PROJECTS AND PROGRAMMING



Housing trust activities are those implementation actions which the trust fulfills through the expenditure of funds. Housing trust programs are those steps that carry out the overarching goals of a housing trust to assist in the implementation of activities. Programs of a housing trust often act as an investment strategy, creating additional funding streams for the implementation of housing trust activities.

## HOUSING TRUST ACTIVITY TYPES

A housing trust fund must specify what types of projects and programs (which may be restricted by funding sources) will be funded by the trust in its Administrative Plan. The following types of activities are common among housing trusts and could be appropriate in the SBCOG region. Specific housing trust programs to fulfill these activities are discussed in the following section.

- **New construction of affordable housing.** Housing trusts may provide funding for the development of affordable housing, including affordable housing for households with disabled and/ or elderly members, restricted to long-term or indefinite affordability terms. This is often administered through a revolving loan fund, discussed in the Housing Trust Programs section below.
- **Preservation or rehabilitation of existing affordable housing.** Housing trust funds can support the preservation or rehabilitation of existing multi-family housing and single-family housing, which is often a lower-cost alternative to new construction. Preservation and rehabilitation of existing affordable housing units reduces displacement of low-income residents, thereby preserving existing low-income neighborhoods.
- **Land acquisition for development of affordable housing.** Housing trusts can also provide financing for the acquisition of available, buildable land. High land prices can be a significant barrier to housing development in California and relieving affordable housing developers of this steep cost burden can help bridge this crucial gap.
- **Establishment of transitional, supportive, or permanent homeless housing.** Funds from housing trusts can be used for the development and ongoing operation of transitional, supportive, and permanent housing and accompanying supportive services for individuals experiencing homelessness both acutely and chronically. Housing trusts may offer funds to build the capacity of local nonprofits to help maintain or grow their in-house supportive services for individuals and families experiencing homelessness. Funds could also be

directed towards local governments' homeless programs, augmenting existing services or addressing unmet needs of the population experiencing homelessness.

- **Predevelopment activities.** Housing trusts may consider providing cash flow to affordable housing developers, often through low-interest loans, to fund predevelopment costs. These costs can include preliminary land surveys, architectural designs, permitting costs including associated infrastructure or development impact fees, financing fees, and other up-front cost barriers to affordable housing development.
- **Down payment assistance for developers or eligible, first-time homebuyers.** Housing trust funds can provide down payment assistance for both developers and first-time homebuyers. Low-interest down payment assistance to affordable housing developers can help reduce the debt incurred by the development, and make the initial planning work for affordable housing financially viable. For first time homebuyers, down payment assistance provided through small loans can help moderate income families become homeowners when they lack the resources to obtain mortgage financing through traditional bank loans.
- **Support for community land trusts.** Housing trusts can provide financing for the acquisition of land, housing rehabilitation, or affordable housing construction to support community land trusts. Community land trusts are typically run by non-profits where affordable housing units are owned by the residents, but the land is owned by the non-profit, maintaining affordability.

## HOUSING TRUST PROGRAMS

A housing trust can carry out its goals and intended activities through a variety of programs. Some programs that might be effective in other states may not be feasible in California given existing State law, so this paper focuses on viable and popular options in California. The most common program for California housing trusts, discussed below, is a revolving loan fund, which can include a first-time homebuyer component. Less common approaches include: forming a housing land trust, or issuing low-risk, low-return loans from private organizations via community impact notes (CINs), which serve as the intermediary for affordable housing developers to receive low-rate development loans from banks under the Community Reinvestment Act (CRA). These programs are discussed in further detail below.

## REVOLVING LOAN FUND

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Existing housing trusts report that low-interest construction loans and gap financing, or “bridge”, loans are the most feasible options for establishing a revolving loan fund due to their shorter term limits and smaller lending needs compared to acquisition or predevelopment loans. In contrast, acquisition and predevelopment loans inherently carry more risk, so housing trust revolving loan funds should avoid these until developing greater lending capabilities after years of growth. To minimize risk, successful housing trust administrators also recommend only working with experienced affordable housing developers because of the complex structure of fund layering to break even on affordable housing development. Considerable seed funding is needed to establish a revolving loan fund and, due to various regulations and restrictions, not all funding sources can be used for revolving loan funds.

### FIRST-TIME HOMEBUYER REVOLVING LOAN FUNDS

Revolving loan funds can be structured as first-time homebuyer programs, which can be effective in communities with higher rates of homeownership units and single-family units. However, some housing trust administrators note that the long terms on these loans can be draining to any revolving loan fund and do not provide housing opportunities for as many people as other types of revolving loan funds.

## COMMUNITY REINVESTMENT ACT LOANS

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The Community Reinvestment Act (CRA) was created to encourage deposit institutions (including most banks but excluding credit unions) to extend credit to low-income communities, by requiring investment in specified community development activities, which includes support of affordable housing development in the community. Instead of specifying criteria for evaluating the performance of financial institutions, the law directs that the evaluation process should accommodate the situation and context of each individual institution. While there are no minimum or maximum requirements for funding, banks are required to commit dollars to the community through eligible activities. Qualifying banks can receive CRA credit by supporting “CRA qualified” community development activities including loans to borrowers for affordable housing rehabilitation and construction or investments directly to housing trusts.



The CRA establishes the level of community development activity investment required for banks based on size (small, intermediate, and large). Small local branches have limited budgets and typically make nominal contributions to community activities. Larger investment dollars in community development, which would better benefit a housing trust, generally originate from the bank's corporate office or regional headquarters. Some banks are not actively aware of CRA requirements or the scope of investment opportunities available to them, such as investment in affordable housing. Advocating for the CRA to meet local needs in recent years has resulted in more than \$50 billion newly invested into California communities. Agreements negotiated with communities and community members can result in commitments of between 10 and 20 percent of California deposits to be reinvested in local communities.

In San Bernardino County, SBCOG could collaborate with jurisdictions, especially those with larger minority populations and low-income communities, to advocate for commercial development loans or support for affordable housing from banks operating locally. Banks will not lend to inexperienced housing trusts, so CRA funding is not a viable seed funding option. New housing trusts must first gain experience administering a housing trust fund to develop a record of success before being considered for CRA funding. Additionally, CRA funds are not eligible for State matching funds, so these would be obtained without intention of additional leveraging from the State. However, these funds are an effective strategy to harness revenue from other economic sectors to address the housing crisis, which existing housing trust administrators recognize is an important strategy to addressing the housing crisis.

## COMMUNITY IMPACT NOTES

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A promissory note is a written promise to pay another party a definite sum of money by a specified future date with no secured collateral. The promissory note investor purchases the note as a secured debt to become a lender under specified terms for the note's principal, interest rate, and maturity date. These types of loans are neither government-insured nor guaranteed. A nonprofit can issue promissory notes, or Community Impact Notes (CINs) in the context of a housing trust. The nonprofit housing trust must be certified as a Community Development Financial Institution (CDFI) by the US Department of Treasury CDFI Fund for administration of loans to private entities.<sup>10</sup> The housing trust's ability to repay the CINs would be dependent upon the economic success of its lending activities.

<sup>10</sup> Housing Trust Silicon Valley, 2017, Community Impact Notes Offering Memorandum, <https://housingtrustsiliconvalle.app.box.com/s/ccjdb8qg390alolpdziin0ix1iv0xnj3>, accessed April 3, 2020.

The trust can use the proceeds of CINs to fund housing development. Housing trusts can establish a CIN template to give private companies or agencies the ability to invest in the trust's loan fund. CIN loan funds often have a fixed return but are attractive to some investors because they provide an opportunity to be part of a workforce housing solution, increasing housing opportunities for low- and moderate-income households. Terms for CIN programs vary, but often range from 1 to 10 years with no fees. For example, the SVHT acts as the issuer of CINs to fund its activities; these CINs have maturity rates at 5 years or 10 years, with 1.5 percent and 2.0 percent interest rates, respectively. Like any loan, there are risks and uncertainties associated with lending.

## LAND ACQUISITION FOR HOUSING LAND TRUST

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Obtaining land to be held in a perpetual trust ensures readily available for low-income and/or supportive housing development. Housing prices in the region are high, in part, due to the high cost of land. Factoring out the cost of land through public land acquisition would make homes more affordable and attainable for residents of San Bernardino County, including those looking to move to the region for employment. The trust would work with local jurisdictions, school districts, and transit agencies to identify their vacant, underutilized lots for donation to the trust. This trust could also accept monetary and land donations from private sources. Monetary donations would go towards the trust's acquisition of land for affordable housing.

# RECOMMENDATIONS



## ESTABLISH A SBCOG-ADMINISTERED REGIONAL HOUSING TRUST

A housing trust has the potential to significantly enhance San Bernardino County's housing landscape. A trust would be most effective structured as a regional body to avoid unnecessary strain on the limited resources of local jurisdictions while leveraging the region's collaborative strengths. SBCOG's existing staffing infrastructure is skilled in all requisite administrative areas including executive leadership, financial accounting, and administration. The agency has operated as a regional body, previously known as San Bernardino Associated Governments, governed by a joint powers agreement since 1973 and has a track record of achieving meaningful results through programs such as the administration of Measure I funding.

While SBCOG has minimal experience with regional housing programs, their role as a regional transportation agency strategically positions them as an optimal organization to administer a housing trust on behalf of interested jurisdictions in San Bernardino County. Through the San Bernardino County Transportation Authority, SBCOG is responsible for cooperative regional planning and furthering an efficient multi-modal transportation system countywide. SBCOG successfully leverages regional, state, and federal partnerships to improve the transportation network system in the region. Through regional transportation planning and implementation, SBCOG promotes smart growth practices that link transportation and land use planning. Traditional measures of housing affordability do not consider transportation costs, however SBCOG recognizes that transportation costs are largely a function of the location of housing in the regional context. Regional transportation strategies must consider regional land use and housing strategies to ensure balanced communities.

The following recommendations are intended to guide establishment of a SBCOG-administered housing trust fund using best practices identified for meeting the SBCOG region's housing financing needs.

