



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Rachel VanderVeen
Jim Shannon

SUBJECT: 2021-2022 PROPOSED MEASURE E
SPENDING PLAN

DATE: May 28, 2021

Approved

Date: 6/1/2021

RECOMMENDATION

- (a) Approve the 2021-2022 Proposed Measure E Spending Plan as presented in Table 2 within the body of this memorandum.
- (b) Approve the following adjustments to the 2021-2022 Proposed Operating Budget in the General Fund:
 - (1) Establish a Measure E – Homelessness Prevention City-Wide Expenses budget to the Housing Department in the amount of \$3,800,000; and
 - (2) Decrease the Measure E – 10% Homelessness Prevention Reserve by \$3,800,000.

BACKGROUND

On March 3, 2020, San Jose voters approved Measure E, a transfer tax on certain types of real estate transactions. On June 16, 2020, the City Council adopted an amendment to Council Policy 1-18, which included the approved spending plan as detailed in Table 1, for the allocation of the new General Fund transfer tax revenues. This memorandum recommends the 2021-2022 Proposed Measure E spending plan to the City Council.

Table 1: Measure E Spending Priorities

| Measure E Spending Priorities (Exclusive of the 5% for Program Administration) | |
|---|--------------------------------|
| Spending Priority | Percent of Transfer Tax |
| Permanent Supportive and Affordable rental housing for Extremely Low-Income Households | 45% |
| Affordable Rental Housing for Low-Income Households | 35% |
| For-sale and Moderate Income Rental Housing Households | 10% |
| Homelessness Prevention and Rental Assistance | 10% |

ANALYSIS

For 2021-2022, an estimated \$40 million in Measure E funds are expected to be collected. The recommended allocation of the transfer tax is based on the percentages directed by [City Council Policy 1-18, Section 22, Real Property Transfer Tax Revenues \(City Council Policy\)](#)¹.

The Administration will reconcile the actual revenues received in each fiscal year as part of the City Manager's Annual Report, which is reviewed and approved by the City Council every October. Any excess or shortfall of revenue will be proportionally adjusted between the City Council-approved spending priority allocations. The recommended amounts and purpose of the spending allocations are described below and summarized in **Table 2**.

- **Program Administration:** The City Council Policy allows for the allocation of up to 5% of the revenues for the administration efforts to facilitate the Measure E-funded homelessness prevention efforts and affordable housing creation. For the 2021-2022 spending plan, **\$2.0 million** will be set aside for administrative costs related to the implementation of Measure E programs. In the 2021-2022 Proposed Operating Budget, the City has identified program administration costs that will be attributable to supporting staff in the Housing and Finance Departments, as well as the City Attorney's Office. These administrative costs will ensure sufficient staffing resources to facilitate homelessness prevention, assistance, and affordable housing construction. Any savings from the Program Administration allocation will be proportionately reallocated to the other spending categories as part of the City Manager's Budget Office's Annual Report process, which is released at the end of September and approved by the City Council in mid-October. The percentages of allocated funding for the proposed spending plan categories will be allocated from the remaining funding after the administration costs have been allocated. As the Proposed 2021-2022 Measure E funding is \$40.0 million, \$38.0 million will be allocated to the spending categories.
- **Permanent Supportive and Affordable Rental Housing for Extremely Low-Income Households (45%):** The City Council Policy directs that 45% of remaining revenues be used for the purposes of financing the acquisition and/or development of new affordable housing for extremely low-income households and permanent supportive housing. A total of **\$17.1 million** will be made available for households earning at or below 30% of the Area Median Income (AMI), as part of the upcoming Notice of Funding Availability (NOFA). The funding may also be used to acquire sites for future affordable housing development that will be developed with 30% AMI units. The selected developments or sites will be limited to specific geographic areas until the Affordable Housing Siting Policy is completed, consistent with the amended Affordable Housing Investment Plan. The Affordable Housing Siting Policy will be considered by the City Council in June 2021. These areas include North San José, Diridon Station Area, Downtown, West San Carlos Urban Village, Berryessa Bay Area Rapid Transit (BART) Urban Village, and the

¹ See page 11 of City Council Policy 1-18:
<https://www.sanjoseca.gov/home/showpublisheddocument/72207/637556879891170000>

Blossom Hill/Snell Avenue Urban Village. All funds will be spent consistent with the [Affordable Housing Investment Plan](#).

