



COUNCIL PRESIDENT PRO TEM MARTI EMERALD

COUNCILMEMBER MYRTLE COLE

COUNCILMEMBER DAVID ALVAREZ
City of San Diego

MEMORANDUM

DATE: October 14, 2016

TO: Honorable ED&IR Committee Members

FROM: Council President Pro Tem Marti Emerald

Councilmember Myrtle Cole *Myrtle Cole*

Councilmember David Alvarez *David Alvarez*

**SUBJECT: Proposed Redevelopment Property Tax Trust Fund Investment into
Economic Revitalization and Job Creation in the City of San Diego**

This is a follow-up to our memo released on January 13, 2016 regarding the creation of a city policy for the use of Redevelopment Property Tax Trust Fund (RPTTF) revenue.

As previously stated in the memo mentioned above, RPTTF monies are disbursed property tax revenue associated with former redevelopment areas to local governments. This funding is now allocated to the General Fund. These funds have a direct nexus with the former redevelopment areas that they were derived from and should be used in areas that closely mirror the conditions that prompted them to be designated as redevelopment areas. Due to the lack of dedicated funding towards redevelopment type activities, the city is quickly losing the focus and dedicated financial resources needed to appropriately invest in the city's most economically disadvantaged neighborhoods.

The IBA's December 8, 2015 report of the Five-Year Outlook, notes that the adjusted residual RPTTF revenue over the next five years increases from \$9.3M to \$23.7M, for a total of \$107.5M. However recent estimates by the IBA indicate that those numbers may be somewhat understated, which could result in slightly higher RPTTF revenue than originally projected. Using this revenue going forward to invest in San Diego's economically disadvantaged communities, as was the original intent of the funding, allows areas in the greatest need of economic investment an opportunity to attract new commercial activity, which in turn creates new jobs and greater tax revenue for the City's General Fund.

We propose that this funding be used only for economic development activities in either former redevelopment areas, CDBG eligible areas and/or areas within the federally designated Promise Zone. The funding should be used proportionally for the following activities:

- **Affordable Housing:** 25% shall be allocated towards development and construction of Affordable Housing.
- **Economic Development Incentive and Infrastructure Improvement Programs:** 75% shall be allocated toward programs that allow the city to assist in the development and revitalization of economically disadvantaged areas, such as DIF waivers, gap financing, storefront improvement programs, rebate programs, business retention and attraction and for improvements or construction of city infrastructure projects when related to incentivizing private investment in economically disadvantaged areas. It is intended that these programs and funds be managed by the Economic Development Department.

The City of Oakland has created a similar policy related to the use of the funding towards affordable housing within the city's municipal code (attached). Although the proposed policy envisions other uses for the funding in addition to affordable housing, Oakland's policy on this matter is an example of how this funding can be successfully purposed for activities meant to revitalize economically disadvantaged areas.

The use of this funding as an economic development tool is critical in order to ensure that these areas, which continue to experience high unemployment, high crime and low levels of commercial investment, are given the opportunity to revitalize and grow their local economy. We propose that a City Council Policy be created for the use of this funding and that the Council's Budget Policy be amended accordingly. We request that the ED&IR Committee direct the IBA, City Attorney and Mayor's office to work closely with our offices to create such a policy that can be considered by the appropriate City Council Committee later this year.

CC:

Honorable Mayor Kevin Faulconer
Honorable City Attorney Jan Goldsmith
Honorable City Councilmembers
Andrea Tevlin, Independent Budget Analyst

Chapter 15.62 - AFFORDABLE HOUSING TRUST FUND

Sections:

15.62.010 - Establishment and purpose.

The City Administrator shall establish an Affordable Housing Trust Fund to provide assistance in developing and maintaining affordable housing in the City.

(Ord. No. 13365, § 8, 5-3-2016)

15.62.020 - Definitions.

