

A PATH HOME: Fund the Trust Fund

AN OUTLINE FOR IMMEDIATE IMPACT



**SANTA FE
HOUSING
ACTION
COALITION**

DECEMBER 2020

THE TIME IS NOW

Santa Fe is at an inflection point where we must ask: What kind of community do we want to be? The unprecedented combination of record high housing costs, wage loss from the pandemic, and a wave of outside capital pressure from people relocating to Santa Fe mean that Santa Fe is facing the most acute risk of gentrification ever. Dramatic proactive steps must be taken if Santa Fe is to remain a place for locals and everyday working people.

We have a remarkable, award winning infrastructure for creating affordable housing in our town. But to deal with the scale of the problem we face, we need to supercharge that infrastructure with resources that rise to the scale of the crisis. Dedicating adequate funding to the trust fund is an essential next step to retain the diverse socio-economic character of our city. Our audacious goal is to ensure that any person from Santa Fe and any person that works in Santa Fe, should be able to live in Santa Fe affordably, and that every person in our community, regardless of background or financial position, should have access to safe decent housing as a fundamental right.

It is important to recognize that the City of Santa Fe has worked to address the housing crisis and has made some significant progress. Notably, in December 2019, City Council unanimously adopted updates to the ["HOMES" inclusionary zoning program](#) to create a long-term fix that increases the amount of income-restricted affordable rental units are included in new market-rate developments. However, while the [City of Santa Fe does a lot to address the housing crisis](#), there is much more work to be done. We learned in the aftermath and response to the 2009 recession that rapid and significant investments in housing can stave off much more complex and expensive social problems down the road. As an example, by committing to building just 200 affordable rental units, with 10% set aside for permanent supportive housing, Santa Fe has the chance to largely close our affordable housing unit gap in just 10 years.

Costly Impact

Housing security is arguably the most critical aspect of the social determinants of health; it impacts physical and mental health, educational outcomes, not to mention the health of our larger economy and public systems. In a recent report from [The Chainbreaker Collective](#), the Santa Fe nonprofit notes that housing instability results in a wide variety of [physical and mental health](#) conditions and is particularly harmful to children's [well-being](#) and [educational outcomes](#).¹ The alternatives to investing in housing are also incredibly costly. Research shows that the cost of the unhoused can be more than [\\$40,000 a year just in healthcare alone](#), which can be [cut in half with the provision of Permanent Supportive Housing](#) (inclusive of those program costs). Moreover, for the second time in a decade we are facing a drastic downturn in gross receipts tax revenue, the primary funding source for the City's General Fund. Tracking indicates that when corrected for GRT rate increases (nearly 25% in the last 17 years), per-capita GRT receipts peaked in 2004

¹ See [Health, Healing & Housing in Santa Fe: A Research Brief on Community Land Trusts, Midtown, and a Vision for Post-Pandemic Development](#). HumanImpact.org/CommunityLandscapeSantaFe. Chainbreaker Collective.

and have shrunk considerably since that time. It's also worth pointing out that investments in housing for working families also catalyze local spending, increasing local GRT generation and stabilizing GRT receipts during larger economic downturns.

Unprecedented Need

Santa Fe faces an affordability crisis unparalleled in recent history.

2018 Census numbers indicate that 86% of renter households earning less than \$50,000 a year were paying unaffordable rents, an increase of 13% in two years. That means over 5500 renter families were facing housing insecurity and threat of eviction, prior to pandemic wage and job loss.

Estimation of Households Experiencing Rental Shortfall & Potentially Facing Eviction²

New Mexico Figures ³			
Est. Range of Current Renter Households at Risk of Eviction	Est. Range of Current Rent Shortfall	Est. Range of Potential Eviction Filings by Jan. 1 With Lifting of CDC Moratorium	Est. Range of Shortfall of Rent by Jan. 2021
53,000 - 61,000	\$58,000,000 - \$65,000,000	24,700 - 28,500	\$90,000,000 - \$100,000,000
National Figures			
Est. Range of Current Renter Households at Risk of Eviction	Est. Range of Current Rent Shortfall	Est. Range of Potential Eviction Filings by Jan. 1 With Lifting of CDC Moratorium	Est. Range of Shortfall of Rent by Jan. 2021
11,813,000 - 13,895,000	\$17,012,000,000 - \$18,848,000,000	5,497,500 - 6,471,100	\$26,007,000,000 - \$28,821,000,000

A critical shortage of rental units has been evidenced since 2015 with average rents increasing 46% in that time according to CBRE. Additionally, affordable units have been at a functional 100% occupancy since 2016 and wait lists for affordable rental housing have 100's of families potentially waiting 5-6 years for affordable units or rental vouchers.