- **Affordable Rental Housing for Low-Income Households (35%):** The City Council Policy directs 35% of remaining revenues to be used to finance housing acquisition, development, and the build-out of commercial spaces within affordable housing developments benefiting low-income households earning 30% to 80% AMI. A total of **\$13.3 million** is recommended to be divided into two categories: 1) \$9,975,000 to finance the acquisition and/or development of new affordable housing for low-income households; and 2) \$3,325,000 made available as part of the upcoming NOFA to assist with the build-out of commercial space and to complete tenant improvements located in affordable developments. .

For the 2020-2021 Spending Plan, there was a sub-category for the acquisition and rehabilitation of existing developments serving low-income households. The Department is proposing to move the sub-category funding for acquisition and rehabilitation projects into the same sub-category category for the Development and Land Acquisition of affordable housing for Low Income Households. This will give greater flexibility to the funding of those categories, rather than setting aside a specific amount individually. A new sub-category was created for the construction of commercial spaces in affordable developments. Commercial spaces are often required under General Plan 2040 for affordable housing developments, yet traditional funding sources are either limited or not eligible to complete this portion of the project. The Department recommends setting aside funding to allow the build-out of commercial spaces that support local small businesses or non-profits, benefitting the local community. The Department will limit funding to the construction of “cold shell” commercial spaces for developers through the upcoming Department NOFA. It is anticipated that these funds would be limited to supporting commercial development in certain areas of the City, consistent with the proposed Affordable Housing Siting Plan. Please see the “Commission Recommendation /Input” section for feedback from the Housing and Community Development Commission on this allocation.

- **Rental and For-Sale Housing for Moderate-income Households:** The City Council Policy directs 10% of remaining revenues, **\$3.8 million**, to be used to finance below market-rate for-sale housing and moderate-income rental housing up to and including 120% AMI. Eligible uses in this category include, but are not limited to, rent-restricted Accessory Dwelling Units (ADU) forgivable loans, down payment assistance, and first-time homeownership opportunities.
- **Homelessness Prevention and Rental Assistance:** The City Council Policy directs 10% of remaining revenues, **\$3.8 million**, to be used for homelessness prevention and rental assistance. The \$3.8 million will be divided into two uses: 1) \$3,200,000 will be used to fund the homelessness prevention program managed by Destination: Home for the provision of financial assistance and support to households at risk of homelessness; and

2) \$600,000 will be used for homelessness prevention services and support for survivors of domestic violence and sexual assault. It is important to note that the Mayor’s March Budget Message for Fiscal Year 2020-2021, as approved by the City Council, directed Measure E spending to support the Bill Wilson Center for the Homeless Student Housing Program, which will provide temporary housing to college students experiencing homelessness in partnership with San José State University and Airbnb for three years. Years one and two were previously funded as part of the approved spending plan for 2020-2021, for a total of \$115,000. The third year of funding will not be funded in the 2021-2022 spending plan; it will instead be funded in 2022-2023.

Table 2: Proposed 2021-2022 Measure E Spending Plan

| Spending Category Items | Percent of Funding | 2021-2022 Spending Plan |
|---|---------------------------|--------------------------------|
| Funding for Permanent Supportive and Affordable Rental Housing for Extremely Low Income Households | 45% | 17,100,000 |
| Funding for New Development and Land Acquisition for Affordable Housing | | 17,100,000 |
| Affordable Rental Housing for Low Income Households | 35% | 13,300,000 |
| Funding for New Development, Land Acquisition, and Acquisition/Rehabilitation for Affordable Housing | | 9,975,000 |
| Funding for the Construction of Commercial Space for New Affordable Housing Developments | | 3,325,000 |
| Rental and For-Sale Housing for Moderate-Income Households | 10% | 3,800,000 |
| Funding for the New Development of Moderate Income Households | | 3,800,000 |
| Homelessness Prevention and Rental Assistance | 10% | 3,800,000 |
| Homelessness Prevention and Rental Assistance | | 3,200,000 |
| Homelessness Prevention and Rental Assistance Serving Victims of Domestic Violence | | 600,000 |
| | Sub Total | \$ 38,000,000 |
| Program Administration | 5% | 2,000,000 |
| | Sub Total | 2,000,000 |
| Measure E Total | | \$ 40,000,000 |