## ADMINISTRATION AND OPERATION

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### ORGANIZATIONAL MODEL

Establishing a regional housing trust as a dual JPA/nonprofit will provide SBCOG and member jurisdictions with the greatest opportunity to achieve economies of scale and access to the widest variety of revenue streams possible. By simultaneously acting as a nonprofit and a JPA, the housing trust fund would maximize flexibility to obtain and leverage funds, with access to sources available

to both nonprofit and JPA models, including State matching funds. Nonprofits tend to be more flexible in how they can operate and what funding sources they can accept from donors, especially in the private sector. A nonprofit entity will diversify and more creatively leverage funding sources across jurisdictions, introducing funding streams into the trust than could fund operation alone. JPA-administered housing trusts ensure reliable government support, are better able to pool resources, and provide greater flexibility to pursue and leverage funds, similar to nonprofits.

SBCOG could establish a new nonprofit to create a hybrid trust model. Similarly, SBCOG's membership could approve a revision to the existing joint powers agreement or establish a separate JPA for the housing trust. Establishing a separate JPA would be the best solution if some member jurisdictions opt not to participate in the trust. The JPA agreement to initiate the trust, would need to incorporate the following conditions:

- All JPA member jurisdictions are in compliance with State Housing Element law and therefore eligible for federal and State funding.
- All JPA member jurisdictions agree to be part of the housing trust through adoption of a local ordinance.

SBCOG will be the agency responsible for administering and overseeing the regional housing trust in representation of all interested member jurisdictions. SBCOG will also adopt a resolution requiring interested member jurisdictions to take formal action to join the regional housing trust, disclosing eligibility to receive State matching funds through compliance with current State housing law. Each eligible member jurisdiction will elect to participate in the housing trust fund through adoption of an ordinance. Member jurisdictions not explicitly electing to participate in the trust and devote revenue to the housing trust fund would not be eligible to receive funds or resources from the trust.

## REVENUE ALLOCATIONS

The SBCOG-administered trust should maintain as much flexibility with the application of its funding resources as possible. This includes avoiding the enactment of any internal mechanisms that devote funds proportionally to participating jurisdictions based on the location of revenue collection within the region. Multiple successful housing trust administrators report that siloed funds from each participating jurisdiction reduce the trust's ability to leverage these funds to their greatest potential. Furthermore, many jurisdictions have regulatory, political, or economic barriers to implementing housing projects, despite having the political will for affordable housing

development and financial investment in the trust. For example, if City A were to invest \$80,000 into the housing trust fund with the stipulation that the money must be reinvested in City A, but City A's zoning requirements discourage developers from affordable housing projects, then that \$80,000 would sit unused in the housing trust fund. In the meantime, a housing project in City B would use other housing trust funds to develop a \$1.5 million project. If City A instead invested that money with no stipulations, the housing trust fund could leverage that money to increase donations to the project in City B threefold, increasing the project size and resources provided in the original \$1.5 million project to add an additional \$240,000 in value.

Like transportation and environmental quality, housing supply and affordability is a regional issue. A regional approach to affordable housing can assist in combating income and racial segregation, by increasing opportunities for lower-income households to pursue housing choice across a variety of communities. San Bernardino County is a diverse region where in 2020 64% of the population is non-White or of more than one race and no communities throughout the region consist of a majority White population. Further, San Bernardino's 2021 area median household income of \$77,500 is low, when compared to the state, with an area median income of \$90,100 in the same year. A regional strategy for addressing the housing needs of lower-income households could create new opportunities for upward mobility in an already diverse County where incomes are lower.

While some jurisdictions may initially oppose the practice of investing in the housing trust without a guaranteed return on investment within their jurisdictional boundaries, the benefits far exceed the drawbacks. State-compliant Housing Elements must provide adequate sites with appropriate zoning for housing development in each income category. Currently, there is not a requirement that jurisdictions have to achieve buildout of their RHNA requirements once planned for in the Housing Element. Therefore, investing in the housing trust for the creation of housing within the jurisdiction's boundaries does not divert resources away from other necessary investments that would preclude their ability to remain State-compliant. On the contrary, jurisdictional investment in affordable housing trusts is highly praised by HCD. Other housing trusts report that participation in their housing trust assists cities with meeting Housing Element requirements and helps them obtain credits for the creation of affordable housing.

Jurisdictions that elect to participate should commit to allocating revenue annually to the housing trust fund for the first five to ten years, granting resources relative to their jurisdiction's size, number of jobs, and projected growth rate. The SBCOG housing trust JPA should enact a



formula based on those factors to determine annual allocation requirements. While individual contributions may vary annually based on the number of participating jurisdictions, the total allocations should meet a minimum threshold of \$230,000 annually to support housing trust fund activities.<sup>11</sup> This amount will allow the housing trust to perform administrative activities and pursue State matching funds, which will then provide funding for other identified housing activities. Ensuring adequate funding through the establishment of the housing trust will provide the trust with leverage for acquiring additional funding, resulting in a housing trust that will yield clear results through the implementation of activities. The trust should not guarantee that a member jurisdiction's allocation will be directly reinvested in their community. However, when housing programs or projects come up in that jurisdiction, the housing trust should direct the jurisdiction's investments into that project to the maximum extent feasible.

## OVERSIGHT AND STAFF

The housing trust should have a Board of Directors to oversee the allocation of funds. The Board should consist of jurisdiction representatives, both elected officials and staff, as well as at-large representatives from the private sector. Both the CVHTF and San Mateo County's HEART operate with large 19-member Boards of Directors. When CVHTF first began, city representation came from elected officials but was switched to City staff representation after the first few years to remove political motivations and utilize city staff's in-house expertise. CVHTF also recommends keeping the size of the Board of Directors smaller for better communication and coordination of priorities across the region.

Staffing should be provided via a new department within SBCOG. SBCOG comprises SBCOG and the San Bernardino County Transportation Authority (SBCTA) and through SBCOG's collective collaboration on regional efforts, this approach will leverage the agency's in-house staff expertise and existing connections to resources in the region.

## REVENUE SOURCES

SBCOG should consider all of the revenue sources discussed in the Housing Trust Funding Sources section, however based on an initial analysis, the following one-time and ongoing sources are identified as potentially being the most appropriate to pursue in the context of the SBCOG region and should be considered first. For more information on each revenue source, refer to Appendix B.

<sup>11</sup> \$230,000 was the minimum total threshold requirement in 2019 for San Mateo's HEART, which is the only other JPA/non-profit model in California. Only JPAs can set minimum requirements for participating member jurisdictions, although Ventura County's CVHTF received at least \$50,000 from all member jurisdictions electing to participate in the housing trust in 2019.

## STATE AND FEDERAL GRANTS

### PERMANENT LOCAL HOUSING ALLOCATION (PLHA) PROGRAM

The new PLHA Program offers consistent funding to local jurisdictions for affordable housing construction and supportive services. Although the annual allocations will vary, the 2019 allocation is broken down by jurisdiction in Appendix B. While local allocations may not be sufficient to close a housing project funding gap when kept within the local jurisdiction, they can be delegated to a regional housing trust and leveraged with other local PLHA or other funds to be an effective short- or long-term source of funding.

- Funding Stage: Both start-up and ongoing.
- Eligible Activities: PLHA supports a variety of activities including affordable housing construction, affordable ADU construction, and homelessness services.
- Administration Limitations: A local government sharing the funds with a housing trust can use no more than 5 percent of the allocation for administrative costs for activities for which the allocation was made. However, staff and overhead costs related to carrying out the activity costs are not subject to the cap on administrative costs.
- Housing Trust Type Currently Eligible: city or county.

### STATE-MATCHING LOCAL HOUSING TRUST FUND

As described in Appendix B, the State-Matching Local Housing Trust Fund (LHTF) is a competitive grant process, but it awards large matching grants. HCD releases NOFAs periodically and a portion of program funds is set aside each year as matching funds for the first year of operation for new housing trusts. SBCOG should pursue both initial and annual funds.

SBCOG should note all State-matching funds require that housing developers use prevailing wage, limiting the activities that the grant can fund upon award.

- Funding Stage: Both start-up and ongoing.
- Eligible Activities: Loans for acquisition, predevelopment expenses, development of affordable rental housing projects, transitional housing projects, emergency shelters and homeownership projects, including down payment assistance to qualified first-time homebuyers, and for rehabilitation of homes owned by income-eligible homeowners. No more than 20 percent of each allocation may assist moderate-income households, and at least 30 percent of each allocation is required to assist extremely low-income households.

- Administration Limitations: Administrative expenses are limited to five percent of the grant.
- Housing Trust Type Currently Eligible: Nonprofit, city or county.

### **NATIONAL HOUSING TRUST FUND PROGRAM (NHTF)**

The National Housing Trust Fund (NHTF) serves as the primary source of federal funding for housing trusts and is administered by HCD. At least 80 percent of each annual grant must fund rental housing, and up to 10 percent can fund homeownership housing. The SBCOG housing trust should review the notice of funding availability (or NOFA) annually to confirm eligibility and alignment with its priorities to determine whether SBCOG should apply for funds.

- Funding Stage: Start-up and ongoing.
- Eligible Activities: Real property acquisition, site improvements and development hard costs, related soft costs, demolition, financing costs, operating cost assistance for rental housing (up to 30 percent of each grant), administrative and planning costs (up to 10 percent of each grant)
- Administration Limitations: Administrative expenses are limited to 10 percent of the grant.
- Housing Trust Type Currently Eligible: trusts, partnerships, limited partnerships, local public entities, corporations, limited liability corporations.

## **TAX INCREMENT FUND FUNDS AND TAXES**

### **TRANSIENT OCCUPANCY TAX (TOT)**

While most local jurisdictions in San Bernardino County already levy a TOT, many local regulations currently exclude short-term rentals (such as Airbnb and VRBO) from the definition of a transient occupancy facility. Upon establishment of a trust, participating members of a housing trust should evaluate their definition of transient occupancy facilities to determine if short-term vacation rental units are included. The inclusion of short-term vacation rentals in the definition of transient occupancy facilities can act as a source of additional funds for jurisdictions with an existing TOT. Participating members without TOTs, should consider the establishment of new TOTs on short-term vacation rentals. The incoming revenues would be placed in the member jurisdiction's general fund and then transferred annually to the SBCOG-administered housing trust fund.

