

**To:** Board of County Commissioners  
Penny Postoak Ferguson, County Manager

**From:** Megan Foreman, Housing Coordinator, Planning, Housing and Community Development  
Jay C. Leipzig, Director

**Date:** Released October 19, 2023  
Committee of the Whole October 26, 2023

**Re:** Housing Trust Fund Report

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A Housing Trust Fund is an ongoing source of dedicated public funding that supports the creation and preservation of attainable housing. The Johnson County BOCC Housing Subcommittee included HTFs as a policy option to explore in their final list of recommended research and action, which was delivered to the Board in April 2023.

On June 8<sup>th</sup>, 2023, the BOCC directed the County Manager's Office to review and evaluate the feasibility of establishing an HTF in Johnson County.

The following report provides baseline information about HTFs, their purposes and benefits, related regional activities, and poses policy questions that will require further research and discussion if there is interest in establishing a fund for Johnson County.

A Committee of the Whole is scheduled for October 26<sup>th</sup>, 2023 and will provide an opportunity for further discussion. Please reach out anytime if you have immediate questions.

Staff acknowledges the assistance of both the Office of Budget and Financial Planning and the Legal Department for their assistance with this project; in addition, Hannah Pearce, Student Research Intern, provided valuable research to this report.



# Housing Trust Fund Report

*Requested June 2023 by the Johnson County Board of County Commissioners*

*Distributed October 19, 2023*

## Purpose of This Report

1. Establish a shared definition of Housing Trust Funds, their benefits and their purposes.
2. Pose policy questions that will need to be addressed if the BOCC chooses to establish an HTF, including:
  - How to sustainably fund an HTF
  - How to govern, structure and administer an HTF
3. Provide context for HTFs operating in nearby cities and counties and an update on MARC's regional efforts.

## Part I. The Basics

### What is a Housing Trust Fund?

Community Change defines Housing Trust Funds as “distinct funds established by city, county, or state governments that receive ongoing, dedicated sources of public funding to support the preservation and production of affordable housing and increase opportunities for families and individuals to access decent, affordable homes.”<sup>1</sup> The comprehensive report and survey, *Opening Doors to Homes for All*, highlights how HTFs have contributed to the positive trends in attainable housing, aligning with the BOCC's housing goals, including:

- Preserving public investment in affordable housing
- Providing safe and affordable homes for extremely low-income households
- Ensuring energy-efficient upgrades
- Addressing homelessness<sup>2</sup>

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<sup>1</sup> Center for Community Change. *Opening Doors to Homes for All: The 2016 Housing Trust Fund Survey Report*. Accessed June 3, 2023. <https://housingtrustfundproject.org/our-project/about/>

<sup>2</sup> Community Change, “Housing Trust Fund Survey Report.”

In 2022, Community Change’s Housing Trust Fund Project found funds in 49 states and 829 communities. These funds contributed nearly \$3 billion annually to attainable housing<sup>3</sup>. Kansas has a state HTF and two local HTFs, the closest of which is in Lawrence.

### **Housing Trust Funds Target Local Needs**

HTFs are essentially “built to suit.” Jurisdictions can structure the funding to target the needs identified in their community at a scale that matches their resources. The biggest benefit is the funding available to encourage the type of development a jurisdiction needs. HTFs can streamline the creation of a capital stack, including making blending and braiding funding types easier. Many HTFs work to coordinate the application process with other housing funds. Federal sources such as HOME Investment Partnership, Community Development Block Grant, and the Emergency Services Grant are frequent partner sources, as are state Low-Income Housing Tax Credit (LIHTC) funds and/or local land contributions. In 2020, county HTFs had an average leverage ratio of \$8.50 per dollar invested, up to a maximum of \$18<sup>4</sup>.

Entities that create HTFs develop the scoring metrics to determine which projects receive funding, giving the HTF the ability to target the community’s area of need, including specific geographies, vulnerable resident groups, specific types of missing or needed housing, or even the type of developers who receive funds. Metrics could prioritize local or non-profit groups or those owned by women or people of color. Entities may also use set-asides within the HTF to ensure projects which target specific populations or geographical areas receive funding.

### **Complexity and Administration Varies**

HTFs are designed to evolve over time and react as housing needs of the jurisdiction’s population shift. Funds can be simple or complex and often grow over time to take on new or emerging challenges. At the most basic level, an HTF can be administered by existing city or county staff, who accept annual applications for a narrowly defined set of projects that target very specific needs. Funding may take on the form of grants, loans or long-term subsidies like rental assistance. Priority projects can come from any point along the housing continuum, from supporting the development of new units for the unhoused, to multi-family redevelopment for vulnerable residents such as the elderly or people with intellectual or developmental disabilities, to first-time homebuyer assistance, to homeowner-occupied rehab.