As used in this chapter, the following terms have the following meanings:

"Affordable housing" means housing that is provided at an affordable rent or an affordable housing cost to lower income households or very low income households, except as provided for below. The terms "affordable rent" and "affordable housing cost" shall be as defined in California Health and Safety Code Sections 50053 and 50052.5 and their implementing regulations. Such housing shall have terms of affordability equivalent to those prescribed in California Health and Safety Code Sections 33334.3(f)(1)(A) for rental housing and 33334.3(f)(1)(B) for owner occupied housing. Notwithstanding the above, for funds deposited into the Affordable Housing Trust Fund from the affordable housing impact fees, "affordable housing" means housing that is provided at an affordable rent or an affordable housing cost to moderate income households, lower income households or very low income households.

"City Administrator" means the City Administrator of the City of Oakland or his or her designees.

"Dissolution Laws" mean Parts 1.8 and 1.85 of Division 24 of the California Health and Safety Code, commencing with Section 34170 and other statutes governing the dissolution of redevelopment agencies and the wind-down of redevelopment activities.

"Lower income household" shall be as defined in California Health and Safety Code Section 50079.5 and its implementing regulations.

"Moderate income household" means persons and families of low or moderate income as defined in California Health and Safety Code Section 50093 and its implementing regulations.

"Substantial rehabilitation" means a project to repair or rehabilitate an existing building in which the cost of repairs or rehabilitation exceed twenty-five percent (25%) of the building's after-rehabilitation value.

"Very low income household" shall be as defined in California Health and Safety Code Section 50105 and its implementing regulations.

(Ord. No. 13365, § 8, 5-3-2016)

15.62.030 - Funding sources.

The Affordable Housing Trust Fund shall receive funding from the sources set forth below. The Affordable Housing Trust Fund may also receive funds from any other source.

- A. Jobs/Housing Impact Fees. The Affordable Housing Trust Fund shall receive all monies from jobs/housing impact fees contributed pursuant to Sections 15.68.050 and 15.68.060 of this Code.
- B. Redevelopment Dissolution Funds. An amount equal to twenty-five percent (25%) of all funds distributed to the City as a taxing entity under the Dissolution Laws, including both one time and ongoing distributions, net of the amount of distributed funds that is deposited with the KIDS First! Oakland Fund for Children and Youth under Section 1300 of the Charter, shall be deposited into the Affordable Housing Trust Fund. The funds subject to this setaside shall include, without limitation, distributions of property tax from the Redevelopment Property Tax Trust Fund ("RPTTF"), distributions of sales proceeds and other revenues from the use or disposition of assets of the Oakland Redevelopment Successor Agency ("ORSA"), compensation paid to taxing entities by ORSA, and distributions of available cash assets of ORSA to taxing entities. This policy shall apply to distributions from the RPTTF under California Health and Safety Code Section 34183 starting in Fiscal Year 2015-2016, and shall apply to all other distributions received starting in Fiscal Year 2013-2014. As to distributions from the RPTTF, from Fiscal Year 2015-16 through Fiscal Year 2024-2025, this policy shall apply only to distributions to the City as a taxing entity of RPTTF funds under Subsection (a)(4) of California Health and Safety Code Section 34183, which are residual amounts distributed to the City after all other RPTTF allocations are made, and shall not apply to distributions of RPTTF funds to the City under Subsection (a)(1) of California Health and Safety Code Section 34183, which are amounts distributed to the City that the City would have received as

- passthrough payments if the Redevelopment Agency had not been dissolved. Starting in Fiscal Year 2025-2026, this policy shall apply to all distributions from the RPTTF to the City as a taxing entity under California Health and Safety Code Section 34183.
- C. Fines and penalties. The Affordable Housing Trust Fund shall receive fines and penalties received under the Foreclosed and Defaulted Residential Property Registration Program pursuant to Section 8.54.620 of this Code.
- D. Affordable Housing Impact Fees. The Affordable Housing Trust Fund shall receive all monies from affordable housing impact fees contributed pursuant to Chapter 15.72 of this Code.

(Ord. No. 13365, § 8, 5-3-2016)

15.62.040 - Use of funds.