² Estimation of Households Experiencing Rental Shortfall and Potentially Facing Eviction. *Eviction Lab*. Stout Risius Ross, LLC, 2020.

<https://app.powerbi.com/view?r=eyJrIjoiaNzRhYjg2NzAtMGE1MC00NmNjLTIOTMtYjM2NjFmOTA4ZjMyIiwidCI6Ijc5MGJmNjk2LTE3NDYtNGE4OS1hZjI0LTc4ZGE5Y2RhZGE2MSIsImMiOiN9>

³ City and County-specific data is currently unavailable pending approval to release anonymized data from the Administrative Office of the Courts. According to data from the Eviction Lab, there are an estimated 638,056 renters; of which an estimated 8.3% - 9.5% are at current risk of eviction.

The situation for lower income homeowners isn't much better. As of 2018, there were over 4200 cost burdened homeowner households earning less than \$50,000 a year. This suggests a strong need for home repair, foreclosure prevention, and tax assistance programs. Prospective homeowners face even higher obstacles. Santa Fe County third quarter median home price set an all-time record of \$600,000 - a price that 60% of the population can't afford - and the hard cost of construction of a new housing unit exceeds what a median income family can afford. This in addition to the fact that our rate of helping lower-income homeowners hasn't rebounded from the last economic downturn.

Why the Trust Fund

- Trust Fund investments lead to broad prosperity - massive economic activity, job creation, immediate and long-term GRT creation, decades of housing and economic stability and additional disposable income for residents.
- It challenges the private sector to create innovative approaches for addressing housing challenges. Funded through an RFP, projects are funded according to their responsiveness to city-identified priorities. And because trust funds are local, programs can be implemented without many of the restrictions typical of federal or grant funds.
- Its operation and awards are overseen by a community board, the City Community Development Commission who represent an array of constituencies.
- Because it's funded locally, its uses are flexible and able to respond to emerging needs. Past funding has supported a range of housing issues from ending homelessness to preventing foreclosure.
- Trust fund expenditures directly support the capacity of local, nonprofit housing partners. As a result, Santa Fe's services delivery infrastructure is highly effective and poised to scale up their work easily with more resources.
- It is highly leveraged with the City, requiring a minimum match requirement of \$3 for every \$1 of trust fund. In reality, most funded projects demonstrate a much higher functional match.
- It is also highly leverageable in that local funds are the best source of match to raise federal funds, both from governmental entities and private philanthropy. Awarding higher amounts of trust funds to capable local partners has the potential to grow the local resource base exponentially.
- Trust funds are recyclable and significant amounts of past funding are recaptured on an annual basis which creates a growing base of resources over time.
- It's more flexible than federal funding, serving all residents regardless of immigration status, and serves higher incomes and a wider range of activities to respond directly to our unique community's actual needs.
- More local funding lessens reliance on federal funding, simplifying reporting burdens, reducing compliance processes and lowering the risk of recapture. In turn, the City can focus its federal grants where they are most efficiently and appropriately used.
- A fully funded trust fund is the first step to ending our shared culture of scarcity. It frees up the time and effort of practitioners that would otherwise be spent on fundraising and allows them to focus on building, preserving, and creating affordable housing units. Abundant resources foster collaboration and efficacy across the services provider network, resulting in systems change and improved societal wellbeing.