HTFs can also be very complex entities run by independent non-profit organizations, like the Affordable Housing Trust for Columbus and Franklin County (Ohio), which became a certified Community Development Financial Institution in 2016, allowing it to operate like a financial institution and offer developers below-market access to capital. This group blends funding from banks, corporate foundations, philanthropy, and ongoing public funds to provide grants, loans and technical assistance to broadly impact the supply side of the housing market.

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<sup>3</sup> Community Change, “Housing Trust Fund Survey Report.”

<sup>4</sup> Community Change, “Housing Trust Fund Survey Report.”

## Bottom Line

Broadly speaking, the benefit to developing an HTF is the funding it makes available to target the type of development Johnson County is missing. Dedicating ongoing sources of public funding to an HTF could help attract other investment from philanthropy or business, growing the resources available. Johnson County's HTF could streamline the application and administration of attainable housing dollars in close partnership with partner organizations, which will create more viable projects because developers can blend or braid funding types.

One cautionary note: an HTF is not a singular solution to the complex attainable housing challenge. It is most powerful when resources are targeted to a small number of well-defined community needs along the housing continuum. The impact on an HTF can be minimized as the number and diversity of demands on the fund grow.

## Part II. Two Major Policy Questions to Consider

An HTF is one tool jurisdictions can use to address attainable housing. Through an HTF, the BOCC could dedicate sustainable funding to support the ongoing development or renovation of attainable units currently missing in Johnson County's housing ecosystem. In addition to the infusion of resources, the creation of an HTF is an opportunity for policymakers to prioritize specific types of housing, populations, or geographies most in need. For instance, a New Jersey HTF focuses exclusively on increasing the number of permanent supportive housing and "first-step" housing units to address homelessness. Kansas City, MO allocates a majority of its HTF funding to the preservation of deeply affordable rental units, transitional housing, and permanent supportive housing to increase the city's most needed housing stock.

The process of creating an HTF will need to answer several outstanding policy questions, including identifying a sustainable funding source and outlining a governance structure.

### Policy Consideration #1: Sustainable Funding Options

LISC Greater Kansas City, who co-authored the Promoting Equitable Neighborhood's 2021 *Recommendations and Analysis for Kansas City's Housing Trust Fund*, state that sustainable funding sources should be prioritized by two factors: their potential to generate revenue and those with the most public and policymaker support. The report also states, "Recent literature would suggest there is not one source of revenue in sustaining housing trust funds, but a 'cocktail' approach of resources."<sup>5</sup> Essentially, there is no one way to fund an HTF and it is likely to grow and change over time as these systems become more responsive to community needs.

The Board may consider taking a large project like this in phases. Many of the sustainable funding options below will take time to implement and begin raising revenue, meaning that new housing units for residents are years away. Regardless of the final source or sources of funding, an upfront allocation of resources will be necessary to design and build out an HTF. An initial investment to launch an HTF could also begin to generate developer interest and offer an opportunity for the system to test the concept. Kansas City's HTF, which is administered by Kansas City's Housing and Neighborhood Development Department, dedicated \$25 million in

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<sup>5</sup> Urban Neighborhood Initiative's Promoting Equitable Neighborhoods Coalition. "Final Recommendations and Analysis for Kansas City's Housing Trust Fund." Page 31. August 18, 2021. Accessed: [pen\\_housing\\_trust\\_fund\\_recommendations\\_20210818.pdf \(lisc.org\)](https://www.lisc.org/pen_housing_trust_fund_recommendations_20210818.pdf)

two payments of ARPA funds, then added \$50 million through a vote approving general obligation bonds and other mechanisms.<sup>6</sup>

It is worth noting that, if structured correctly, an HTF can benefit from “non-dedicated” sources that are not publicly funded, such as philanthropic contributions from foundations, corporate donations, faith communities or individual contributions. The PEN *Kansas City’s Housing Trust Fund* report states, “There are 761 private foundations and seven corporate foundations in the greater Kansas City metro area...Philanthropic contributions, matched with public sources, are a common source of funding for Housing Trust Funds.”<sup>7</sup>

### **Use of One-Time Funds or Reserves**

The infusion of one-time COVID-19 funds in cities and counties has led to several contributions to HTFs, either as start-up investments or as increased funding to existing trusts. Given the housing challenges exacerbated by the pandemic and the federal guidelines requiring that local jurisdictions include housing as an SLFRF investment category, it is wise to explore HTFs as an opportunity for these relief dollars.