- Funding Stage: Ongoing.
- Eligible Activities: Activities compliant with the established nexus between transient occupancy facilities and the associated loss of affordable housing in the community.
- Administration Limitations: Language in the jurisdictions' municipal codes would be

examined to ensure there are no restrictions prohibiting support of administration activities or activities outside the local jurisdiction's limits.

- Housing Trust Type Currently Eligible: Nonprofit, JPA, city or county.

### **INCLUSIONARY ZONING IN-LIEU FEES**

Inclusionary housing ordinances can create new affordable homes without needing new government funding. Inclusionary requirements ensure that every community provides homes affordable to a range of income levels. By providing affordable housing options, a community's labor force such as hospital workers, retail clerks, and childcare workers can afford to live in the communities they serve. Cities and counties are authorized by the state to adopt an inclusionary housing ordinance for the creation of affordable housing.

Participating housing trust members can consider the allocation of in-lieu fees to the trust fund. Cities would want to first consider how in-lieu fees are being utilized. The dedication of in-lieu fees into the housing trust could free up staff time with the administration of such fees and could result in the expenditure of fees for on-the-ground implementation of housing trust activities. SBCOG could provide support to member jurisdictions to provide guidance on the feasibility of implementing new local inclusionary ordinances. SBCOG should provide additional support to member jurisdictions interested in establishing a housing trust fund if the jurisdiction agrees to direct a portion of in-lieu fees to the housing trust fund.

- Funding Stage: Ongoing.
- Eligible Activities: Development of affordable housing, conditional upon the contributing jurisdiction's regulations stipulating that the in-lieu fees be directed to community-specific housing projects.
- Administration Limitations: SBCOG would not be able to easily leverage funds from an inclusionary ordinance in the jurisdiction's regulations stipulate that the in-lieu fees be directed to community-specific housing projects. Language in the jurisdictions' inclusionary ordinances and municipal codes would be examined to ensure there are no restrictions prohibiting support of administration activities or activities outside the local jurisdiction's limits.
- Housing Trust Type Currently Eligible: Nonprofit, JPA, city or county.

## PRIVATE SOURCES

### COMMUNITY BENEFIT AGREEMENTS

Community Benefit Agreements (CBAs) would help SBCOG leverage developer commitments to fund housing trust activities. In exchange for widespread public support from a community group(s) for the development project, SBCOG should collaborate with member jurisdictions to engage medical centers, large-scale developers, schools and the military as they develop plans to expand.

- Funding Stage: Initial and ongoing.
- Eligible Activities: Assist the development and preservation of affordable housing.
- Administration Limitations: None. CBAs are negotiated on a case-by-case basis, so SBCOG would ensure that the agreement would not place restrictions on trust fund operation and administrative costs.
- Housing Trust Types Currently Eligible: Nonprofit, JPA, city or county.

## OTHER FUNDING SOURCES

### DISCRETIONARY LOCAL REVENUES

Participating member jurisdictions should appropriate money from their general fund to invest in the future of the housing trust in good faith, giving the new housing trust start-up costs to then pursue additional external funding. If SBCOG opts to use a nonprofit approach, the COG should ask interested member cities and/or the county to commit to general fund allocations for the next five to ten years. If SBCOG is able to use a JPA/nonprofit approach, it would include stipulations in the JPA agreement requiring that member jurisdictions allocate money from their general fund annually, based on an agreed-upon formula.

While cities could also choose to dedicate money from their existing affordable housing funds, it is recommended that SBCOG advocate more strongly for general fund allocations so that the trust brings in resources not already dedicated to housing.

- Funding Stage: Initial and ongoing.
- Eligible Activities: Assist the development and preservation of affordable housing.
- Administration Limitations: None. Existing housing trusts often use discretionary local revenues to fund administrative costs.
- Housing Trust Types Currently Eligible: Nonprofit, JPA, city or county.

## FUND ACTIVITIES

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Some housing trust activities are more effective tools for creating affordable housing than others, as discussed in the Housing Trust Projects and Programming section. Housing trust administrators interviewed for this report generally recommended prioritizing specific activity/program types to maximize affordable housing development and shared best practices for each, discussed in Appendix A. Paired with a preliminary assessment of various revenue stream restrictions and barriers to housing in the SBCOG region, the following three programs would likely be appropriate for a SBCOG-administered housing trust and should be strongly considered.

### REVOLVING LOAN FUND

Successful housing trusts report that the most impactful way to encourage affordable housing consistently is through loans to developers. Once seed funding is obtained, SBCOG would use that money to provide reduced rate loans to affordable housing developers. Repayments from these developers over time would establish a revolving loan fund and ongoing revenue source for the trust. To start, SBCOG should provide construction loans and bridge loans to seasoned, low-risk developers because they are short-term loans with limited uncertainty. This strategy will ensure that money comes back into the revolving loan fund in a shorter time frame with less risk associated with the loan, allowing the trust to provide units more quickly than loans committed to a first time homebuyer program (which typically provide larger loans from 15 to 30 years to fewer households). SBCOG should also avoid administering pre-construction and acquisition loans during the first few years of a revolving loan fund because they carry higher risk and require larger commitments.

### COMMUNITY REINVESTMENT ACT LOANS

Money from community reinvestment act loans can fund the development of affordable housing, with the SBCOG-administered housing trust acting as the intermediary between affordable housing developers and banks. Since corporate offices or regional headquarters for banks typically have larger budgets to invest in the community, SBCOG should reach out to mid-sized and big banks in the region to solicit investment in the housing trust once the trust has been in operation for a few years. SBCOG would seek out banks with headquarters in San Bernardino County, such as Banner Bank, First Foundation Bank, and Desert Community Bank, to donate money to the housing trust fund to meet their CRA requirements. SBCOG should also seek CRA contributions from local branches in participating member jurisdictions without any mid-sized or large-scale



banks. While these small sized branches often donate money to local events or parades, SBCOG and partnering local government staff should implore them to shift contributions to the housing trust fund.

CRA funds are ineligible to receive State matching funds, so dollars contributed from CRA to the SBCOG-administered trust will be less impactful than other sources. In addition, this money cannot be used as seed funding because banks will not typically lend to inexperienced housing trusts, but they can help augment trust fund activities in the long-term. As with all other funds, the Administrative Plan for the housing trust would encourage SBCOG to direct funds obtained from different communities back into those communities when feasible, rather than diverting them to finance other communities' housing activities.

## COMMUNITY IMPACT NOTES

A SBCOG-administered trust should become certified as a CDFI to administer low-interest loans to private investors to bring private sector dollars into the affordable housing market, as discussed in the Housing Trusts Project and Programming section. SBCOG's housing trust would establish a Community Impact Note (CIN) template to set up terms for loans to private agencies or companies. It is recommended that the terms of loans range from one to 10 years to keep housing trust payment commitments relatively short-term. The template should also provide multiple short-term loan options, such as a five year loan template and a ten year loan template, to provide potential investors with more flexibility in the investment opportunity. SBCOG's CINs should have no fees to increase their benefits for lenders, given that the loans have low rates of return.

## HOUSING TRUST IMPLEMENTATION

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### TRUST ESTABLISHMENT

Steps to establish a housing trust using a JPA/nonprofit organizational model include the following:

#### **1. Identify Participating Jurisdictions**

SBCOG would solicit interest from member jurisdictions in establishing a housing trust fund and then work with those interested member jurisdictions to move through the steps below.

#### **2. Joint Powers Agreement**

Because SBCOG currently operates as a JPA, it could move forward with either of the below approaches, contingent upon interest from SBCOG member jurisdictions:

- a. Amend the existing joint powers agreement to become a housing trust if all member jurisdictions are interested in participating in the housing trust. The modified joint powers agreement would authorize administration of a SBCOG housing trust through an Administrative Plan.
- b. Establish a new, separate JPA with interested member jurisdictions.

While both options presented above are viable, it is likely that not every SBCOG member jurisdiction will want to participate in the housing trust and that it would therefore be cleaner to establish a new JPA, so it is recommended that SBCOG pursue the latter option. It is assumed that a new JPA will be formed for the following steps of trust establishment. However, if all member jurisdictions agree to participate, then the former option above is recommended and the subsequent steps of trust establishment remain relatively unchanged. The trust should establish a minimum threshold for membership at four jurisdictions.

### **3. Identify Housing Need**

SBCOG and participating member jurisdictions would collaborate to determine housing needs for localized areas and the region. These needs would inform the activities allowed and prioritized in the Administrative Plan drafted in later steps and would inform campaign goals and messaging. This process should be integrated with the regional housing needs allocation (RHNA) and preparation and implementation of local housing elements to the extent possible, both taking cues from and informing these other planning documents.

### **4. Campaign**

Interviews with administrators of successful housing trusts in California indicate that the greatest predictor for housing trust success is strong support from local government, elected leaders, and the business community. The campaign for a housing trust should demonstrate need for additional housing support and resources in San Bernardino County. The messaging to these groups should be clear about the need the trust will address and potential impacts from the trust, some of which are demonstrated through examples offered in this paper. Soliciting support from local activists and political leaders can help push the campaign without delving the housing trust into the political fray. Strong support from the local community will bring revenue into the project early and help establish a strong foundation to build the trust to great heights.

SBCOG and participating member jurisdictions would enact a campaign to generate community

interest and support for the new housing trust fund. More details about the campaign are in the following section.

- a. SBCOG would provide interested jurisdictions with messaging and information about the benefits of housing trusts to bring to their local elected officials, political activists, and nonprofits.
- b. This campaign for the trust would be an ongoing activity through each step of trust set-up.

## **5. Enact Intent to Establish Trust**

SBCOG would pass an initial ordinance authorizing its establishment of the regional housing trust fund conditional upon:

- a. SBCOG drafting an Administrative Plan for agreement by all participating member jurisdictions.
- b. Participating member jurisdictions taking formal action to join the regional housing trust (e.g. by passing an ordinance).