Organizing Principles for Funding Streams

- Prior to the pandemic, the Mayor's Task Force for Affordable Housing and Liveable Communities identified a minimum \$3 million annual allocation.
- To the greatest extent possible, this funding should be recurring, allowing predictable funding levels to support multi-year planning and strategies.
- We need to get money into the fund quickly (triage), while also creating long-term revenue pipeline.
- Funding should come from a diversity of revenue sources that ensure a wide range of eligible uses and help insulate against revenue volatility that can arise from changes in the real estate market or the larger economy.
- Funding streams should be allocated within a strategic framework that ties funding to specific city stated goals around unit production and services impacts.
- Tax-based sources should focus on nexus issues (things that are drivers of housing affordability issues) or to the greatest extent possible place an equitable burden on the community.

How the Trust Fund Is Currently Funded

The Affordable Housing Trust Fund was established in 2005 after the passage of the State Affordable Housing Act, which provided an exception to the State's Anti-Donation Clause and outlined a means for direct municipal investment in housing activities. The City of Santa Fe then passed the HOMES ordinance that updated our inclusionary zoning policies, as well as established the current housing department and trust fund mechanism. As currently designed, its primary funding sources are fee-in-lieu and partial unit payments from our inclusionary zoning policy, and recycled assets from previous City housing investments. In 2009, a home excise tax designed to fund the trust fund was defeated at referendum. The Trust Fund awards housing assistance funds through an annual request for proposals process which invites applicants to propose innovative solutions tied to approved policy and balanced with the consolidated plan, goals, priorities and outcomes identified by the Community Development Commission.

City Leadership Impact Opportunity

While identifying and dedicating consistent funding for the Affordable Housing Trust Fund is our immediate priority, funding alone will not be enough to deal with our current housing crisis, and we must act dramatically to turn the tide against the rapid gentrification on the horizon.

- First and foremost, we need a specific, measurable strategic framework for affordable housing program production. This means numbers for income restricted unit creation as well as services. For instance, if we committed to building 200 affordable rental units, with 10% set aside for permanent supportive housing, we could largely get ahead of our affordable housing unit gap in just 10 years. In our current approach, divorced from the actual amount of housing work needed to make a

significant impact, we have no frame of reference for our accomplishments or the extent to which we are meeting our needs.

- The City should take the lead in supporting at least two new construction income-restricted rental projects every year. This means identifying/acquiring development sites and providing infrastructure funding that can make the project successful in funding competitions, while also meeting deeper income targeting needs.
- Currently the City RFP process for the Trust Fund occurs simultaneously with the application for Low Income Housing Tax Credits. The City should create a second fall RFP for the Affordable Housing Trust Fund so funding can be committed at the time of application for Low Income Housing Tax Credits.
- The city needs to formalize an Affordable Housing Land Donation Program that includes approaches where future affordable housing sites are acquired and land banked. This could be a good utilization of unused funding at the end of annual cycles.
- The City Land Use Department urgently needs to address regulatory and process reform, while leading on long-term planning and dealing with our shortage of densely zoned land and updating the commercial design guidelines to ensure future multi-family housing is complementary to existing neighborhoods.
- We also need to ensure that the Office of Affordable Housing has sufficient capacity (i.e; resources, staff, etc.) to lead the strategic effort and manage an increase in program activities.

Potential Sources of Funding

The following is a comprehensive list of potential funding sources that represents the range of ways the Trust Fund could be capitalized. These do not necessarily represent ideas that are specifically endorsed by the Coalition or its members. The funding matrix is broken out into short-term/triage, mid-term sources, and long-term sources. Short-Term/Triage are potential funding options that can be deployed in this time of extreme need. Mid-Term Sources are potential funding options that are more complex and require additional steps beyond adoption of ordinances or resolutions at the council level. Long-term sources are speculative or require changes to state law to enact.

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- Long-Term/Speculative Sources.....page 14

Short-Term/Triage Sources

Surplus Gross Receipts Tax	
Funding Potential	\$100,000-\$3.8m a year
Eligible Uses	Any eligible use under the Affordable Housing Act
Recurrence	Ongoing, Variable
Enactment	City Council Ordinance
<p>Discussion</p> <p>Gross receipts tax set aside is an important potential source of capitalization because it is the most flexible type of funding and is able to support a wide range of housing activities which other sources which are limited to capital expenses cannot.</p> <p>The downsides to this source are that it is highly variable and scarce during downturns, often when housing investments are needed most, and the primary source of revenue for the City general fund so could constrain the City's ability to balance its operational budget. One way to overcome this issue would be to set aside the first \$1m in GRT received over the projected revenue levels for the fiscal year when midyear actuals are realized. This way it does not impact annual budgeting, and housing priorities are the first thing funded when surplus GRT is realized.</p>	