General reserve funds are also an option for an initial HTF investment in Johnson County. The city of Wichita created an Affordable Housing Fund in 2021 with \$5 million in recaptured lost revenue ARPA funds; the city designed this as a narrowly targeted, one-time project and not an HTF because the funding is not sustainable. Short-term gains are possible with one-time funds, but an HTF will fail to spur new development without sustainable funding the system can count on in the long term. Ultimately, the BOCC must consider a sustainable funding source for an HTF.

### **Dedicated Revenue**

#### *Dedicated Mill Levy:*

- Dedicating a portion of the mill levy would provide the most consistent revenue source and protect it from political fluctuations and the uncertainty inherent in the annual appropriations process.
- Johnson County Park and Recreation District and Johnson County Library use a dedicated portion of the mill levy for capital projects.
- The County Assistance Road System (CARS) Program is an ongoing program that provides county matching funds for arterial road improvements in the cities and federal-aid improvements in the unincorporated areas. CARS is funded in part with a dedicated .343 mill which is estimated to generate approximately \$5.0 million in FY 2024.

#### *Dedicated Sales Tax:*

- Dedicated sales tax revenue follows many of the same best practice principles as a dedicated mill levy (aligning revenue and expenditures), though the revenue is more volatile.
- If approved by the BOCC for placement on a ballot, and given the green light by the state legislature, voters would have to approve the tax, the purpose towards which it is allocated, and the length of time the revenue will be collected.

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<sup>6</sup> Interview with Geoff Jolley, Executive Director LISC Kansas City. June 23, 2023.

<sup>7</sup> PEN “Kansas City’s Housing Trust Fund.” Page 38.

- An option available could be to continue the Public Safety Sales Tax III beyond its scheduled 2027 sunset date, with voter and legislative approval. The county's share of Public Safety Sales Tax III is computed with the same formula as the Public Safety Sales Tax I & II. In general, the county receives approximately 62.29% of these revenues, while cities receive approximately 37.71%.
- Conversations with cities would be a critical step in this process. They may have housing needs that could be met with a portion of dedicated sales tax revenue. However, much like an HTF with too many priorities, a dedicated sales tax that is split into too many detections may produce sub-optimal outcomes.

#### *New Sales Tax:*

- Johnson County has the capacity to add additional new sales tax levy.
- The county would need to seek legislation for an additional special sales tax from the state legislature if it wanted to pursue an affordable housing sales tax. Voters would also need to approve the sales tax.
- In 2017, voters in the City of Lawrence voted to renew special sales taxes for public transportation, infrastructure and equipment, and affordable housing.
- A brochure detailing the affordable housing sales tax is attached. The city utilized sales tax authority applicable to cities.

### **Annual Appropriations**

#### *Subject to Annual Appropriation:*

- Funding for an HTF could be built into the county budget as a regular expense and reviewed annually as part of the budget cycle.
- The appropriation would likely be significantly smaller under this option and growth would be limited to what the annual budget could tolerate each year.
- Additionally, the department that housed the HTF would likely require additional staff and program support funding.

### **How Do Other Cities and Counties Fund Housing Trust Funds?**

- The vast majority of county HTFs are funded by document recording fees, which are “a per page surcharge of all documents added to the public record, such as birth certificates, death certificates, deeds of trust, marriage licenses and deed/mortgage recording fee.”<sup>8</sup>
- Several states have legislation that allows the fee levy as long as revenue is dedicated to housing. Some of this legislation also offers state matching funds for HTFs. Kansas does not have a state policy.
- Only some of the fees collected on documents listed above are remitted to Johnson County; when they are, that revenue has already been allocated to the general fund.
- Some city HTFs generate revenue by charging linkage fees to commercial or market-rate developers. In Denver, this fee is based off the square footage of the property and ranges by type of development from \$0.40 to \$1.70/sf. Johnson County could only

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<sup>8</sup> PEN “Kansas City’s Housing Trust Fund.”

charge a fee like this in the unincorporated areas, which is not likely to generate significant revenue.

