



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jim Shannon

SUBJECT: AMENDING CITY COUNCIL POLICY 1-18 TO INCLUDE MEASURE E ALLOCATIONS **DATE:** June 5, 2020

Approved

Date: 6/5/2020

RECOMMENDATION

Adopt a resolution amending City Council Policy 1-18, Operating Budget and Capital Improvement Program Policy, to add Section 22 (Real Property Transfer Tax Revenues).

BACKGROUND

On December 3, 2019, the City Council adopted a resolution to place a measure (Measure E) on the March 3, 2020 ballot to enact a real property transfer tax in San José with the following statement of the measure to be printed in the ballot:

To fund general City of San José services, including affordable housing for seniors, veterans, disabled, and low-income families, and helping homeless residents move into shelters/permanent housing, shall an ordinance be adopted enacting a real property transfer tax including unrecorded transfers at these rates: EXEMPT transfers under \$2,000,000 adjusted for inflation, \$2,000,000 to \$5,000,000 at 0.75%, \$5,000,000.01 to \$10,000,000 at 1.0%, and over \$10,000,000 at 1.5%; generating approximately \$70,000,000 annually, until repealed, with all money staying local?

At its meeting on December 10, 2019, the City Council also directed staff to provide amendments to City Council Policy 1-18, Operating Budget and Capital Improvement Program Policy, to incorporate the identified spending priorities of the anticipated General Fund revenue if Measure E were to pass, and to require a 60-day notice and at least two public hearings prior to the City Council taking action on any proposed change to the spending priorities.

With the passage of Measure E, estimated proceeds from the real property transfer tax are allocated in the 2020-2021 Proposed Operating Budget in alignment with City Council direction. This memorandum describes the recommended amendments to City Council Policy 1-18 to formally incorporate the previously-approved City Council spending priorities.

ANALYSIS

The amendments to City Council Policy 1-18 reflects the addition of Section 22 related to revenues from Measure E as copied below. The proposed policy amendment contains two important clarifications regarding the direction received on December 10, 2019.

The first is related to estimating Transfer Tax revenue. The Administration recommends that the revenue estimates included in the Proposed Budget be relatively conservative. Given the historical volatility of the real estate market, revenues from the Transfer Tax could have dramatic swings, especially during an economic downturn that the region has recently entered. On an annual basis, the Administration will estimate a revenue amount that allows for a predictable baseline level of programmatic and administrative activities.

The second clarification is related to the potential use of the up to 5% for administration of the funding to ensure that the City can provide the appropriate level of support for homelessness prevention and housing assistance and construction. A brief listing of the potential types of administrative support are listed in the policy. This could include staffing or contractual services within the Housing and Finance Departments, the City Attorney's Office, and/or the City Manager's Office that contribute toward the overall objective, but may not be directly attributable to a specific program or project, such as financial or program coordination support. The intent, however, will be to maximize resources for direct community programs and projects.

The recommended policy addition is listed below, followed by the recommended funding allocations that are included in the 2020-2021 Proposed Operating Budget.

22. Real Property Transfer Tax Revenues

On March 3, 2020, the voters of San José passed Measure E to enact a new real property transfer tax ("Transfer Tax") on the transfer of certain real property in the City, the provisions of this section shall apply to the allocation of Transfer Tax revenues. The Transfer Tax is a general tax and the revenues derived from the tax are unrestricted, which means the City can use the Transfer Tax revenues for any governmental purpose. While these revenues are deposited in the General Fund and can be used for any governmental purpose, the City Council intends for the revenues to be allocated towards addressing the homelessness crisis and the City's most urgent issues including, but not limited to, homeless prevention and developing new affordable housing. The approach for estimating and budgeting Transfer Tax revenues is described below.

- a) Estimating Revenue from the Transfer Tax – Due to the volatile nature of a real property transfer tax such as the Transfer Tax, the City will conservatively estimate revenue from the Transfer Tax as part of the Proposed Budget process. During the course of the fiscal year, revisions to the Transfer Tax revenue estimate may be recommended to the City Council to align with actual collections.
- b) Spending Allocations of Transfer Tax – The spending priorities for the Transfer Tax are listed below.

1. Up to 5% of the revenues may be allocated for the administration of funding related to increased workload resulting from more robust homeless prevention efforts and the creation of more affordable housing, including, but not limited to, financial, legal, or administrative and policy programmatic support.
 2. The remaining revenue is allocated as follows:
 - i. 10% for homelessness prevention and rental assistance;
 - ii. 45% for permanent supportive and affordable rental housing for extremely low-income (ELI) households defined as earning less than 30% of area median income (AMI) as defined by the U.S. Department of Housing and Urban Development;
 - iii. 35% for affordable rental housing for 30% - 80% AMI households; and
 - iv. 10% for below market-rate for-sale housing and moderate-income rental housing up to and including 120% AMI, including but not limited to, rent-restricted Accessory Dwelling Units (ADU) forgivable loans, down payment assistance, and first-time homeownership opportunities.
- c) Modifications to Spending Allocation – Any revisions to the revenue estimate, as well as a reconciliation of year-end actuals to budgeted estimates, will be applied in accordance with the spending categories described above. Modifying the percentage allocations during the Proposed Budget process or during the year requires:
- i. A 60-day notice of the proposed effective date of the allocation change and at least two public hearings prior to City Council action on the allocation change, with a notice of each public hearing posted on the City’s website at least 10 days in advance of the public hearing; and
 - ii. A two-thirds vote of the City Council.

Reflected in the following table is the estimated revenues (\$30.0 million) and the allocation of the funds as included in 2020-2021 Proposed Budget. A total of 5% (\$1.5 million) is allocated for administration purposes related to the funding, and the remaining amount of \$28.5 million is proportionally allocated among the other categories in accordance with the policy. Most of the funding is reserved for future use, and will be recommended for allocation for future specific projects and programs as those uses are developed.


As part of the City Manager’s Annual Report process, staff will perform a reconciliation of budget to actuals for both revenues and expense, adding to or reducing from the following year’s allocations. To the extent that actual revenues in 2020-2021 are received in excess of budgeted amounts, the City does not anticipate allocating those excess proceeds toward the Program Administration line item; those excess proceeds should instead be allocated amongst the other direct service uses to the extent feasible. Any savings in Program Administration will also be prioritized for the direct service uses.

**2020-2021 Proposed Operating Budget
Allocation of Measure E Real Property Tax Proceeds**

SOURCE	2020-2021 Proposed
<i>Revenue:</i>	
Real Property Transfer Tax	30,000,000
TOTAL SOURCE	30,000,000
USE	
<i>Program Administration (5% of Overall Revenue Estimate):</i>	
Measure E - Program Administration	1,500,000
<i>Extremely Low Income Households (45% of Remaining Allocation):</i>	
Measure E - Homeless Student Housing	115,000
Measure E - Extremely Low Income Households Reserve	12,710,000
<i>Low Income Households (35% of Remaining Allocation):</i>	
Measure E - Low Income Households Reserve	9,975,000
<i>Moderate Income Households (10% of Remaining Allocation):</i>	
Measure E - Moderate Income Households Reserve	2,850,000
<i>Homelessness Prevention (10% of Remaining Allocation):</i>	
Measure E - Homelessness Prevention Reserve	2,850,000
TOTAL USE	30,000,000

COORDINATION

This memorandum has been coordinated with the City Attorney's Office.


JIM SHANNON
 Budget Director