Property Tax Mill-Levy	
Funding Potential	\$1,000,000/yr +
Eligible Uses	Any eligible use under the Affordable Housing Act
Recurrence	Ongoing, Stable
Enactment	City Council Ordinance
<p>Discussion</p> <p>Santa Fe County's property tax rate is the 14th lowest among 33 counties in New Mexico. A small marginal mil-levy added to property tax for the explicit purpose of supporting affordable housing could generate millions in annual funding with minimal financial impact to the average homeowner. This approach is desirable in that it is equitable distributed across all residents of the county, recurring, and flexible funding without additional use restrictions. Any proposals that increase property tax should be coupled with set-aside funding to assist low-income homeowners with tax abatement or assistance programs. Another advantage to property tax as a basis for supporting affordable housing is that it is a relatively stable source of funding even in economic downturns.</p> <p>The New Mexico Constitution allows a total property tax of up to 2% (20mills) while State law (NMSA 7-37-7) further divides the 20 mills/2% between a few different taxing entities for them to use "for general purposes". The formula allows a County to tax at up to \$11.85 per \$1000 of taxed value. A city can tax up to \$7.65 per \$1000 of taxed value.</p> <p>In 2018, SF County was taxing residential properties at \$5.801/\$1000, and the City was taxing residential properties at \$2.4583/\$1000.</p> <p>Increasing these rates to the maximum allowed by the Constitution/State Law would likely only require a vote by City Council—that is, there's no need for a public vote. Increasing the property tax above what is currently provided for by law seems to be allowed, if there is a vote to approve it by "the majority of the qualified electors of the taxing district who paid a property tax therein during the preceding year."</p>	

Proceeds from Public Land Sales/Leases	
Funding Potential	Variable
Eligible Uses	Any eligible use under the Affordable Housing Act
Recurrence	Variable
Enactment	Ordinance or Resolution
<p>Discussion</p> <p>For many communities that create housing trust funds, setting aside a portion or all proceeds from public land sale and land leases are one of the first funding options (i.e; Evansville, IN; Ann Arbor, MI; Detroit, MI; and Nashville, TN). When appropriate we believe city land is best utilized for direct affordable housing development. But in situations where the city disposes of sites that are unsuitable for affordable housing development, or in the case of lease revenue, investing those funds in housing can have lasting community benefits and a more leveraged impact than using it to fill one-time budget shortfalls. This is because many trust fund investments are recycled and provide resources in perpetuity.</p>	

Capital Improvement Program Funds	
Funding Potential	<\$2,000,000 a year
Eligible Uses	Eligible Public Capital Infrastructure Costs
Recurrence	Annual, Two-Year Cycle
Enactment	Ordinance
<p>Discussion</p> <p>Capital Improvement Program (CIP) funds are used to build, maintain and upgrade public infrastructure. CIP funds have historically been used for affordable housing on several occasions in Santa Fe's history, including in 2005, 2009 and again in 2011 as a triage response to the housing recession. CIP allocation currently is overseen by a committee and does not rely on any systematic approach to allocation. CIP can pay for aspects of public infrastructure in affordable housing development projects, including public streets, offsite street improvements, water, and sewer infrastructure. These types of investments tend to be highly leveraged when compared to other CIP activities, as they can make applications for external housing funding more competitive. Large affordable housing development projects create dozens of jobs and pay significant amounts of GRT, often over \$1m per project. In the short term, we recommend setting aside a portion of the 2021-2022 allocation to support the development of a pipeline of income restricted housing projects, and long-term consider a specific set aside, either a percentage of the CIP budget, or a fixed number to be allocated through the Trust Fund on an ongoing basis.</p>	