## **6. Administrative Plan**

SBCOG would draft an Administrative Plan for the fund. This plan would be reviewed by all participating jurisdictions, and SBCOG would allow at least one round of comments by each jurisdiction. The Administrative Plan would include the following components:

- a. Defining the purpose and structure of the housing trust.
- b. Assigning participating members' authorities.
- c. Stipulating member authorities' annual contribution requirements using a formula based on the member jurisdictions' population, jobs, and projected growth.
- d. Outlining SBCOG'S administrative duties and responsibilities. This would include identification of existing staff or formation of a new department.
- e. Creating a Board of Directors to manage initial and ongoing housing trust fund activities and goals. This would include details about board governance, meeting protocols, and administration and oversight.
- f. Establishing a housing trust funds account and a sub-account specifically for administrative purposes.
- g. Enacting annual reporting procedures for SBCOG to maintain records and publish efforts for member jurisdictions to review.
- h. Establish procedures to allow member jurisdictions to enter or leave the trust in the future. Procedures should require the leaving jurisdiction provide written notice of exit six months prior to start of new financial year and stipulate that the city/county will assume responsibility for administrative fees for managing existing projects in its jurisdiction.

## 7. Adopt New JPA

Upon completion of the Administrative Plan, SBCOG would adopt a new JPA in partnership with all interested jurisdictions to officially enact the housing trust. This JPA would establish a new public entity separate from the parties to the agreement, providing the common power as described in the agreement.

- a. The JPA would incorporate language from the Administrative Plan into the official agreement.
- b. The JPA must state the trust's application for 501(c)(3) tax-exempt status with the Internal Revenue Service (IRS) is completed or pending and specify that the trust has a charitable purpose, which is to develop funds for affordable housing.

## 8. Jurisdiction Resolutions

Interested jurisdictions would individually pass resolutions to join the regional housing trust.

- a. Participating jurisdictions would include language in their individual resolutions committing to pay membership dues annually as to be part of the JPA/nonprofit housing trust. The resolution would also contain language certifying eligibility to receive State funds through compliance with current State housing law.
- b. A designated representative from each participating jurisdiction would subsequently sign the JPA, agreeing to conditions of the JPA and Administrative Plan.
- c. At this time, the participating member jurisdiction would be required to pay membership dues to the trust.

## 9. Nonprofit Component

Given that SBCOG would likely form a new JPA to enact the housing trust, SBCOG could also form an accompanying nonprofit to administer the trust using the dual JPA/nonprofit organizational model. SBCOG could work with an established non-profit that is experienced in accepting large donations to enter into an agreement for a partnership. SBCOG could also apply for the housing trust's 501(c)(3) tax-exempt status with the Internal Revenue Service (IRS). General filing instructions are as follows:

- a. Draft and file the articles of incorporation. This would include the organization's name, specify its use for charitable purposes by developing funds for affordable housing, identify an agent for service of process, and list any limitations on corporate powers. If the Board of Directors is named in the articles of incorporation, then these articles would be signed by the board.

- b. Appoint the Board of Directors, if not named in the articles of incorporation.
- c. Attach the trust's bylaws, which is the joint powers agreement for the housing trust and draft a conflict of interest policy.
- d. Provide proof of the participating members' consent to the joint powers agreement.
- e. Obtain an employer identification number (EIN). This can be done online.
- f. File the initial registration form (Form C T-1) with the California Attorney General's registry of Charitable Trusts.
- g. File the Statement of Information (Form SI-100) with the Secretary of State.
- h. Apply for federal tax exemption with the IRS (Form 1023) and receive a letter of determination from the IRS.
- i. Apply for California tax exemption with the California Franchise Tax Board (FTB) using Form 3500A and a copy of the IRS determination letter (in step above) and receive an affirmation of exemption letter from the FTB.

A partnership with an existing non-profit that has housing trust experience may be a preferred approach.

## **10. Revenue Pursuit**

Once nonprofit status has been approved, SBCOG would begin pursuit of revenue sources, operating as a dual JPA/nonprofit housing trust. This would include the following actions, not necessarily completed in this order:

- a. Collect annual membership dues from participating jurisdictions.
- b. Solicit private donations from large local corporations and businesses.
- c. Collaborate with local jurisdictions to collect their PHLA allocations to help leverage State matching funding.
- d. Apply for State matching funding, NTHF grant funding, and other grants.
- e. Follow protocol established by the US Department of Treasury to become a CDFI. Once registered as a CDFI, draft a CIN template to offer low-interest loans to private entities.
- f. Partner with participating jurisdictions to negotiate CBAs with developers for allocation of funds to the housing trust.
- g. Provide continual support for cities attempting to impose TOT fees or inclusionary zoning requirements for allocation of those funds to the housing trust fund.

## **11. Transition to Ongoing Implementation**

SBCOG would manage the resulting income sources and allocate them toward programs meeting established priorities. Growth would be managed over time and the Board of Directors would steer the goals of the housing trust over the long-term.

# APPENDIX A: Existing Housing Trust Profiles



The following table lists all housing trust funds in California cataloged by the Housing Trust Fund Project through 2020. This list is not exhaustive of all housing trust funds in the state. Of the 46 jurisdictions on this list, 14 are located in Southern California, 2 are in Central California, and the remaining 32 are located in Northern California.

JURISDICTION	HOUSING TRUST FUND	YEAR CREATED	ADMINISTERING AGENCY
Alameda County	Affordable Housing Trust Fund	2003	Housing and Community Development (public)
Anaheim	Housing Trust Fund	2005	Community Development Department (public)
Berkeley	Housing Trust Fund	1990	Housing Development (public)
Butte, Shasta, Yuba, Sutter, Tehama, Siskiyou, Glenn, Plumas, Lassen, Modoc, Trinity, and Colusa Counties	Housing Trust Fund	2015	North Valley Housing Trust (private/nonprofit)
Campbell	Housing Trust Fund	2006	Community Development Department (public)
Citrus Heights	Affordable Housing Trust Fund	2003	Housing and Grants Division (public)
Cupertino	Affordable Housing Fund	1987	Community Development Department (public)
Elk Grove	Affordable Housing Fund	2003	Planning (public)
Emeryville	Housing Trust Fund	2014	Economic Development and Housing (public)
Fremont	Affordable Housing Development Fund	2014	Housing Division (public)
Livermore	Housing Trust Fund	2005	Community Development (public)
Long Beach	Housing Trust Fund	2005	Housing Services Bureau (private/nonprofit)
Los Angeles	Affordable Housing Trust Fund	2002	Housing Department (public)
Los Angeles	Affordable Housing Impact Trust Fund	2017	Chief Administrative Officer (public)
Los Angeles: Skid Row	Affordable Housing Trust	1989	Skid Row Housing Trust (private/nonprofit)



JURISDICTION	HOUSING TRUST FUND	YEAR CREATED	ADMINISTERING AGENCY
Los Angeles County	Affordable Housing Trust Fund	2013	LA County Community Development Commission (public)
Mammoth Lakes	Housing Trust Fund	2003	Mammoth Lakes Housing (private/nonprofit)
Marin County	Workforce Housing Trust Fund	2004	Community Development Agency (public)
Menlo Park	Below Market Rate Housing Program	1988	Community Development (public)
Monterey, San Benito, and Santa Cruz Counties	Housing Trust Fund	2016	Monterey Bay Economic Partnership (private/nonprofit)
Morgan Hill	Senior Housing Trust Fund	Not available	Not available
Mountain View	Housing Trust Fund	Not available	Not available
Napa County	Affordable Housing Fund	1992	Napa Valley Housing Authority (public)
Oakland	Affordable Housing Trust Fund	2003	Department of Housing & Community Development (public)
Orange County	Housing Trust	2010	Orange County Housing Trust (private/nonprofit)
Orange County <sup>1</sup>	Housing Finance Trust	2019	Orange County Housing Finance Trust (JPA)
Oxnard	Affordable Rental Housing Trust Fund	2003	Housing Department (public)
Palo Alto	Affordable Housing Fund	1974	Planning and Community Development (public)
Pasadena	Housing Trust Fund	1993	Housing and Community Development Department (public)
Petaluma	Housing Fund	2003	Housing Division (public)
Sacramento	Affordable Housing Trust Fund	2020	City of Sacramento (public)
Sacramento City and County	Housing Trust Fund	1989	Housing and Redevelopment Agency (public)
San Diego	Housing Trust Fund	1990	San Diego Housing Commission (public)

<sup>1</sup> This trust is not explicitly for housing for homelessness. Given the JPA model, it is included in this list.  
Source: Housing Trust Fund Project, 2020; City of West Hollywood, 2020; Monterey Bay Economic Partnership, 2020; North Valley Housing Trust, 2020; Skid Row Housing Trust, 2020; City of Sacramento, 2020.

JURISDICTION	HOUSING TRUST FUND	YEAR CREATED	ADMINISTERING AGENCY
San Francisco City and County	Housing Trust Funds	1987; 2012	Office of Housing (public)
Alhambra, Arcadia, Azusa, Baldwin Park, Claremont, Covina Diamond Bar, Duarte, El Monte, Glendora, Irwindale, La Canada Flintridge, La Verne, Monrovia, Montebello, Pasadena, Pomona, San Gabriel, South El Monte, South Pasadena, Temple City, and West Covina	Housing Trust Fund	2020	San Gabriel Valley Regional Housing Trust
San Jose	Housing Trust Fund	2003	Department of Housing (public)
San Jose	Housing Impact Fee Fund	2014	Department of Housing (public)
San Luis Obispo County	Housing Trust Fund	2003	San Luis Obispo County Housing Trust Fund (public)
San Mateo County	Housing Endowment and Regional Trust	2003	HEART of San Mateo County (private/nonprofit)
San Mateo County	Affordable Housing Trust Fund	2013	San Mateo County Department of Housing (public)
Santa Barbara County	Housing Trust	2005	Housing Trust of Santa Barbara County (private/nonprofit)
Santa Clara County	Housing Trust Silicon Valley	1997	Housing Trust Silicon Valley (private/nonprofit)
Santa Cruz	Affordable Housing Trust Fund	2003	Housing Division (public)
Santa Monica	Citywide Housing Trust Fund	1986	Housing Division (public)
Santa Rosa	Housing Trust	2004	Economic Development and Housing (public)
Sonoma County	County Fund for Housing	2005	Department of Community Development (public)
Sunnyvale	Housing Trust Fund	Not available	City of Sunnyvale (public)
Ventura County	Housing Trust Fund	2010	Housing Opportunities Made Equal (private/nonprofit)
West Hollywood	Affordable Housing Trust Fund	1986	Rent Stabilization and Housing Division (public)

The following nine California-based housing trusts have different organizational structures, funding sources, and fund activities, but each demonstrates the ability to incite housing change despite divergent regional contexts. Some housing trusts examined below are located in Northern California due to the higher occurrence of housing trusts in Northern California and specifically housing trusts operating under the private/nonprofit model, the organization model recommended for SBCOG. The table below provides an overview of each of the housing trusts examined in this paper.

