

Memorandum


TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jim Shannon
Erik L. Soliván

SUBJECT: See Below

DATE: June 6, 2025

Approved



Date

6/6/2025

SUBJECT: Proposed Changes to City Council Policy 1-18, Section 22 and the Spending Priorities and Percentage Allocation of Measure E Real Property Transfer Taxes

RECOMMENDATION

(a) Adopt a resolution approving by two-thirds (2/3rds) affirmative vote revisions to the spending priorities under City Council Policy 1-18, Section 22, Real Property Transfer Tax Revenues to change the spending allocation as follows:

- (1) 5% for administration with the remaining revenues allocated as follows:
 - i. 10% for homeless prevention, gender-based violence programs, legal services and rental assistance;
 - ii. Up to 90% of anticipated revenues for homeless sheltering and support programs that may include, but are not limited to, case management, outreach teams, encampment services, safe or supportive parking, homeless shelters, and interim housing construction and operations; and
 - iii. Any remaining revenue for the creation of new or the preservation of existing affordable housing.

(b) In the alternative to (a) adopt a resolution related to estimated 2025-2026 Measure E revenues under Council Policy 1-18, Section 22 to either approve by two-thirds (2/3rds) affirmative vote an alternative allocation for Measure E spending priorities, or approve by majority vote to maintain the current allocation for Measure E spending priorities of Measure E revenue totaling \$55.0 million anticipated to be received in Fiscal Year 2025-2026.

SUMMARY AND OUTCOME

Approval of Recommendation (a) will revise the City Council Policy governing the allocation and use of Measure E revenues to support, homeless prevention, homeless support, and related program administration costs in accordance with Manager's Budget

Addendum (MBA) #2, *Measure E Policy Change and Budget Allocations*,¹ and in accordance with prior City Council direction and consistent with the 2025-2026 Proposed Operating Budget.

If an alternative to Recommendation (a) is approved, a rebalancing of the 2025-2026 Proposed Operating Budget to address the corresponding General Fund impact will be required as part of City Council's approval of Item 3.8 on the June 10, 2025 agenda.

BACKGROUND

On March 3, 2020, San José voters approved Measure E which established a transfer tax on real estate transactions in which the purchase price exceeds \$2.0 million. Beginning July 1, 2025, in accordance with Measure E, the purchase price threshold increases to \$2.3 million. This Real Property Transfer Tax revenue (Measure E revenue) can be used for any governmental purpose. Beginning in Fiscal Year 2024-2025, Measure E revenues are received into the Real Property Transfer Tax Fund for ease of administration and greater transparency.

In June 2020, the City Council amended City Council Policy 1-18 to include a new Section 22 that specifies the spending priorities and percentage allocations for Measure E revenue, along with a process for making changes to the percentage allocations. Any modification of the percentage allocations requires:

- 60-day public notice in advance of the effective date of the proposed allocation change;
- At least two public hearings prior to City Council action; and
- Two-thirds vote of the City Council.

In accordance with the process identified in the City Council Policy, the City issued a notice of public hearing on the City's website on May 1, 2025, 60 days in advance of the proposed changes to the spending priorities becoming effective. Two public hearings have been scheduled as required by Section 22 of City Council Policy 1-18. Concurrent with the 2025-2026 Proposed Budget, the first public hearing occurred at the City Council meeting on Tuesday, May 13, 2025, and the second public hearing is scheduled for the City Council meeting on Monday, June 9, 2025. The approval of the 2025-2026 Proposed Operating Budget, which includes the recommended spending plan, along with any modifications as included in the Mayor's June Budget Message for Fiscal Year 2025-2026, will be considered by the City Council on Tuesday, June 10, 2025.