Utility Funds	
Funding Potential	\$1,000,000
Eligible Uses	Public Water Infrastructure
Recurrence	Variable
Enactment	Ordinance
<p>Discussion</p> <p>Because of the City's progressive water rates, the water department often generates surplus revenue.</p> <p>The key question here seems to be whether the City can use utility fees for a Housing Trust Fund. In short, the answer is probably "yes."</p> <p>The NM Supreme Court, in a case called <i>Apodaca v. Wilson</i>, 86 NM 516 (1974) looked at a similar issue in Albuquerque—basically, ABQ increased its water & sewer rates and generated a surplus that was dedicated to general financial obligations of the City. This was challenged by folks who claimed that it was inconsistent with state law and therefore not within the power of a home rule jurisdiction and/or a tax that hadn't been approved by voters under the home rule provisions. The NM Supreme Court decided that:</p> <ul style="list-style-type: none"> a) water and sewer charges are not taxes, regardless of how the revenue of the charges is applied; and b) it was not a tax that required approval and it was consistent with home rule powers to raise rates and spend the money on something other than sewer maintenance. <p>So, although the details might require some consideration, there seems to be clear authority for a home rule jurisdiction to use a utility rate surplus to pay for things other than utility expenditures.</p>	

Mid-Term Sources

These potential revenue sources will take a longer amount of time, or multiple legislative steps to enact or are not likely to be realized until after fiscal year budget 2021/2022

General Obligation Workforce Housing Bond	
Funding Potential	\$1-30m/yr
Eligible Uses	Any eligible use under the Affordable Housing Act
Recurrence	Non-recurring
Enactment	City Council Resolution, then Voter Approved
<p>Discussion</p> <p>This approach has been successfully deployed by the City of Albuquerque for their Workforce Housing Trust Fund. A detailed report produced in 2015 showed that \$31.4m in commitments had leveraged over \$200m in economic activity, generated at least generated over \$6m in GRT, \$38m in indirect spending and nearly 1200 jobs. Albuquerque has typically sized this bond at \$5m per year.</p> <p>This source is ultimately funded by property taxes, so is reasonably equitable, but because of this, tax abatement or assistance program funding set asides should be considered.</p> <p>This solution is considered mid-term because it requires two legislative steps, approval by the City Council and a public vote, which isn't guaranteed. One approach could be to pass a resolution that requires a housing bond to go in front of voters during every biannual municipal election.</p>	

Real Estate Transfer Tax	
Funding Potential	<\$1.5m a year
Eligible Uses	Any eligible use under the Affordable Housing Act
Recurrence	Yes, bi-annual
Enactment	State Law/Local Ordinance
<p>Discussion</p> <p>One of the fundamental issues with Santa Fe's affordable housing infrastructure is that it is dependent on market rate housing development activities for inclusionary housing units and fees-in-lieu of building affordable units. The result, in many ways, is a disproportionate tax on moderate priced housing, as smaller high-end developments often pay a small fee or have too few units to offer substantial inclusionary housing. and single luxury home construction do not currently contribute to affordable housing in any way, despite their disproportionate impact on overall community housing affordability, construction capacity, and development costs. A real estate transfer tax was defeated at referendum in 2009 and was vigorously opposed by the Santa Fe Association of Realtors with significant support from the National Realtors Association. The proposed policy also had what many see as significant design flaws, including only applying to very high-end housing. If this is pursued as a funding option, it should take a more equitable approach and be prepared to mount a significant public information campaign.</p> <p>Our research did not turn up any legal prohibitions that would prevent Santa Fe from imposing a RETT (this is also consistent with how SF apparently analyzed it in 2009). However, because it would be considered a tax, it would need to be approved by a majority of voters. This may however be procedurally cumbersome and expensive (the last one cost about \$93,000).</p> <p>There do not appear to be any restrictions on how funds raised in this manner might be used.</p>	