Funds deposited into the Affordable Housing Trust Fund, and all interest and investment earnings thereon, shall be used to increase, improve, and preserve the supply of affordable housing in the City, with priority given to housing for very low income households. For purposes of this paragraph, to "preserve" affordable housing means to acquire, finance, refinance, or rehabilitate housing that is at imminent risk of loss to the affordable housing supply due to termination of use restrictions, non-renewal of subsidy contract, mortgage default or foreclosure, or physical conditions that are likely to result in vacation of the property.

Funds may also be used to cover reasonable administrative or related expenses of the City not reimbursed through processing fees. No portion of the Affordable Housing Trust Fund may be diverted to other purposes by way of loan or otherwise.

Funds in the Affordable Housing Trust Fund shall be used in accordance with the adopted housing element to the City's General Plan, the Consolidated Plan, and subsequent housing plans adopted by the City Council, to subsidize or assist the City, other government entities, nonprofit organizations, private organizations or firms, or individuals in the construction, preservation or substantial rehabilitation of affordable housing. Monies in the Affordable Housing Trust Fund may be disbursed, hypothecated, collateralized or otherwise employed for these purposes from time to time as the City Administrator so determines is appropriate to accomplish the purposes of the Affordable Housing Trust Fund. Eligible uses include, but are not limited to, assistance with staff costs or other administrative costs attributable to a specific affordable housing project, equity participation in affordable housing projects, loans and grants (including, predevelopment loans or

grants) to affordable housing projects, or other public/private partnership arrangements. Monies from the Affordable Housing Trust Fund may be extended for the benefit of rental housing, owner occupied housing, limited equity cooperatives, mutual housing developments, or other types of affordable housing projects. Not more than fifteen percent (15%) of the funds deposited into the Affordable Housing Trust Fund from Affordable Housing Impact Fees may be used for housing affordable to moderate income households unless this limit is waived by the City Council with a specific finding that the waiver is in the best interests of the City.

Notwithstanding the above, funds deposited into the Affordable Housing Trust Fund from fines and penalties received under the Foreclosed and Defaulted Residential Property Registration Program pursuant to Section 8.54.620 of this Code, or from fines, penalties, or other funds under other programs that designate the use of funds deposited into the Affordable Housing Trust Fund for foreclosure prevention or mitigation purposes, may be used for foreclosure prevention and mitigation activities, including but not limited to homebuyer or tenant assistance, rehabilitation, housing counseling, education, outreach, and advocacy activities, along with staff costs or other administrative costs attributable to such activities. Upon a finding by the City Council or the City Administrator that funds are no longer needed for foreclosure prevention or mitigation activities, such funds may also be used for other eligible Affordable Housing Trust Fund uses or for other low income or very low income tenant or homebuyer assistance. Funds received pursuant to Section 8.54.620 shall be appropriated to a separate project. For funds received under the Foreclosed and Defaulted Residential Property Registration Program or other programs that designate the use of funds for foreclosure prevention or mitigation purposes, the City Administrator or his or her designee is authorized to award grants and enter into grant contracts or service contracts without returning to the City Council in amounts not to exceed one hundred thousand dollars (\$100,000.00).

(Ord. No. 13365, § 8, 5-3-2016)

15.62.050 - Administration of funds.

The Affordable Housing Trust Fund shall be administered by the City Administrator, who shall have the authority to govern the Affordable Housing Trust Fund consistent with this chapter and to prescribe regulations for the administration and use of the Affordable Housing Trust Fund. Funds deposited to the Affordable Housing Trust Fund shall be appropriated on a continuous basis to projects to be established consistent with this chapter. Notwithstanding the foregoing, all allocations of funds from the Affordable Housing Trust Fund, except as provided for above with

respect to grants or service contracts from funds received under the Foreclosed and Defaulted Residential Property Registration Program or other programs, shall be approved by the City Council. An annual report showing impact fees imposed, revenues collected, funds committed, expenditures made, and any decisions made as to requests for reductions or exceptions shall be forwarded by the City Administrator to the City Council.

(Ord. No. 13365, § 8, 5-3-2016)