¹ MBA #2: <https://www.sanjoseca.gov/home/showpublisheddocument/121478/638824038259070000>

In response to the five-year General Fund shortfall that now totals \$87.0 million, the City Council's approval of the Mayor's March Budget Message for Fiscal Year 2025-2026 included direction to modify the policy governing Measure E revenues as follows:

Modify City Council Policy 1-18, Section 22, on an ongoing basis, to minimize the need to cut community services previously authorized by the City Council, by preserving the existing 5% allocation of Measure E revenues for program administration, with the remaining revenue allocated in the following ways:

- a) Preserve the existing 10% allocation for homelessness prevention.
- b) On a sliding scale as determined in the annual budget process, increase from 15% to up to 90% the amount for homeless support programs that may include, but are not limited to, case management, outreach teams, encampment services, safe parking, homeless shelters and interim housing construction and operations.
- c) Any remaining funds will be used to fund new affordable housing development.

ANALYSIS

Amendments to City Council Policy 1-18, Section 22, Real Property Transfer Tax Revenues

Attachment A to this memorandum includes the recommended revised policy in accordance with City Council direction, as well as makes several clarifications, which are highlighted below.

- Removes reference to the General Fund, as Measure E revenues are now received and budgeted within the Real Property Transfer Tax Fund. While Measure E revenues can be used for any governmental purpose and are general purpose revenues, for administrative convenience and increased transparency, Measure E revenues are now received and allocated in the Real Property Transfer Tax Fund.
- Increases the percentage allocation for homeless sheltering and support programs from 15% to "up to 90%".
- Removes specific allocation percentages for the development of new affordable housing by area median income.
- Adds direction that any remaining revenue not budgeted for homeless sheltering and support will be allocated through the annual budget process for the creation

of new or the *preservation of existing* affordable housing (the term “preservation” was not included in the original policy).

Should the City Council approve the recommended policy changes included in the Attachment - City Council Policy 1-18, Section 22, Real Property Transfer Tax (Revised Policy and Existing Policy), the budgeted amounts for homelessness sheltering and support in future years could range between 15% and 90% of revenues (less the 5% for Program Administration) without triggering the 60-day noticing requirement, two public hearings, and two-thirds vote as long as any additional spending is allocated for the preservation of existing or creation of new affordable housing.

For example, all of the scenarios included in the hypothetical Table 1 below could be approved as part of the normal budget development process without invoking the special noticing and voting procedures in the policy.

Table 1. Examples of Allowable Measure E Allocations Under the Revised Policy

	Budgeted Amounts (\$ Million)		
	Example A	Example B	Example C
Program Administration (5%)	3.0	3.0	3.0
Allocation of Remaining Revenues			
Homelessness Prevention	5.7 (10%)	5.7 (10%)	5.7 (10%)
Homelessness Sheltering and Support	51.3 (90%)	34.2 (60%)	17.1 (30%)
New Affordable Housing and/or Affordable Housing Preservation	0	17.1 (30%)	34.2 (60%)
Total	60.0	60.0	60.0

Measure E Spending Plan for 2025-2026 and Ongoing

Table 2 below provides a breakout of the \$55.0 million spending plan for 2025-2026 Measure E revenues, and for revenues received in 2026-2027 and ongoing. The reallocation of funds from affordable housing development to homelessness sheltering and support programs is a key strategy that allows for the shifting of \$39.2 million of costs (\$42.8 million in 2026-2027 and ongoing) from the General Fund to the Real Property Transfer Tax Fund. A brief description of each line item follows.

Table 2. Measure E Spending Allocations

Recommended Allocation of Measure E Revenues in the 2025-2026 Proposed Operating Budget (\$ Millions)		
	2025-2026	2026-2027
Program Administration (5% of total revenue)	2.75	3.00
Homelessness Prevention (10% of remaining revenue)	5.23	5.70
Homelessness Sheltering and Support (90% of remaining revenue)	47.02	51.30
Interim Housing Construction and Operations	32.84	47.80
Outreach, Sanitation and Other Support Services	3.50	3.50
Beautify San José Encampment Management Services*	6.68	
Homeless Rapid Rehousing*	4.00	
Total Measure E Revenues	55.0	60.0

*One-time funding shift from the General Fund to the Real Property Transfer Tax Fund; these services will again be funded in the General Fund in 2026-2027 and ongoing.

