City of Long Beach
Working Together to Serve

Memorandum

Date: December 1, 2017

To: Patrick H. West, City Manager

From: Amy J. Bodek, Director of Development Services

For: Mayor and Members of the City Council

Subject: **Document Recording Fee for Affordable Housing**

In May 2017, the City Council adopted 29 recommendations to support the production of affordable and workforce housing. Please consider this memorandum as a response to Recommendation 3.3: *New Initiatives for Development and Implementation*, which directs staff to investigate the possibility of creating a local document recording fee to fund affordable housing.

On September 29, 2017, Governor Jerry Brown signed SB 2 (Atkins), the Building Homes and Jobs Act. Mayor Garcia joined colleagues from California's largest cities in signing a March 22, 2017 letter of support for the bill. In addition, the City sent a second letter of support on September 25, 2017, when the bill reached the Governor's desk at the end of the State Legislative Session.

This urgency bill establishes the Building Homes and Jobs Trust Fund (Trust Fund) and, beginning January 1, 2018, imposes a $75 fee on the recording of certain real estate transaction documents, excluding commercial and residential real estate sales, to provide funding for affordable housing. The types of documents subject to the fee include but are not limited to the following:

- Deeds
- Grant Deeds
- Trustee's Deeds
- Deeds of Trust
- Conveyances
- Quit Claim Deeds
- Fictitious Deeds of Trust
- Assignments of Deeds of Trust
- Requests for Notice of Default
- Abstract of Judgment
- Subordination Agreement
- Declaration of Homestead
- Abandonment of Homestead
- Notice of Default
- Release or Discharge
- Easement
- Notice of Trustee Sale
- Notice of Completion
- UCC Financing Statement
- Mechanic's Lien maps
- Covenants, Conditions, and Restrictions

The fee imposed by SB 2 does not apply to transactions that are subject to a documentary transfer tax currently imposed by a county or local jurisdiction, or to the sale of owner-occupied homes. The maximum fee that can be charged is $225 per transaction.

According to analysis of the bill by the Senate Committee on Appropriations, fee revenues from SB 2 are largely unknown, but are likely in the range of $200 million to $300 million annually, depending on the volume of recorded documents. The bill authorizes up to 5

percent of funds for administration costs for state agencies to administer the programs. Revenues generated by this fee will be collected by the County Recorder and transferred on a quarterly basis to the State Department of Housing and Community Development (HCD) for deposit into the Trust Fund.

Funds collected in the first year of the program (January 1, 2018 through December 31, 2018) are earmarked for updates to planning documents and for homeless assistance programs. More specifically, 50 percent of funds will be made available for local governments to update planning documents and zoning Ordinances to streamline housing production, including general plans, community plans, specific plans, sustainable community strategies, and local coastal programs. These funds will not be allocated by entitlement, but will be held by HCD until a local government submits a request for use. The remaining 50 percent of the funds from the first year will be disbursed by HCD for programs that assist persons experiencing or at risk of homelessness, including rapid rehousing programs, rental assistance, new construction, rehabilitation, or preservation of permanent or transitional housing. The bill requires that funds collected after January 1, 2019 be set aside for the following uses:

- 70 percent of the funds will be allocated to local governments and may be expended for a number of purposes outlined in the bill as follows:
    - Predevelopment, development, acquisition, rehabilitation, and preservation of multifamily, residential live-work, and rental housing that is affordable to households at or below moderate income.
    - Affordable rental and ownership housing that meets the needs of a growing workforce earning up to 120 percent of Area Median Income (AMI), or 150 percent of AMI in high-cost areas.
    - Matching portions of funds placed into local or regional housing trust funds.
    - Matching portions of funds available through the Low- and Moderate- Income Housing Asset Fund pursuant to HSC Section 34176.
    - Capitalized reserves for services connected to the creation of new permanent supportive housing, including but not limited to Veterans' housing funded through the Veterans Housing and Homelessness Prevention Bond Act of 2014.
    - Assisting persons who are experiencing or at risk of homelessness, including rapid rehousing, rental assistance, navigation centers, emergency shelters, and construction, rehabilitation, or preservation of permanent and transitional housing.
    - Accessibility modifications.

- Efforts to acquire and rehabilitate foreclosed or vacant homes.
- Homeownership opportunities.
- Fiscal incentives or matching funds to local agencies that approve new housing for extremely low-, very low-, low-, and moderate-income households.

- 30 percent of the funds will be made available to HCD for specified purposes, including a continuous appropriation of funds to the California Housing Finance Agency for the purpose of creating mixed-income multifamily residential housing for low- and moderate-income households.

- 20 percent of all money in the Trust Fund shall be expended on affordable owner-occupied workforce housing.