In summary, the 2021-2022 Proposed Operating Budget includes \$40.0 million in Measure E funding, of which \$2.0 million is budgeted for Program Administration (City-Wide Expenses) and the remaining \$38.0 million is set aside in reserves in accordance with the City Council Policy funding allocations. As part of this memorandum, \$3.8 million is recommended to be reallocated from the Homelessness Prevention Reserve and budgeted for the two uses as described above for Homelessness Prevention and Rental Assistance (City-Wide Expenses). Funding will be recommended to be reallocated from the remaining reserves to a live expenditure appropriation once projects or programs are ready to move forward, such as when the City is ready to execute an agreement with an affordable housing developer for a specific project.

For reference, Table 3 below summarizes the existing Measure E funding reserved in 2020-2021, and the reserve amounts recommended for 2021-2022 that includes the reallocations with approval of this memorandum.

Table 3: Summary of Measure E Reserves: 2020-2021 and 2021-2022

| Measure E Reserves | 2020-2021 Reserves | 2021-2022 Reserves | Total Amount Reserved |
|---|---------------------------|---------------------------|------------------------------|
| Funding for Permanent Supportive and Affordable Rental Housing for Extremely Low Income Households (45%) | 17,325,000 | 17,100,000 | 34,425,000 |
| Affordable Rental Housing for Low Income Households (35%) | 13,475,000 | 13,300,000 | 26,775,000 |
| Rental and For-Sale Housing for Moderate-Income Households (10%) | 3,850,000 | 3,800,000 | 7,650,000 |
| Homelessness Prevention and Rental Assistance (10%) | 1,000,000 | 0* | 1,000,000 |
| | \$35,650,000 | \$ 34,200,000 | \$69,850,000 |

*As discussed above \$3.8 million is recommended to be reallocated to a live City-Wide Expenses budget with approval of this memorandum.

COMMISSION RECOMMENDATION/INPUT

On May 14, 2021, the Housing Department presented the proposed Measure E 2021-2022 Spending Plan to the Oversight Committee for Measure E (Committee), the Housing and Community Development Commission for feedback. Below is a summary of the discussion held by the Committee.

The Committee held a robust conversation regarding the Measure E Spending Plan. In general, the plan was supported by the Committee. There was concern expressed, however, regarding the

proposed set-aside of \$3.3 million in funding for the construction of commercial space for new affordable housing developments. The Committee was concerned that spending funds on building out tenant improvements for commercial space is not consistent with the category set by the City Council to spend 35% of Measure E funds on funding for Low-Income Households. At the same time, the Committee wanted the City Council to understand they support creating active ground floor space in affordable housing developments and support small businesses that may be displaced by new development.

The Committee voted to remove the funding set aside for commercial space. This motion passed on a 9-4 vote.

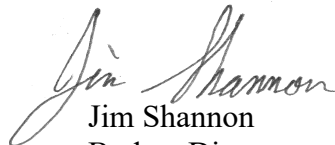
Staff Response

The Housing Department staff continues to support the inclusion of the use of Measure E funds for construction, narrowing the recommendation to limit the funding to the construction of a cold shell in an affordable housing building. The commercial building is part of the overall building and is often a land use requirement of the City. Even the Low-Income Housing Tax Credit allows up to ten percent of the project's basis to pay for the construction of the commercial building. Therefore, the Housing Department believes that the limited use of Measure E funds in 100% affordable housing building is consistent with the City Council Policy.

COORDINATION

This memorandum was coordinated with the City Attorney's Office.

/s/
Rachel VanderVeen
Deputy Director of Housing


Jim Shannon
Budget Director

For questions, please contact Rachel VanderVeen at (408) 535-8231.