Program Administration (5% of Total Revenue, \$2.75 million)

- **Program Administration** – \$2.75 million (\$3.0 million in 2026-2027) is programed towards administration costs. This allocation funds staff in the Housing Department, Finance Department, and the City Attorney's Office for administrative activities supporting homeless prevention and support efforts and affordable housing development (as facilitated with prior Measure E allocations and other Housing Funds).

The overall amount for this category is unchanged from the 2025-2026 Base Budget.

Homelessness Prevention (10% of Remaining Revenue, \$5.2 million)

- **Homelessness Prevention** – \$5.23 million (\$5.70 million in 2026-2027) will be dedicated towards homelessness prevention activities, including eviction prevention. The goal of the Homelessness Prevention System is to expand the ability of families with children to become quickly connected to prevention services with multiple points of entry to keep them housed. The Homelessness Prevention System identifies households at risk of experiencing homelessness and provides client-centered services, including short-term rental subsidies, financial assistance, and supportive services to help them regain stability. Measure E will fund program personnel and financial support for at-risk San José households, including continuation and permanent addition of 3.0 filled Analyst II

and 1.0 filled Staff Specialist positions, previously grant-funded, supporting rent stabilization and eviction prevention services. The program will continue efforts to connect at least 4,000 households facing eviction with resources and services, assist 300 tenants and landlords during the unlawful detainer (eviction) calendar at Santa Clara County Superior Court, and stabilize at least 125 low-income households and compensate landlords involved in eviction court actions through the program.

The overall amount for this category is unchanged from the 2025-2026 Base Budget.

Homeless Support Programs including Shelter Construction and Operations (90% of Remaining Revenue, \$47.0 million)

- **Interim Housing Construction and Operations** – \$32.8 million (\$47.8 million in 2026-2027) will be allocated towards the construction, operations, and direct support activities of the City's Interim Housing Portfolio. In 2025-2026, this portfolio includes 1,110 bridge/emergency interim housing site units, 280 converted hotel rooms, and 126 supportive parking spaces; and 60 safe sleeping sites, 306 new motel rooms and 55 supportive parking spaces to relocate unhoused residents from the City's waterways. The specific cost components of the Interim Housing Portfolio funded by Measure E include: site operations and supportive service at interim housing sites (\$28.9 million), site maintenance activities performed or overseen by the Public Works Department (\$2.2 million), and the lease cost for the Berryessa Supportive Parking site (\$1.7 million).
- **Outreach, Sanitation and Other Support Services** – \$3.5 million (\$3.5 million in 2026-2027) funds outreach, sanitation, and other support services to encampments along the City's waterways, with the goal of placing individuals into shelter and housing opportunities. This funding includes the continuation of 8.0 Community Coordinator and 2.0 Community Activity Worker positions through June 30, 2027 that coordinate with City-funded homeless outreach providers, the City of San José's Oversized Lived-In Vehicle Program, and Beautify San José in transitioning unhoused residents from encampments and lived-in vehicles to available sheltering options.
- **Beautify San José Encampment Management Services** – \$6.68 million (\$0 in 2026-2027) will support a portion of Beautify San José's cost to provide trash and waste pickup from unhoused residents, including trash collection at encampments and sewage collection from lived-in vehicles. These funds will not be used for any encampment abatement activities. These costs will be shifted back to the General Fund in 2026-2027.
- **Homeless Rapid Rehousing** – \$4.0 million (\$0 in 2026-2027) will pay for rapid rehousing services, which help outreach workers immediately place unhoused

residents into temporary housing, such as a hotel room or other type of short-term rental opportunity. These costs will be shifted back to the General Fund in 2026-2027.