Of the 70 percent share of funding that is set aside for local governments, 90 percent will be allocated to entitlement cities, including Long Beach. The allocation will be based on the federal formula used to allocate Federal Community Development Block Grant (CDBG) and Home Investment Partnerships Program (HOME) funding. Under this formula, Long Beach receives 1.53 percent of all CDBG funding and 1.71 percent of all HOME funding allocated to the State of California. The Senate Appropriations Committee projects unknown fee revenue gains, likely in the range of $200 million to $300 million annually, depending on the volume of recorded documents. Based on the 2016 CDBG and HOME allocations from HUD, as well as on the fee revenue projections from the Senate Appropriations Committee, staff estimates potential fee revenues to be allocated to the City in the range of $1.9 million to $3.2 million annually.

To receive an allocation of funds, the City must submit the following to HCD:

- A plan detailing the manner in which the allocated funds will be used by the City in a manner consistent with the uses outlined in the bill and to meet its unmet share of the regional housing needs allocation (RHNA);

- Proof of a compliant housing element; and,

- Emphasize investments that serve households at or below 60 percent of AMI.

The remainder of the funds will be awarded to counties with populations of 200,000 or less, to local governments that did not receive an allocation, and to local governments pledging to use the funding for homeless housing and prevention projects through a competitive grant process. Two or more local governments that receive an allocation may also spend the money on a joint project that is an authorized use. The City will also be required to submit an annual report to HCD that provides ongoing tracking of the uses and expenditures of any allocated funds.

COMPARABLE FEES

The recommendation to investigate the possibility of creating a local document recording fee was based on analysis of best practices, particularly the document recording fee established by the City of Philadelphia in 2005 to fund affordable housing. Philadelphia's primary source of funding for affordable housing is a portion of local Deed and Mortgage Recording Fees, which have generated an average of $11 million annually.

NEXT STEPS

Staff will continue to track SB 2 as the State makes more details of the program available. In addition, staff will work with the City Attorney's Office to gain a better understanding of the City's ability to implement its own document recording fee pursuant to the California Documentary Transfer Tax Act and any potential impacts from Proposition 218. It is recommended that staff address these issues after SB 2 has been in full effect to better understand the magnitude of revenues generated at the State level, and then make the determination whether to continue the pursuit of a local fee. This is another potential source of local funding for affordable housing similar to a local bond measure, which was discussed in a memo to the Mayor and City Council dated September 25, 2017 (copy attached).

If you have questions regarding this matter, please contact Patrick Ure, Housing Development Officer, at (562) 570-6026 or Patrick.Ure@longbeach.gov.

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ATTACHMENT: MEMO ON LOCAL BOND MEASURE FOR AFFORDABLE HOUSING

CC: CHARLES PARKIN, CITY ATTORNEY
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MONIQUE DE LA GARZA, CITY CLERK (REF. FILE #17-0324)
KELLY COLOPY, DIRECTOR OF HEALTH & HUMAN SERVICES
ALISON KING, BUREAU MANAGER, HOUSING AUTHORITY OF THE CITY OF LONG BEACH

ATTACHMENT

City of Long Beach
Working Together to Serve

Memorandum

Date: September 25, 2017

To: Patrick H. West, City Manager

From: Amy J. Bodek, Director of Development Services
John Gross, Director of Financial Management

For: Mayor and Members of the City Council

Subject: **Local Bond Measure for Affordable Housing**

On May 2, 2017, the City Council adopted 29 recommendations on revenue tools and incentives for the production of affordable and workforce housing. Please consider this memorandum as a response to Recommendation 3.1: *New Initiatives for Development and Implementation*, which directs staff to explore a local bond measure as a one-time source to capitalize the Housing Trust Fund.

Historically, municipalities in California have been involved in financing programs that facilitate the development, expansion, or retention of affordable housing projects. Bond financing is one method that municipalities have used to finance these projects. There are three primary types of bonds to finance affordable housing projects: general obligation bonds, third-party revenue bonds, and municipal revenue bonds. The viability of these bond financing vehicles depends on a municipality's ability to generate revenues that pay or subsidize the debt service payments on the bonds.

For municipalities, the primary method to generate funding for affordable housing projects is the issuance of general obligation bonds. These bonds are supported by an increase in property taxes or other local special tax, both of which require two-thirds voter approval under Proposition 218. Municipalities are responsible for the debt service payments of general obligation bonds. As an alternative to general obligation bonds, municipalities have also issued third-party revenue bonds or municipal revenue bonds, which do not require voter approval.

Third-party revenue bonds have been issued by Joint Power Authorities (JPAs), such as the California Municipal Finance Authority (CMFA) or California Statewide Communities Development Authority (CSCDA). The JPAs structure the bonds and assume ultimate responsibility for the debt service payments. Municipalities are only responsible for conducting a Tax Equity and Fiscal Responsibility Act (TEFRA) hearing, and have no financial responsibility for repaying the bonds. The ability to issue third-party revenue bonds is dependent on the ability of outside organizations to generate revenues.