- Kansas City, MO's housing trust fund was created in 2018 with a goal of \$75 million in funding. The fund sat empty for a time until the city council dedicated ARPA funds in 2021 and 2022 (totaling \$25 million). In November 2022, city voters passed a ballot initiative to contribute \$50 million to the HTF via general obligation bonds, replacing different bonds which Kansas City had paid off. Existing (not new) property tax revenue is the bond payment source. In April 2023, voters approved a 3% local tax on recreational marijuana, a portion of which is dedicated to serving Kansas City's unhoused population. The sales tax revenue is not dedicated to the HTF but is a partner funding source for related policy issues.
- In 2017, voters in the city of Lawrence voted to renew special sales taxes for public transportation, infrastructure and equipment, and affordable housing. To date, the HTF has funded \$5.7 million in affordable housing projects, totaling 659 new units created.
- In 2019, the Topeka city council created an HTF, embedding the governance structure into city code (Chapter 2.25.070), but did not fund it at the time. In May of 2021, the city council allocated \$250,000 to the HTF, stipulating that these were only to be used as match dollars, meaning that non-city contributions would have to come into the fund for it to be operational. Today, city staff are seeking sustainable funding and restructuring the governance. No projects have been funded.
- The City of Wichita used \$5 million in recaptured lost revenue to create an Affordable Housing Fund that is hyper-targeted to the urban core, including formerly redlined areas. This program is *not* an HTF because the funds are not ongoing/sustainable.

## **Policy Consideration #2: Governance Structure/Administration/Oversight**

Creating an HTF will require the BOCC to set out structures for fund governance, administration, and oversight. Considerations about the size of the fund, the complexity of expected functions and the expertise needed to score applications and monitor compliance may help determine the right structure. According to the 2016 Community Change study, all county HTFs had either an oversight board or an advisory committee, and some counties have both.

Broadly, there are three options for HTF administration:

1. **County staff administer the HTF**, oversee the application process, and score applications according to the established priority guidelines. Staff can then make funding recommendations to a board or advisory committee, which may have the authority to make final decisions, or the committee may pass the recommendations on for a final vote by the governing body. HTFs that are internally administered tend to be those that contain only a single jurisdiction's funds. Most county-administered HTFs report one to three staff members and an annual operating budget less than \$250,000.  
*Considerations:* County investment in staff with this type of expertise may be necessary, depending on what and how the HTF funds projects. For instance, operating a grant program will require less expertise than the ongoing monitoring of a revolving loan fund. Some county HTFs are structured to fund operations and administration through the fund itself, usually capping out at 5-15 percent. The administrative investment may be of interest to outside funders who wish to contribute, such as philanthropy or corporations.
2. **Hybrid Administration Between county and an Advisory Board.** The structuring legislation would create the board, typically including members with subject matter

expertise and community members from target areas or populations and outline its powers. The board will review applications and make funding decisions or recommendations. In a hybrid approach, county staff could support the advisory board in the fund application/review process but not make initial recommendations.

- 3. Independent Oversight Board** Alternatively, the Board could operate independently from county staff, possibly through a contract with an NGO or non-profit agency. While the enabling policy may outline the type of board members who should sit on the committee, the recruitment, selection, and training would be left to the NGO. The county's role would be limited to financial administration of the grants/loans the HTF makes. HTFs with this type of structure often require the Oversight Boards to publish or report annually to the governing body about its accomplishments to increase transparency and accountability.

*Considerations:* It is likely that any organization would require financial support for operations and administration, which could still be pulled from the HTF itself.

## Part III. How Does a Johnson County HTF Fit into the State/Region?

### Enabling State Legislation

Some states have enabling legislation encouraging or permitting counties to create HTFs. Most commonly, these laws allow counties to charge document recording fees and utilize the revenue raised for attainable housing. Document recording fees are by far the most common mechanism counties use to fund HTFs, though the amount of revenue raised varies greatly between counties. Kansas state law outlines the authorization for Counties to create HTFs, although the legislature does not offer matching funds or other incentives for these activities.

Kansas law states that Counties are “authorized to establish a housing trust fund for purposes including, but not limited to, the provision of financial programs for the repair, rehabilitation and improvement of existing residential housing, accessibility modifications, rental subsidies and the provision of housing services and assistance to persons having low or moderate income and disabled persons.” K.S.A. 12-16114. Funding may come “from moneys derived from public or private grants, gifts or donations.” K.S.A. 12-16114(b). Further, the County is authorized to “appropriate moneys from such fund to local community, housing or economic development agencies or other local agencies to secure the provision of programs and services ... or may make direct expenditures of such moneys for such purposes under programs and services established by the County.” K.S.A. 12-16114(c). Lastly, the County may “establish or designate an existing not-for-profit community organization or agency to administer the housing trust fund or may appoint an advisory committee to assist the municipality in its administration of the fund, in such manner as will ensure the most cost-effective housing available.” K.S.A. 12-16114(d).