HOUSING TRUST	ANNUAL BUDGET	PROGRAMS AND ACTIVITIES
County of Ventura Housing Trust Fund	Annual budget for 2019: \$451,849 (revenue) \$297,957 (expenses)	Revolving loan fund, pro-bono consulting for affordable housing developers
Orange County Housing Trust	Annual budget for fiscal year 2019- 2020: About 5 million.	Provides gap financing for developers creating permanent supportive and affordable housing projects. They have also provided short-term residual loans in the past with a smaller budget and interest in faster turnover on loan terms.
Orange County Housing Finance Trust	Fiscal Year 2019-2020 Contributions and Grants: \$6.5 million	Funding for permanent supportive or affordable housing restricted to persons or families who qualify as extremely low-income.
San Diego County Innovative Housing Trust	Annual budget for fiscal year 2021-2022: \$25 million.	Provides gap financing to create or preserve affordable housing and permanent or transitional housing for those at risk of experiencing homelessness.

San Mateo HEART	Annual budget for fiscal year 2015-2016: \$1.6 million (revenue), \$756,594 (expenses)	Revolving loan fund (both First Time Homebuyer Loans and Development Loans), Green and Livable Accessory Dwelling Unit Resource (GLADUR) program
San Mateo County Housing Trust	Not disclosed	Revolving loan fund for multifamily affordable rental housing projects. This includes predevelopment, construction, and permanent loans to developers for new developments and rehabilitation loans for existing affordable rental housing.
Skid Row Housing Trust	Annual budget 2018: \$39 million	Revolving loan fund, supportive services for the homeless, development and ongoing management and operation of permanent and supportive housing
West Hollywood Affordable Housing Trust Fund	Annual budget 2019: \$1.7 million	Provide residual receipt loans for acquisition and rehabilitation or construction of new affordable housing developments with affordability restrictions for 55 or 57 years. Loans are forgivable if the term is fulfilled to annuity. They are interested in expanding to fund a first-time homebuyer program in the future.
San Gabriel Valley Regional Housing Trust	2022 State Budget Allocation: \$21 million FY 2020-2021 Total Income = \$647,450	Emergency shelter pilot project (tiny homes) and gap funding for affordable housing development.

## COUNTY OF VENTURA HOUSING TRUST FUND

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The nonprofit County of Ventura Housing Trust Fund (CVHTF), since rolling out housing support in 2012, has issued over \$9 million in approved loans, constructed 365 affordable housing units, helped 15 affordable housing developments in 70 percent of cities within the county, and raised \$6.7 million through grants, investments, sponsorships, and fundraisers.<sup>12</sup>

- Organizational Structure: 501(c)3 Nonprofit
- Year Established: 2005, first loan in 2012
- Percent of expense budget dedicated to operating costs: 77 percent
- 2019 annual budget: \$451,849 (revenue), \$297,957 (expenses)
- Programs and activities administered: Revolving loan fund, pro-bono consulting for affordable housing developers
- Top revenue sources: Revolving Loan Program, events, donations and grants, local government grants
- Best practice recommendations:
  - Do not accept funds from local governments earmarked to come back into that jurisdiction.
  - Leverage funding creatively through layering of all different sources.
  - Only work with seasoned affordable housing developers.
  - Recycle money from State matching funds through a revolving loan program to gradually remove State's restrictions from repaid money.
  - Focus on providing short-term loans such as construction loans or gap financing and avoid pre-construction loans or first-time homebuyer loans during first few years of the trust due to higher risks and larger loan amounts.
- Seek guidance and feedback from the developer community often.

## ORANGE COUNTY HOUSING TRUST

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Orange County Housing Trust (OCHT) is a nonprofit private capital-funded housing trust powered by NeighborWorks Orange County (NWOC) and Orange County Business Council (OCBC) – two leading organizations committed to making Orange County a vibrant place to live, work and play. NWOC and OCBC have retooled OCHT, originally established in January 2010, as a financing vehicle for grantors, foundations, and corporations to leverage public and private funding to bring future permanent supportive and affordable housing projects to Orange County. Using the Housing Trust of Silicon Valley as a model, the OCHT engages local businesses to help tackle the housing issues

<sup>12</sup> Housing Trust Fund Ventura County, 2019, Everyone Deserves a Home: 2019 Annual Report.

facing the county. The Disneyland Resort provided a \$5 million grant for seed funding to provide housing support in Anaheim, which financed a 102-unit affordable housing development. The OCHT Board of Directors is comprised of the region's top business leaders including The Irvine Company, U.S. Bank, OCBC, Disneyland Resort, and FivePoint Holdings. The trust operates within NWOC's organizational structure as a program, which keeps operation costs low.

- Organizational Structure: 501(c)3 Nonprofit
- Year Established: Established in 2010, revitalized in 2019
- Percent of expense budget dedicated to operating costs: No restrictions on operating costs, but it amounts to about \$48,000/year to administer with in-house staff at NWOC. There are no official staff positions for the trust.
- Annual budget for Fiscal Year 2019-2020: About \$5 million, due to Disneyland donation
- Programs and activities administered: Provides gap financing for developers creating permanent supportive and affordable housing projects. They have also provided short-term residual loans in the past with a smaller budget and interest in faster turnover on loan terms.
- Top revenue sources: Private investments
- Best practice recommendations: Nonprofit housing trust funds struggle more with obtaining seed funding, but nonprofits should be persistent because it takes a long time and lots of labor to obtain money from private sources. Private organizational models have the benefits of avoiding politics and involvement from government that comes from public ownership in a housing trust fund.

## ORANGE COUNTY HOUSING FINANCE TRUST

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The Orange County Housing Finance Trust (OCHFT) was formed by legislation in 2018 to address the housing needs of those experiencing or at-risk of experiencing homelessness. OCHFT is a JPA structured trust between the County of Orange and 23 cities throughout the county. The trust is structured to distribute funding between the Service Planning Areas in the county, which are boundaries used for providing homelessness services. Between 2020-2021 the trust released 2 NOFAs, funding 13 developments for permanent supportive housing. More than \$10.5 million was made available through the 2022 NOFA. The trust entered into an agreement with the County of Orange, which allocates \$20.5 million in Mental Health Services Act funds and \$5 million in County general funds over five years as dedicated and matching funds to the trust for development of affordable and supportive housing.

- Organizational Structure: Joint Powers Authority with Nonprofit Partnership



- Year Established: Established in 2018 by statute
- Administrative Budget: OCHFT notes that at least \$300,000 is needed for the first year of administrative costs. The County of Orange provides \$200,000 annually to support administrative costs.
- Fiscal Year 2019-2020 Contributions and Grants: \$6.5 million
- Programs and activities administered: Funding for permanent supportive or affordable housing restricted to persons or families who qualify as extremely low-income.
- Top revenue sources: County Mental Health Services Act Funds and Local Housing Trust Funds
- Best practice recommendations: The ability for the trust to utilize funds to apply for state matching funds provides a mutually beneficial partnership between the trust and the County. The trust partners with an established non-profit that accepts donations on behalf of the trust. The non-profit is experienced in accepting large donations and their fee comes from the donation itself, so the trust is able to keep overhead costs low.

## SAN DIEGO COUNTY INNOVATIVE HOUSING TRUST FUND

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The San Diego County Board of Supervisors directed the creation of the Innovative Housing Trust Fund (IHTF) to increase the regional supply of affordable housing for low income and vulnerable populations. Since its inception in 2017, the IHTF helped create 1,397 affordable units in 20 developments in the region, leveraging over \$560 million in public and private capital sources.

- Organizational Structure: Local Housing Trust
- Year Established: 2017
- Annual budget for Fiscal Year 2021-2022: \$25 million for affordable housing.
- Programs and activities administered: Gap financing to create or preserve affordable housing and permanent or transitional housing for those at risk of experiencing homelessness.
- Top revenue sources: County budget allocation.
- Best practice recommendations: Foster public-private partnerships.

## SAN GABRIEL VALLEY REGIONAL HOUSING TRUST

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The San Gabriel Valley Regional Housing Trust is a joint powers authority (JPA) created by Senate Bill 751 (Rubio) in early 2020. The Trust was established with the stated purpose of funding the planning and construction of housing for the homeless population and persons and families of extremely low, very low, and low income within the San Gabriel Valley, by receiving public and private financing and funds, authorizing and issuing bonds and other debt instruments. The Trust designated \$835,000 in capital funding for a non-congregate (tiny home) Emergency Shelter Pilot Program totaling up to 60 units for emergency shelter. In 2021, the State earmarked \$21 million of its the budget for the trust. The JPA is governed by a nine-member Board of Directors, seven of whom are representatives from jurisdictions that are members of the SGVRHT and two of whom are experts in housing and homelessness.

- Organizational Structure: Joint Powers Authority
- Year Established: February 2020, first grant awarded in February 2021
- FY 2020-2021 Total Income: \$647,450 and \$21 million earmark in State budget announced in 2021
- Programs and activities administered: Emergency shelter pilot project (tiny homes) and gap funding for affordable housing development.
- Top revenue sources: State Budget, Measure H Funds, and Homeless Initiative Innovation Funds
- Best practices: A variety of funding sources will allow more flexibility to address the strongest housing needs. Land banking is an ideal strategy for community land trusts. Create NOFA applications that don't require applicants to go through lengthy processes that they have already been through for other funds. Even cities that do not want affordable housing in their communities may still want to address housing needs at a regional scale. Therefore, it is important to provide an option for being a supporter of the trust without being a member.