The overall amount for this category is increased by \$39.2 million from the 2025-2026 Base Budget.

Affordable Housing Impacts

The reallocation of \$39.2 million (\$42.8 million ongoing) of Measure E revenues to support homeless sheltering and support services is a key strategy to minimize impacts to other community services and City employees; however, the tradeoff is a significant reduction of ongoing revenues to support the development of new affordable housing.

To partially mitigate this impact, the Housing Department is working to make available approximately \$160 million from various sources to support new affordable housing development in the near term and helping to move forward previously committed affordable housing projects. First, the Housing Department has identified approximately \$60 million of prior year Measure E and other Housing Funds that have been made available to support a new Notice of Funding Availability (NOFA) scheduled for release prior to the end of 2024-2025. This NOFA is estimated to support the future development, through the Gap Financing Program, of up to approximately 250 affordable housing units. Second, due to collaborations with the County of Santa Clara Office of Supportive Housing and the Housing Authority to leverage public funding, affordable housing projects totaling approximately 760 affordable units that were previously identified for funding will now be able to move forward.

Finally, the Housing and Finance Departments are collaborating on a few innovative methods for financing housing development, including the issuance of a housing bond backed by loan repayments from the City's existing affordable housing project loan portfolio, that collectively could inject up to \$100 million in support of affordable housing development. The timing of the housing bond and pursuit of the alternate methods, such as master leasing and project refinancing, is anticipated in the second half of 2025-2026.

Alternatives to the Administration's Recommendation

In the alternative to the Administration's Recommendation (a) to change the policy and corresponding budget allocations for Measure E revenues to match recommendation of the 2025-2026 Proposed Operating Budget, the City Council may elect one of the following alternatives.

1: The City Council could decline to change the policy but, by two-thirds vote, recommend to change the budgeted percentage allocations in 2025-2026 to match what is included in the 2025-2026 Proposed Operating Budget for 2025-2026. As this would only be a one-time shift of Measure E funds, this would eliminate the 2026-2027 Future

Deficit Reserve of \$27.0 million and increase the following year's shortfall by an additional \$15.8 million. As a result, instead of reducing the projected shortfall in 2026-2027 from \$52.9 million to \$25.9 million, the projected shortfall would increase in 2026-2027 from \$52.9 million to \$68.7 million.

2: The City Council could decline to change the policy and revert the percentage allocations in the 2025-2026 Proposed Operating Budget to match the existing policy. This action would also require a substantial rebalancing of the 2025-2026 Proposed Operating Budget as part of City Council's approval of Item 3.8 on the June 10, 2025 agenda, as this action would have a negative General Fund impact of \$39.2 million in 2025-2026 and \$42.8 million in 2026-2027.

3: The City Council could decline to change the policy but, by two-thirds vote, recommend an alternative change to the budgeted percentage allocations in 2025-2026. Any change to the budgeted percentage allocations would require a corresponding rebalancing of the 2025-2026 Proposed Operating Budget as part of City Council's approval of Item 3.8 on the June 10, 2025 agenda to ensure a balanced budget.

EVALUATION AND FOLLOW-UP

No additional follow-up is required.

COST SUMMARY/IMPLICATIONS

Approval of Recommendation (a) permanent changes City Council Policy 1-18, Section 22 and allows for the shift of \$39.2 million of costs (\$42.8 million in 2026-2027 and ongoing) from the General Fund to the Real Property Transfer Tax Fund in alignment with the 2025-2026 Proposed Operating Budget. The reallocation of funds from affordable housing development to homelessness sheltering and support programs is the foundational strategy to bring the General Fund into balance for 2025-2026 and to reduce the following year's shortfall in 2026-2027 by more than half, while also ensuring very few employee impacts. Further, the Housing Department will be releasing a \$60 million NOFA for new affordable housing development in the near future and is working to bring forward innovative financing strategies that could inject up to \$100 million in support of affordable housing development within the next fiscal year.