Short-Term Rental Revenues	
Funding Potential	Variable
Eligible Uses	Any eligible use under the Affordable Housing Act
Recurrence	Quarterly
Enactment	State Law/Local Ordinance
<p>Discussion</p> <p>A 2019 report underwritten by Homewise and the Thornburg Foundation found that the growth in short-term rental had removed hundreds of units from the Santa Fe market and an estimated that it contributed to about 20 percent of the city's housing cost inflation since 2014. In addition, this report found that STR's generated over \$53m in revenue in Santa Fe county, an average of over \$80,000 per host. Short-term rentals are required to pay a lodgers tax, in addition to local GRT.</p> <p>Because of the connection between STR and loss of affordable housing, the idea of tying affordable housing supports to the income generated from this type of housing is attracting. It also could garner wide public support.</p> <p>Another option would be to add a small additional tax increment for affordable housing which could have significant impact in the housing arena, while also incentivizing some units to return to long-term rental, which are not subject to special taxation or GRT. This would have impacts for both housing affordability as well as neighborhood issues.</p> <p>In addition, there is widespread public support for affordable housing interventions related to STR's and it could help garner public support for a wider array of strategies. It is worth noting that a local short term rental tax introduced by Senator Wirth (SB 7) failed in the 2019 legislative session.</p>	

Long Term/Speculative Sources

The following recommendations are the most long-term, requiring multiple legislative steps and/or changes in State Law in addition to local legislation.

Removing the 3% Property Tax Cap for Second Homes	
Funding Potential	Unknown
Eligible Uses	Any eligible use under the Affordable Housing Act
Recurrence	Yes, bi-annual
Enactment	Change to State Law
<p>Discussion</p> <p>Provisions of New Mexico’s property tax code help low- and moderate-income homeowners stay in their homes by limiting property tax increases to 3 percent a year. But this now has the unintended consequence of subsidizing the tax of second homes and STR’s. Limiting the 3 percent cap to primary residences has been suggested as a way to both decrease the property tax burden on full-time residents and raise additional funds that could be set aside for affordable housing. Property tax revenues primarily benefit counties, but lobbying and support around these changes to state law could help set aside affordable housing funds for municipalities based on the taxable value in those districts rather than the standard property tax distribution.</p> <p>New Mexico law (NMSA 7-36-21.2) limits the amount that property valuation can increase for property tax purposes to 3% in any year—as long as the property doesn’t change hands. The idea behind this law was to combat the effects of gentrification on property owners who might see a sudden increase in their property value and a related increase in property tax (called a “lightning tax”). The law was adopted in response to a Constitutional amendment (Article VIII, Section 1 (B)) requiring the legislature to impose limits on increases in valuation. That same Section allows the limitation to be applied “based on owner-occupancy, age or income” at the state level or “at the option of a local jurisdiction.”</p> <p>Based on the Constitution’s grant of authority to local jurisdictions to create and apply different rules for different classes of owners, removing or raising the cap for second homes appears to be within the power of the City.</p> <p>This would probably be considered to be an adjustment to property tax, and therefore should be able to be used for general purposes.</p>	

Cannabis Taxes	
Funding Potential	Unknown
Eligible Uses	Any eligible use under the Affordable Housing Act
Recurrence	Ongoing
Enactment	State Law/Local Ordinance
<p>Discussion</p> <p>There is strong momentum behind the push to legalize recreational cannabis. This will create new GRT revenue and, depending on how the legislation is structured at the state level, opportunities for local option taxes. Optimally, the legislation would set aside a percentage of tax revenue generated from cannabis sales for affordable housing funds to be granted to units of local government where those sales occur.</p> <p>The downside of this funding option is that it is purely speculative, and there is no guarantee that it will be adopted during the upcoming legislative session, or that it will be designed to benefit local governments generally, or affordable housing specifically. Even in states that have legalized recreational cannabis, there is often a years-long lag from enactment to realization of tax revenue related to designing wholly new regulatory infrastructures.</p>	

Social Impact Bond	
Funding Potential	Variable
Eligible Uses	Special Program Support
Recurrence	Ongoing, Stable
Enactment	Contract Agreement
<p>Discussion</p> <p>Social Impact Bonds are a unique type of performance-based contract where private and/or philanthropic lenders loan funds to accomplish a specific objective and are repaid based on whether the program achieves its goals. In 2016, the City and County of Denver and eight private investors closed on the city's first SIB program, an \$8.6 million investment to fund supportive housing for people who were homeless for more than a year or had a disabling condition and were frequent users of emergency systems. The program attracted an additional \$15 million in federal resources leveraged over five years. Based on the SIB contract, the investors provided funding to support the program. If the program meets the goals of housing stability and decreased jail stays, the city makes outcome payments to the investors. If the program does not meet its outcome goals, the city does not repay the investors.</p>	