## SAN MATEO HOUSING ENDOWMENT AND REGIONAL TRUST

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In San Mateo County there are two regional housing trusts, a County-administered trust (explored in detail below) and San Mateo's Housing Endowment and Regional Trust (HEART) is a JPA/nonprofit fund operated throughout the County. While the County fund primarily uses sales taxes through Measure K to fund housing projects, HEART cannot directly obtain this funding and therefore uses different sources to augment housing support. To avoid duplication of services,

the two entities collaborate often to fund different types of projects and policies, harness different funding sources based on their eligibility, and partner on projects when appropriate. HEART noted that, while the County releases a NOFA for developers semiannually, development deals typically occur more often and much faster, so developers can work with HEART instead to minimize time and money lost in the bureaucratic cycle of hearings, long review periods, and commission meetings.

San Mateo's HEART, both a Joint Powers Authority and nonprofit, has raised over \$12 million since 2003—\$2.9 million from the private sector and \$9.5 million from the public—to fund the construction, renovation, or purchase of over 805 homes for low- and moderate-income families, representing nearly 10 percent of all new units built in San Mateo County in the last five years. This fund is invested in many developments representing a combined \$217 million in direct economic activity, stimulating both construction and permanent jobs. HEART's investment work has leveraged over \$18 in funds from other sources for every \$1 from HEART to bring additional resources into the region.<sup>13</sup>

- Organizational Structure: Joint Powers Authority and 501(c)3 Nonprofit
- Year Established: 2003
- Percent of expense budget dedicated to operating costs: 94 percent
- Annual budget for Fiscal Year 2015-2016: \$1.6 million (revenue), \$756,594 (expenses)
- Programs and activities administered: Revolving loan fund (both First Time Homebuyer Loans and Development Loans), Green and Livable Accessory Dwelling Unit Resource (GLADUR) program
- Top revenue sources: public investment from the County of San Mateo and matching grants from the State of California
- Best practice recommendations:
  - Gain activist interest to generate support for the trust without the trust becoming overtly political itself.
  - Establish strong relationships with local jurisdictions.
  - Communicate often with local developers.
  - Direct investment dollars from local jurisdictions back into their jurisdiction whenever possible.
  - Hire outside consultants intermittently to perform loan underwriting or bookkeeping to keep in-house staffing low and reduce administrative costs
  - Operate as a dual Joint Powers Authority and nonprofit to allow the flexibility to operate with power as a jurisdiction while receiving money from the state and private

13 HEART of San Mateo, 2020, <https://www.heartofsmc.org/about-heart/>, accessed on April 7, 2020.

contributions.

- Avoid accepting housing-dedicated funds from local governments because that money will theoretically be spent on housing in their own jurisdiction anyway.
- Require that cities commit a percentage of their annual appropriations for the first five to ten years of the trust as their “membership dues”.

## SAN MATEO COUNTY HOUSING TRUST

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The County’s Department of Housing (DOH) operates the countywide regional housing trust. The fund was initially started when the Board of Supervisors (BOS) allocated \$13.4 million of unrestricted General Funds to affordable housing purposes, as derived from a one-time distribution of housing trust funds held by former redevelopment agencies in San Mateo County. The County housing trust fund currently primarily uses sales taxes through Measure K to fund housing projects both in the unincorporated county and within cities. Measure K is a direct appropriation from the County’s BOS every two years. The allocation has increased over the years as demand from developers has increased, evidenced by more applications and larger loan requests. They also receive funding from HCD’s No Place Like Home (NPLH) fund and the California Emergency Solutions and Housing Program. The County releases two NOFAs annually, collaborating with developers throughout the year to ensure that their NOFA meets the needs of the affordable housing development community. Administrative costs are low for this fund, and it is set up so that most housing trust funds go directly towards the projects.

- Organizational Structure: County (Department of Housing)
- Year Established: 2013
- Percent of expense budget dedicated to operating costs: Not disclosed. DOH notes that they charge a 1.5 percent administrative cost fee as part of the loan application process, but it does not cover DOH’s costs to administer the trust.
- Available funds released in June 2019: \$27.6 million available for affordable housing. Note that this is one of two NOFAs typically released per year.
- Programs and activities administered: Revolving loan fund for multi-family affordable rental housing projects. This includes predevelopment, construction, and permanent loans to developers for new developments and rehabilitation loans for existing affordable rental housing.
- Top revenue sources: Measure K funds
- Best practice recommendations:
  - Release NOFAs on a consistent schedule because it allows developers to anticipate the

- funds and better plan for affordable housing projects.
- Foster open and strong relationships with the development community and ask for feedback on programs.
- Work closely with jurisdictions to determine what they need without duplicating efforts.

## SKID ROW HOUSING TRUST

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The Skid Row Housing Trust (SRHT), a nonprofit focused on ending homelessness in Los Angeles County, has invested in 26 housing developments in 30 years, providing nearly 2,000 people with permanent homes and thousands more with transitional support on the way to more independent living. In 2018, SRHT generated revenue from development and service fees, foundation and corporate grants, government grants, and contributions for development of supportive and transitional housing.<sup>14</sup>

- Organizational Structure: 501(c)3 Nonprofit
- Year Established: 1989
- Percent of expense budget dedicated to operating costs: 11.8 percent
- 2018 annual budget: \$39 million
- Programs and activities administered: Revolving loan fund, supportive services for the homeless, development and ongoing management and operation of permanent and supportive housing.
- Top revenue sources: Development and service fees
- Best practice recommendations: not available for interview

## WEST HOLLYWOOD AFFORDABLE HOUSING TRUST FUND

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The West Hollywood Affordable Housing Trust Fund (AHFT) is a City-operated housing trust fund established in 1986 to offset development impacts and generate additional resources to meet the affordable housing need. The City's policy requires residential and commercial developers to provide affordable housing or pay an in-lieu fee to finance affordable housing development in the city. These two revenue streams provide the largest sources of revenue annually, but they vary widely based on the development cycle each year. For example, the City has annual revenue totals ranging from 1.8 million to 11 million in the past five years, solely due to varying contribution requirements written into development agreements. The West Hollywood AHFT requires at least 20 percent of units be designated low-income, and 60 percent of units be designated low- to

<sup>14</sup> Skid Row Housing Trust, 2020, <https://skidrow.org/about/impact/>, accessed on April 7, 2020.

moderate-income in all affordable housing projects funded. They perform nexus studies every three to four years to ensure the commercial linkage fees and residential in-lieu fees provide an adequate return on investment without crippling potential development projects and investor interests.

- Organizational Structure: City (Rent Stabilization & Housing Division)
- Year Established: 1986
- Percent of expense budget dedicated to operating costs: 5-10% of administrative costs are permitted in the terms of money received from the residential in-lieu fees and the commercial linkage fees.
- 2019 annual budget: \$1.7 million (\$1.8 million in 2018, \$3.4 million in 2017, \$11 million in 2016, and \$2.1 million in 2015)
- Programs and activities administered: Provide residual receipt loans for acquisition and rehabilitation or construction of new affordable housing developments with affordability restrictions for 55 or 57 years. Loans are forgivable if the term is fulfilled to annuity. They are interested in expanding to fund a first-time homebuyer program in the future.
- Top revenue sources: Residential in-lieu fees (projects less than 10 units must pay an in-lieu fee or restrict at least one unit to be affordable; projects with 11 or more units must dedicate 20% of units for low-income households) provide at least \$600,000 annually and commercial linkage fees (commercial projects over 10,000 square feet must pay \$9/square foot to the housing trust fund) contributes at least \$600,000 annually to the fund as well.
- Best practice recommendations: Given SBCOG'S scope, it would be very effective for any new trust to operate at a regional level and follow a JPA approach to give smaller communities with limited resources the ability to create affordable housing and address the housing shortage at a regional level. Seeing the benefits of a regional JPA approach to housing trust funds, West Hollywood is interested in banding together with other cities in Los Angeles to do follow a similar model in the future. Perform nexus studies every few years if fees are adopted to fund the housing trust to ensure they do not impose severe financial barriers to development. Work with developers continuously to understand barriers to affordable housing development and alleviate unnecessary development constraints.



## KEY TAKEAWAYS FROM TRUST INTERVIEWS

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The following synthesizes key takeaways reiterated by multiple established trusts in personal interviews.

1. Stable funding exists in the form of revolving loan funds, allocation of development fees, and matching funds from the state. While private donations and State budget allocations may occur in large sums, they are not indicative of funding that may be available annually.
2. Local support from the public and decision-makers is crucial to establish a housing trust. Lack of community support often stems from misinformation regarding the greater need for more affordable housing, so an effective campaign and outreach is critical for success.
3. Community Impact Notes (CINs) are an effective source of revenue for trusts. Trusts that do not currently offer CINs as a program note that it is their goal to become a CDFI and issue CINs in the future.
4. Housing is a regional issue, and this should be emphasized in campaign messaging to local government staff and officials whenever possible. However, local jurisdictions may be averse to contribute funds when there is no set guarantee of reinvestment back into their community. Therefore, funds should be reinvested back into jurisdictions that contribute housing trust funds whenever feasible, though not established as a requirement. For example, if TOT revenues are funneled to a housing trust, then the trust should attempt to direct towards housing activities in that community.
5. Be wary of contributions from jurisdictions that may have that money earmarked for activities specific to their jurisdictional boundaries. For example, cities or counties with an inclusionary zoning ordinance may have regulations requiring that affordable housing in-lieu fees be directly invested back into that community. Therefore, any money donated from those jurisdictions would be earmarked to ensure they are allocated to activities in that jurisdiction. While this delineation of funds provides cities with protections on their investments, they restrict the ability of the housing trust to further leverage funds to enact greater change in the regional community.
6. Only provide loans to seasoned affordable housing developers, and work with them continuously to minimize development uncertainty and address barriers to affordable housing creation.
7. Reduce administrative costs by keeping staffing low, contracting out for underwriting services, and sharing costs with other nonprofits or partner agencies when possible.
8. Seek guidance and feedback with the developer community often to ensure programs funded by the trust are effective and user-friendly.