In the past, municipal revenue bonds have also been issued by redevelopment agencies (RDAs). RDAs used redevelopment tax revenues to pay debt service payments. However, due to the dissolution of RDAs by the State of California and the elimination of the associated tax revenues, the use of RDA municipal revenue bonds is no longer an option.

In summary, with the loss of RDA tax revenues and the shortage of other financing support for affordable housing projects, local funding through a voter-approved general obligation bond or a voter-approved special tax is the most viable method of financing.

The following discussion provides more detail of the three general types of bond financing available for affordable housing projects.

General Obligation Bonds
Considering the shortage of local funding available to support affordable housing initiatives, some local governments in California have pursued general obligation bonds to fund affordable housing projects. Most recently, Alameda County, Santa Clara County, and the City of Los Angeles obtained authorization to issue general obligation bonds. General obligation bonds require a two-thirds voter approval of the bond measure. The debt service payments are paid from increased property tax revenues. The type of affordable housing projects that may be financed by general obligation bonds depends on the language specified in the bond measure. The use of general obligation bonds can support a variety of government-owned affordable housing initiatives including:

- Down payment assistance programs
- Rehabilitation grants/loans
- Land purchase/write-downs
- Loans for construction/acquisition
- Homeless projects (bond proceeds must be used for property, not services)
- Loan programs directed to seniors, veterans, disabled, and other targeted groups
- Special needs and supportive housing

Third-Party Revenue Bonds
Third-party JPAs, such as the CMFA or CSCDA have issued revenue bonds to finance new construction, acquisition/rehabilitation, and refinancing of affordable housing projects. Third-party revenue bonds have allowed developers to use tax credits and tax-exempt financing to subsidize or fund affordable housing projects. The most common types of housing projects are multi-family and single-family housing projects, both of which may be financed by revenue bonds through a JPA.

- Third-Party Multi-Family Rental Housing Projects: These types of projects are the most prevalent projects financed with the assistance of public agencies due to the defined revenue stream pledged to repay the bonds. The debt service payments are secured by the rental income generated by the housing project, with the JPA assuming ultimate responsibility for repaying the bonds. Other types of affordable multi-family projects include single-room occupancy hotels, transitional housing and homeless facilities. Many of these projects are supplemented by the third-party issuers using grants, tax credits, subordinate loans, contribution of land, and annual revenue streams pledged as additional support for the project.

- Third-Party Single-Family Housing Projects: These projects are the most difficult to finance due to the legal restrictions on the resale of the property. These bond financings are secured by the mortgage on the property and repaid by the occupant. The JPA assumes ultimate responsibility for the debt service payments. Financing assistance for the occupants are available in the form of down payment subsidizes, grants or loans.

The City of Long Beach has facilitated TEFRA hearings to support a significant number of third-party revenue bonds issued to finance affordable housing projects. In most cases, these types of projects also require a local source of subsidy to make them financially feasible. Since 2008, the City has conducted 15 TEFRA hearings to finance an aggregate of $384.5 million in affordable housing projects totaling 2,191 units.

Municipal Revenue Bonds
Municipal revenue bonds have also been issued by RDAs. In the past, the City of Long Beach has issued over $50 million in revenue bonds to support affordable housing projects resulting in the development of an estimated 330 affordable housing units. Prior to the dissolution of RDAs, 20 percent of local tax revenues generated by the RDA were dedicated to affordable housing projects and were used as security to issue revenue bonds. However, in 2012 the State of California dissolved RDAs. As a result, local tax revenues previously available to support affordable housing initiatives were seized from municipalities and are no longer available.

Conclusion/Next Steps
With the loss of RDA tax revenues and the shortage of other financial support for affordable housing projects, local funding through a voter-approved general obligation bond or a voter-approved special tax is the most viable method of providing funds to capitalize the Housing Trust Fund and fund affordable housing development. The size of a general obligation bond issue would depend on the type of affordable housing projects that are developed.

There are a variety of factors to consider when estimating the funding need of affordable housing projects such as available outside funding, income level targets, rental vs. ownership, and estimated development costs. Staff has conducted a preliminary analysis to determine the estimated funding need for 1,000 affordable housing units. Based on the average subsidy that has been provided to participants over the past ten years, the estimated gap financing would be approximately $126 million.

The table below summarizes the estimated annual debt service payments and annual property tax increases for a 30-year general obligation bond issue that would produce $126 million in net proceeds.

30-Year General Obligation Bond Issue (Estimate)	
Size of Bond Issuance	$126,985,000.00
Net Proceeds (funding need for 1,000 units)	$126,000,000.00
Annual Debt Service Payments	$7,100,000.00
Annual property tax increase ($400,000 home)	$52.00
Annual property tax increase ($500,000 home)	$65.00

Should the City Council wish to proceed with a voter-approved general obligation bond or special tax, staff will complete a thorough analysis to ensure adequate funding for the desired affordable housing program.

If you have questions regarding this matter, please contact Patrick Ure, Housing Development Officer, at (562) 570-6026 or Patrick.Ure@longbeach.gov.

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