### Regional Housing Trust Fund Creation Underway

In July 2023, LISC Greater Kansas City released an RFP to create a business plan for a new regional HTF, stating, “The business plan will identify and include the logic model or theory of



change, goals, structure, governance, lending and funding products, and funding sources<sup>9</sup>.” Folks Capital and the KC Community Land Trust were awarded contracts in September, and a high-level draft of the business plan and preliminary key findings are expected by the end of 2023. A final plan will be released by July 2024.

The Regional Housing Partnership, convened by MARC and LISC Greater Kansas City, identified the need for an HTF in the region as a way to invest in and support a healthy housing ecosystem. Johnson County commissioners and staff have been and will continue to be involved with these conversations as RHP members.

LISC anticipates a large HTF which relies on a mix of funding sources, including public, private and philanthropic dollars. The stated objectives for the regional HTF are: “making below market rate investments in affordable housing. We envision the fund also operating within and alongside other yet-to-be-determined programs that support affordable housing developers, tenants, and/or homeowners (e.g., technical assistance and training to partners and borrowers), as well as coordinating with municipalities to leverage their public assets (e.g., land owned by municipalities) and other funding sources like HUD Community Development Block Grant (CDBG) and HOME grant funding. We are interested in structuring the fund to deploy capital primarily as low-interest loans but also as grants or matching funds to support specific initiatives. The business plan and the process to create the business plan should be centered on both equity and our goal of raising necessary capital for the fund.<sup>10</sup>”

Regional activity will account for existing or emerging HTFs and administrative plans should anticipate ways to coordinate. Johnson County could pursue a county-specific fund, participate in a regional fund only, or both. Regardless of where the county directs HTF funding, if at all, there is value in continuing to collaborate on regional policies to encourage more attainable housing development.

### **Final Thoughts and General Recommendations**

An HTF is a large-scale, long-term tool for funding the community’s attainable housing needs that is scalable based on available resources. The ongoing public investment is intended to spur market development of housing types that are otherwise missing in Johnson County. HTFs also signal to partners—cities, businesses, faith communities and private funders—that addressing housing requires ongoing, strategic investment and creates a mechanism for them to participate in this type of community development. Building an HTF from scratch also allows efficiencies to be built into the funding process, including tracking the return on investment from the beginning. It should be said, however, that Johnson County is currently and can continue to address the Board’s strategic priorities on housing through typical policy channels and the annual budget appropriations process.

If an HTF is appealing, identifying a sustainable funding source is a critical first step. Considering funding in stages—a one-time allocation with a plan to implement sustainable funding—allows for a long planning phase to test concepts, build support and create strong

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<sup>9</sup> LISC Greater Kansas City Request for Proposals: Regional Housing Trust Fund Project Management Consultant. Released July 7, 2023. Accessed: [https://www.lisc.org/media/filer\\_public/89/5b/895b6d71-fc6b-4610-a3db-97a69d1f7248/lisc\\_rhtf\\_consultant\\_rfp\\_final.pdf](https://www.lisc.org/media/filer_public/89/5b/895b6d71-fc6b-4610-a3db-97a69d1f7248/lisc_rhtf_consultant_rfp_final.pdf)

<sup>10</sup> LISC Greater Kansas City. “Regional Housing Trust Fund Project Management Consultant.”

administrative strategies. The scale and impact of an HTF is entirely dependent on the size and complexity of the projects the fund targets. At a small scale, an HTF could shore up the county's planned investment in addressing the unhoused by encouraging permanent supportive housing or development of "first step" housing types that serve people who have experienced homelessness. As resources grow, projects which address missing middle housing types for renters and owners, including maintaining existing affordable housing stock or encouraging homeownership, can be funded. With significant resources, HTFs can close soft costs for developers and materially contribute to the creation of new housing stock.

### **Next Steps**

BOCC will have an opportunity to discuss this information and ask questions about HTFs at a Committee of the Whole on October 26, 2023. During that session, the BOCC should give staff direction on the following questions:

- Is there BOCC interest in developing a Johnson County HTF, as defined by identifying a sustainable funding source?
- If so, how quickly is the BOCC interested in establishing an HTF?
- Which governance structure and sustainable funding source is the most appealing?  
What additional information would you like to see about these options?
- Are there particular needs along the Johnson County Housing Continuum that should be the focus of an HTF?

Depending on the complexity of the fund and its objectives, outside technical assistance may be required.