# APPENDIX B: Housing Trust Funding Sources



## STATE AND FEDERAL GRANTS

### PERMANENT LOCAL HOUSING ALLOCATION (PLHA) PROGRAM

Funded through the \$75 real estate transaction fee established by Senate Bill (SB) 2, the PLHA Program is intended to provide a permanent source of funding for local governments to support affordable housing. PLHA funds are flexible and can be used for a variety of housing-supportive efforts, including as matching funds for local or regional housing trusts.

The 2019-2023 5-year PLHA Allocation for SBCOGs participating jurisdictions is estimated at approximately \$31 million in formula (non-competitive) grants and competitive grants in San Bernardino County, with total funding available contingent upon the real estate transaction fees from year to year.<sup>15</sup> The first NOFA for formula grants was issued in February 2020. Applications will program five years of PLHA formula funding and be issued on an annual basis, as real estate transaction fees are collected. While applications can only be submitted in response to a NOFA, local jurisdictions unable to submit applications for the 2020 NOFA, may apply in 2021 to redeem funding allocated for 2020. Under the Program, a Joint Powers Authority, such as a SBCOG-administered housing trust, could be delegated funds by a local jurisdiction, those funds could then be leveraged as matching funds needed to secure revenue from the competitive PLHA funds.

JURISDICTION	FUNDING AMOUNT
<b>Entitlement Communities</b>	
Apple Valley	\$1,725,366
Chino	\$1,496,190
Chino Hills	\$1,063,710
Fontana	\$5,886,732
Hesperia	\$3,034,662
Ontario	\$5,520,108
Rancho Cucamonga	\$2,702,856
Rialto	\$3,586,716
City of San Bernardino	\$273,393
Upland	\$1,667,022
Victorville	\$3,736,620
County of San Bernardino	\$727,093

<sup>15</sup> The San Bernardino County PLHA allocation includes cities with populations smaller than 50,000. As an urban county, it is the County's responsibility to utilize those funds within those those unincorporated areas and cities with populations smaller than 20,000.

## STATE-MATCHING LOCAL HOUSING TRUST FUND (LHTF) PROGRAM

The California Department of Housing and Community Development (HCD) distributes matching State funds for local and regional housing trust funds in California. Funding is restricted to the following applicant types: a city, county, or city and county; a charitable nonprofit organization permitted in Section 501(c)(3) of the Internal Revenue Code; and Native American Tribes. For a SBCOG-administered trust to be eligible for funds, member jurisdictions would need to take action to form the trust and identify SBCOG as the partner agency representing the participating jurisdictions. All participating member jurisdictions must have a State law-compliant housing element to be eligible for funding.

Eligible sources of funds to be matched by State funds include taxes, fees, loan repayments, and public or private contributions. Funds restricted for housing use by State or federal law, including the Home Investment Partnerships Program (HOME), Community Development Block Grant (CDBG) Program, or redevelopment agency Low and Moderate Income Housing Fund (LMIHF) funds administered by HCD, cannot be used as matching funds. While local (single jurisdiction) housing trusts are not allowed to apply for matching funds using their Permanent Local Housing Allocation (PLHA) funds, regional housing trusts can receive matching funds from PLHA funds. As a new regional housing trust, a SBCOG trust would be eligible to request a minimum match of \$750,000 and a maximum of \$5 million, if using PLHA funds.

State matching funds require that all construction workers be paid prevailing wage, which can make affordable housing project costs infeasible, even with the additional funding. As a work around, existing housing trusts often separate State matching funds from other funding sources that do not invoke prevailing wage, and use those funds for expenses not related to construction such as administrative costs, loan underwriting fees, or homelessness services. If developers opt to use State matching funds through a housing trust's revolving loan fund (explored below), the returned capital from the loan repayments is no longer held to prevailing wage requirements.

## NATIONAL HOUSING TRUST FUND PROGRAM (NHTF)

NHTF is an affordable housing production grant program supporting affordable housing for low- and very-low-income households. This is the only federal resource dedicated explicitly to housing trusts. Administered at the State level through HCD, this grant funds production or preservation of affordable housing, and housing trusts are eligible applicants to receive this funding. The grant requires that at least 80 percent of each annual grant is for rental housing and allows for up to

10 percent each for homeownership housing and the trust fund's administrative and planning costs.<sup>16</sup> NHTF funds may be used for the acquisition, new construction, reconstruction, and/or rehabilitation of housing with suitable amenities. All NHTF-funded rental housing must be restricted to affordable housing for at least 30 years. All NHTF-funded homeownership housing must have an affordability restriction for a period of 10, 20 or 30 years, depending on the amount of NHTF investment in the unit. HCD further specifies eligible activities through the annual release of a NOFA; in 2018, eligible activities were limited to new multifamily construction for all applicants.

## BONDS

### GENERAL OBLIGATION (GO) BONDS

General Obligation (GO) bonds are a popular type of municipal bond for housing trusts, invoked via a new tax rather than a specific project's revenue. To put them on the ballot, proposed GO

bond measures must be adopted by resolution by the jurisdiction's elected officials and must receive a two-thirds majority vote. In 2016, Alameda County voters approved a \$580 million Affordable Housing GO bond, Santa Clara County voters approved a \$950 Homelessness and Housing GO Bond, and Oakland voters approved an infrastructure GO bond that included \$100 million for housing. Each of these bonds include a portion that directly funds a local affordable housing trust. GO bonds may be a feasible housing trust funding source in some SBCOG jurisdictions, though many may struggle to garner sufficient elected official or voter support for approval.

### REVENUE BONDS

Revenue bonds are municipal bonds supported by specific revenue streams and are tax exempt because they are entirely financed by a specific project. For example, mortgage revenue bonds are directly repaid by the individual buyer. While the lack of municipal backing power on this type of bond increases the risk, it also increases the rate of interest paid back on the bond. The City of Santa Rosa's housing trust issued tax-exempt revenue bonds for public purpose developments that require below market interest rate financing to meet community needs. The City Council approved multiple types of revenue bonds including both single-family housing mortgage revenue bonds and multifamily rental housing revenue bonds. Local jurisdictions should have guidelines to consider requests for revenue bonds to preserve potential bond buyer confidence in the jurisdiction and form the basis for short and long-term policy objectives.

<sup>16</sup> U.S. Department of Housing and Urban Development, Community Planning and Development, 2015 National Housing Trust Fund Fact Sheet, <https://files.hudexchange.info/resources/documents/National-Housing-Fund-Trust-Factsheet.pdf>, accessed March 28, 2020.

## TAX INCREMENT FUNDS AND TAXES

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Property tax-based strategies can effectively generate revenue in strong housing markets where home values continue to appreciate over time. Local jurisdictions can contribute directly to the housing trust fund from discretionary local revenues using a designated portion of existing local revenue sources or establishing a new tax increment fund or tax. While establishing new taxes is less popular with the general public, they provide a reliable, steady source of revenue for housing trust funds. Types of tax increment funds or other taxes include:

### REDEVELOPMENT TAX INCREMENT FUNDS

With voter approval, a city or county can establish redevelopment areas using the redevelopment of blight as a nexus for allocating additional property taxes collected in the area to improve the neighborhood's housing. Housing trusts then receive additional property taxes resulting from increased property value as the area improves. For example, Philadelphia's Housing Trust Fund has reported a 4.7 percent increase in property values near housing trust fund developments, accounting for inflation.<sup>17</sup> In California, Los Angeles County directs tax increment revenue collected from designated redevelopment areas annually to their Affordable Housing Trust Fund. A Community Revitalization and Investment Authority (CRIA) can also be created to authorize the revitalization of disadvantaged communities through affordable housing via tax increment financing.

### REAL ESTATE TRANSFER TAX

A real estate transfer tax is a sales tax, based on the value of the property and assessed at the State, county, and/or city level, most often used as general revenue. However, real estate transfer taxes can be dedicated to specific uses, such as affordable housing development. Real estate transfer taxes typically range from 0.01 to 0.40 percent and often include exemptions for low-income households and first-time homebuyers. Real estate transfer tax increases are not restricted under California's Proposition 13, as they are not considered property taxes.

Real estate transfer taxes must be approved by a vote of the local jurisdiction. General law cities are authorized to impose a tax of up to \$0.55 per \$1,000 of value. There is no cap on the real estate tax for charter cities, so San Bernardino County's six charter cities, Adelanto, Big Bear Lake, Loma Linda, Needles, San Bernardino, and Victorville, could impose the tax above this statutory

<sup>17</sup> Center for Community Change, 2016, The 2016 Housing Trust Fund Survey Report, [https://housingtrustfundproject.org/wp-content/uploads/2016/10/HTF\\_Survey-Report-2016-final.pdf](https://housingtrustfundproject.org/wp-content/uploads/2016/10/HTF_Survey-Report-2016-final.pdf), accessed March 23, 2020.

limit if desired. To enact a real estate transfer tax, a local jurisdiction can either propose a measure for increasing the real estate transfer tax to generate general revenue, which only requires a majority vote to pass, or propose a measure that specifically funds affordable housing, which requires a two-thirds vote to pass.

Real estate transfer taxes are popular funding sources for affordable housing in the state, but are often created through general revenue measures, rather than specifically for affordable housing due to the less stringent vote requirements. A companion measure, requiring a two-thirds majority to pass, is required to accompany a general revenue measure to clarify the use of collected funds, such as the diversion of funds to a SBCOG-administered trust for housing. For example, the City of Santa Rosa has a real estate transfer tax collected based on the sale of homes in the city, which provided approximately \$3.8 million in FY 2019-2020. This money is funneled to the General Fund and then, per the companion measure, transferred to the housing trust fund for housing-related programs annually.