COORDINATION

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

HONORABLE MAYOR AND CITY COUNCIL

June 5, 2025

Subject: Proposed Changes to City Council Policy 1-18, Section 22 and the Spending Priorities and Percentage Allocation of Measure E Real Property Transfer Taxes

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PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the June 10, 2025 City Council meeting.

COMMISSION RECOMMENDATION/INPUT

Acting as the Measure E Oversight Committee, the Housing and Community Development Commission reviewed the recommended policy change and Measure E spending plan as included in MBA #2 at its meeting on May 8, 2025. The Commission voted 6-4 to retain the existing policy and spending allocation for the spending of Measure E revenues effective July 1, 2025.

CEQA

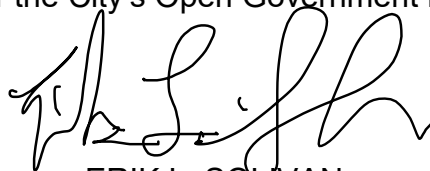
Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.



JIM SHANNON
Budget Director



ERIK L. SOLIVAN
Director, Housing Department

For questions, please contact Jim Shannon, Budget Director, City Manager's Office, at (408) 535-8142.

ATTACHMENT

City Council Policy 1-18, Section 22, Real Property Transfer Tax (Revised Policy and Existing Policy)

ATTACHMENT
City Council Policy 1-18, Section 22, Real Property Transfer Tax
(Revised Policy)

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 budgeting 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. However, 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 sheltering and support services, homeless prevention, and developing and preserving 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 the pace of 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 including, but not limited to, gender-based violence programs, legal services, and rental assistance;
 - ii. Up to 90% for homeless sheltering and support programs that may include, but are not limited to, case management, outreach teams, encampment services, safe or supportive parking, homeless shelters, and interim housing construction and operations; and
 - iii. Any remaining revenue not budgeted within the homeless sheltering and support program allocation above will be allocated as determined through the annual budget process for the creation of new or the preservation of existing affordable housing.
- 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 proportionally applied to the spending categories described above. Modifying the percentage allocations above during the Proposed Budget process or during the year requires:
 - 1) A 60-day notice in advance of the effective date of the proposed allocation change posted on the City's website and at least two public hearings prior to City Council action on the proposed 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
 - 2) A two-thirds vote of the City Council.

ATTACHMENT
City Council Policy 1-18, Section 22, Real Property Transfer Tax
(Existing Policy)

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 budgeting 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 the pace of 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, gender-based violence programs, legal services, and rental assistance;
 - ii. 40% for creation of new affordable housing for Extremely Low-Income (ELI) households earning less than 30% of area median income (AMI) as defined by the U.S. Department of Housing and Urban Development;
 - iii. 30% for creation of new affordable housing for Low-Income households earning less than 80% of AMI households as defined by the U.S Department of Housing and Urban Development;
 - iv. 5% for creation of new affordable housing for 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, land trusts, shared equity programs, and first-time homeownership opportunities for households up to 120% AMI; and

ATTACHMENT
City Council Policy 1-18, Section 22, Real Property Transfer Tax
(Existing Policy) (Cont'd.)

- v. 15% primarily for homeless support programs, shelter construction and operations, that may include, but is not limited to, case management, outreach teams, encampment services, safe parking, homeless shelters and interim housing construction and operations. In addition, should the City Manager's Five-Year General Fund Forecast determine that sufficient resources are available to support the aforementioned programs in accordance with prior City Council direction over the five-year forecast horizon, any residual funds are eligible for homelessness prevention.
- 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 proportionally applied to the spending categories described above. Modifying the percentage allocations during the Proposed Budget process or during the year requires:
 - 1) A 60-day notice in advance of the effective date of the proposed allocation change posted on the City's website and at least two public hearings prior to City Council action on the proposed 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
 - 2) A two-thirds vote of the City Council.