



Memorandum

TO: CITY COUNCIL

FROM: Mayor Sam Liccardo
Councilmember Matt Mahan

SUBJECT: SEE BELOW

DATE: December 3, 2021

**Submitted electronically*

APPROVED:

DATE:

December 3, 2021

SUBJECT: MEASURE E REAL PROPERTY TRANSFER TAX REFUND PILOT PROGRAM FOR QUALIFYING NONPROFIT REAL PROPERTY TRANSFERS

RECOMMENDATIONS

1. Accept staff recommendation to approve an ordinance creating a pilot program to refund the Measure E real property transfer tax in certain circumstances for real estate sales by qualifying nonprofit organizations and purchases by nonprofit affordable housing developers.
2. Include in the Human Services definition “services provided in the City of San José for unhoused residents.”
3. Direct City Manager to come back to City Council in June 2022 with a progress report on the pilot program including, but not limited to:
 - a. How many Measure E transfer tax refunds have been requested and how many have been approved
 - b. Analysis of and recommendation for including purchases by a qualifying nonprofit organization and the circumstances and conditions that should be met to be eligible to apply for a refund
 - c. Any transactions that were executed or are planned that could qualify for a refund under a broader Human Services definition discussed with the Silicon Valley Council of Nonprofits.

Background

Our appreciation to the Housing Department and City Manager’s Office staff for the thoughtful work to recommend the Measure E refund pilot program. The initial concept was first proposed in early 2020 in the lead-up to the March 2020 election after philanthropists and nonprofit leaders advised that Measure E had the possibility to discourage real estate transactions in the City of San

José executed for charitable community-serving purposes. What was initially thought to be a relatively simple policy, was anything but, and we thank City staff for their diligence in bringing forward this pilot program.

We are fortunate that the voters in our City approved Measure E, and we convey our deepest thanks to them. Even with the pandemic spreading shortly after voter approval, the City received \$50 million last fiscal year and is on track to nearly double that amount this fiscal year, enabling the City to have unanticipated options to make an even larger impact on building affordable housing and housing our unhoused neighbors.

We value that the recommended pilot program starts off with a narrow scope to maximize potential transfer tax revenue to launch and support Measure E programs. This approach acknowledges the challenge of opening eligibility too much where unintended loopholes may be created. We recognize that some nonprofit organizations are left out of the refund pilot program and we welcome further discussion and consideration in six months to make any needed changes that could be retroactively applied if necessary.

We recommend the actions above to clarify that nonprofit organizations providing services to our unhoused residents in our City will be eligible to apply for the transfer tax refund and request further analysis around additional components of the program, including whether purchases by qualifying nonprofit organizations should qualify for the program and under what circumstances and conditions.