### TRANSIENT OCCUPANCY TAX

The transient occupancy tax (TOT) is a voter-approved tax that is charged for the use of any transient occupancy facility, such as a hotel. The tax is required to be paid by the guest to the operator of the transient facility at the time that rent is paid. A jurisdiction can allocate the TOT collection toward affordable housing by establishing a nexus to the generated need for and/or loss of affordable housing in the local jurisdiction's TOT ordinance. For example, a hotel, lodging, or short-term rental generates significant income for local jurisdictions. Hotels and motels create many low-paying jobs in areas that often lack affordable housing for these workers. Additionally, short-term rentals, such as Airbnbs and vacation rentals by owner (commonly known as VRBOs) reduce the supply of housing available for sale or long-term rental and increase the costs of long-term rents overall.

Often, short-term rentals are not included in the TOT's definition of transient occupancy facilities, so these facilities are exempt. SBCOG member jurisdictions can leverage funds from local TOTs to support a housing trust fund by increasing the existing TOT or revising the definition of transient occupancy facilities to include short-term rentals. By law, a new TOT or increase to an existing TOT rate requires a majority vote of the general public. TOT revenues are typically allocated to the general fund, unless approved as a special TOT tax, which requires a two-thirds vote for approval. A special TOT tax would allow direct allocation of funds to affordable housing upon demonstrating a reasonable nexus. There is no statewide cap on the TOT.



The City of Sacramento has a TOT rate of 12 percent and increased revenue collected from the TOT by including short-term rentals in their definition of transient occupancy facilities beginning in 2016. The additional revenue collected is allocated to affordable housing. Both the City of Pismo Beach and the Town of Mammoth Lakes have enacted TOT ordinances on short-term rentals and annually allocate collected taxes towards the creation of affordable housing. Pismo Beach's Municipal Code Chapter 17.09 provides an example TOT ordinance with model nexus language, and the Town of Mammoth Lakes provides clear definitions for all transient occupancy facilities that generate taxable revenue for member cities to reference.<sup>1819</sup>

## FEES

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Fees are a pragmatic strategy to generate revenue from private entities without imposing blanket taxes on the general public. In addition, fees do not require voter approval to be initiated; they simply need approval from the local government's elected body. Fees require a nexus be established between the activity charged and the resulting activity funded, thereby ensuring that money is reinvested into the community. Common fees imposed by local governments that could support a housing trust are described below.

### DEVELOPMENT IMPACT FEES AND COMMERCIAL LINKAGE FEES

Many jurisdictions have impact and commercial linkage fees to support affordable housing. Commercial linkage fees may be assessed on all new non-residential development under the assumption that the facilities will stimulate the creation of low-wage jobs but will not provide on-site affordable housing for low-wage workers. Los Angeles, San Diego, and West Hollywood have all adopted commercial linkage fees for housing production. Similarly, housing impact fees may be assessed on new market-rate residential development under the assumption that new residents will generate increased demand for services and, in turn, low-wage jobs to fulfill that demand. The fee revenue is distributed to support the development of housing affordable for the new employees and/or residents attracted to the new development. Local jurisdictions could deposit these linkage or housing impact fees into the housing trust fund. To enact a fee for the housing trust, existing fees could be diverted to the housing trust fund by a vote of the local jurisdictions' governing bodies, or a new developer impact fee or commercial linkage fee could be established in individual jurisdictions.<sup>20</sup> City and county staff would prepare an ordinance and resolution to specify such details as the fee's purpose, nexus to affordable housing, and methods for fee calculation.

18 City of Pismo Beach Municipal Code, 2020, <https://www.prcity.com/DocumentCenter/View/25961/Pismo-Beach-Outside-Coastal-Zone-Short-Term-Rental-Ordinance>, accessed April 8, 2020.

19 Town of Mammoth Lakes Municipal Code, 2020, [https://library.municode.com/ca/mammoth\\_lakes/\\_codes/code\\_of\\_ordinances?nodeId=TIT3REFI\\_CH3.12TROCTA#TIT3REFI\\_CH3.12TROCTA\\_3.12.040TAIM](https://library.municode.com/ca/mammoth_lakes/_codes/code_of_ordinances?nodeId=TIT3REFI_CH3.12TROCTA#TIT3REFI_CH3.12TROCTA_3.12.040TAIM), accessed April 8, 2020.

20 Institute for Local Government, 2007, Establishing a Local Housing Trust Fund, [https://www.ca-ilg.org/sites/main/files/file-attachments/resources\\_\\_Local\\_Housing\\_Trust\\_Fund\\_0.pdf](https://www.ca-ilg.org/sites/main/files/file-attachments/resources__Local_Housing_Trust_Fund_0.pdf), accessed March 23, 2020.

## INCLUSIONARY ZONING IN-LIEU FEES

Over 150 California cities have adopted inclusionary housing programs that require new housing developments meeting certain criteria to provide a percentage of affordable housing as a condition of development of both owner and renter-occupied housing. These programs generally allow in-lieu fees to be paid as an alternative to direct construction of the required housing; such in-lieu fees could be allocated to a housing trust. To do so requires an ordinance approved by the jurisdiction's elected body. Some cities explicitly require that the money obtained from in-lieu fees be invested back into the community where fees are incurred, which can make the funding more difficult to utilize through a regional housing trust.

## DOCUMENT RECORDING FEE

Local jurisdictions can adopt a document recording fee placing a surcharge on the \$75 administrative fee set by the State to generate income for the housing trust fund. The additional recording fee must be approved by a majority vote of the public. For the fee to be explicitly dedicated for affordable housing, it would need to be approved by two-thirds of voters as it would be considered a special fee.

## BUSINESS LICENSE FEES

Cities and counties can charge an annual business license fee for continued operation in their jurisdiction. The fees can be tiered according to business size and type to ensure small businesses or nonprofit organizations are not overburdened. When used for housing trusts, fees are typically funneled to the jurisdiction's general fund as they are collected and an appropriation is transferred to the housing trust fund on an annual basis. The City and County of San Francisco assesses such a fee for allocation to the housing trust fund.

## LOANS

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Once provided with base funding, housing trust funds often lend money to private or nonprofit developers for affordable housing projects. Revolving loan funds are one example of the types of loans that housing trusts often offer and, due to their unique ability to “clean” money, explored below, they are considered here as a type of funding source.

## REVOLVING LOAN FUND

Housing trusts can provide reduced rate financing for construction or purchase of affordable housing. Loan repayments can then be used to create a revolving fund that allows the trust fund to

make additional investments. While this is not an option to fund start-up costs, a loan repayment program would provide the housing trust fund with ongoing revenue, strengthening the fund's stability and longevity. Arlington County, Virginia, finances the creation of affordable housing with support from loan repayments and developer contributions in addition to the County's general fund allocations and document recordation fees. In FY 2019, the County reported \$14.3 million allocated to its housing trust fund and estimated that every dollar of County loan funds leveraged three dollars in private funds.<sup>21</sup>

While this revenue source does not generate considerable new funding (it primarily recycles existing funds), it allows trusts to better tap into restricted funding sources. Not only does a revolving loan fund help the trust maintain a consistent revenue source over time, it also allows trusts to “clean” money received from grants with strict requirements. Once money has been repaid by developers or first-time homebuyers through the revolving loan fund, it is essentially “clean” for the trust to use at its own discretion. This function generates one of the largest sources of non-restricted funds for trusts over time.

## PRIVATE SOURCES

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### PRIVATE DONATIONS

Individuals, corporations, or organizations can pledge one-time or ongoing funds to a housing trust. For example, the Silicon Valley Housing Trust (SVHT) was established using a \$2 million grant from Santa Clara County, matched by \$1 million donations each from Adobe, Applied Materials, Cisco Systems, Intel, KB Homes, and Solectron. While San Bernardino County does not have the same large supply of multi-million dollar corporations as Silicon Valley, the housing trust could solicit funds from prominent private employers in the region such as Amazon, Redlands Community Hospital, Environmental Systems Research, Inland Empire Health Plan, and other large employers. In particular, it may be possible to leverage investments by health care providers given the linkage between homelessness and health care services.

### COMMUNITY BENEFIT AGREEMENTS

Community Benefit Agreements (CBAs) are an effective tool to extend a developer's commitment to provide a range of community benefits related to a new development project. In exchange for public support from a community group(s) for the development project, the developer enters into a contract with the community group. CBAs are voluntary agreements, and agreement details related to amenities, mitigations, or funds contributed are negotiated between the

<sup>21</sup> Arlington County, <https://housing.arlingtonva.us/development/financial-tools/>, accessed on April 3, 2020.

community groups and developers. The expansion of health centers, universities, or other major developments present an opportunity for CBAs that include payments to a housing trust fund, as support services staff and maintenance staff would qualify for affordable housing negotiated in

a CBA. In California, government representatives sometimes serve as formal CBA signatories to facilitate agreements between these groups. SBCOG could collaborate with member jurisdictions to engage medical centers and California State University, San Bernardino as they develop plans to expand.

## OTHER FUNDING SOURCES

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In addition to bonds, grants, taxes, fees, and loan repayment, housing trusts may receive support from other non-recurring sources of funding. These sources are described below.

### DISCRETIONARY LOCAL REVENUES

Local jurisdictions can opt to contribute directly to local or regional housing trust funds from discretionary local revenues in their general fund. Upon the dissolution of redevelopment agencies (RDAs) in 2012, the State funds collected from local property taxes previously allocated to RDAs for housing were redirected back into city and county general funds, making local governments the successor agencies responsible for winding down RDA activities and seeing through existing obligations. Local governments still collect revenues owed to dissolved RDAs and can opt to divert a percentage of these funds from the general fund into a separate fund for affordable housing, including to a housing trust. This has been done in numerous communities, including Alameda County where 20 percent of RDA funds, between \$5 million and \$7 million each year, have been allocated the Alameda County Affordable Housing Trust Fund.

### SALE OF PUBLICLY-OWNED LAND

Some housing trusts have been able to access unrestricted proceeds from the sale of publicly owned land. In addition to city- and county-owned lands, housing trusts can work with local school districts and transit agencies as partners to auction available land and may offer technical assistance to facilitate the sale. Trusts receive a percentage of proceeds from the sale as a voluntary donation from the local government or public agency.



