



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Rachel VanderVeen

SUBJECT: SEE BELOW

DATE: May 3, 2022

Approved

Date

05/06/22

SUBJECT: MEASURE E REAL PROPERTY TRANSFER TAX REVENUE PROPOSED SPENDING PLAN FOR FY 2022-2023 AND AMENDMENT TO THE MEASURE E REAL PROPERTY TRANSFER TAX SPENDING PLAN FOR FISCAL YEARS 2020-2021 AND 2021-2022

RECOMMENDATION

Adopt a resolution:

- (a) Approving the proposed spending plan of Measure E Real Property Transfer Tax revenues for fiscal year (FY) 2022-2023;
- (b) Approving the proposed amendments to the spending plan of Measure E Real Property Transfer Tax revenues for FY 2020-2021;
- (c) Approving the proposed amendments to the spending plan of Measure E Real Property Transfer Tax revenues for FY 2021-2022; and
- (d) Authorizing the Director of Housing, or Director's designee, to negotiate and execute agreements with grantees for activities identified in the FY 2022-2023 Measure E Spending Plan, amended FY 2020-2021 Measure E Spending Plan, the amended FY 2021-2022 Measure E Spending Plan, and all related contract amendments, extensions, and changes.

OUTCOME

Approval of the recommended actions will enable staff to adopt the FY 2022-2023 spending plan for Measure E property tax revenue and negotiate and execute contracts as presented in **Table 4**. Additionally, approval of the amendments to the FY 2021-2022 and FY 2020-2021 Measure E property tax revenue spending plans will program anticipated surpluses of \$50 million and \$20 million, respectively.

BACKGROUND

On March 3, 2020, San José voters approved Measure E which established a transfer tax on real estate transactions where the purchase price exceeds \$2 million. 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 amending the priorities. On April 19, 2022, the City Council adopted amendments to the spending priorities for Measure E revenues under Council Policy 1-18, as detailed in **Table 1**.

The Measure E spending plan (Spending Plan) is based upon the spending priorities under Council Policy 1-18. Each year, the Spending Plan is presented to the Housing and Community Development Commission (Commission) which is designated by City Council as an oversight committee. In October 2020, the City Council adopted the first Spending Plan for Measure E revenue, allocating \$30 million for programs. In May 2021, the Commission and City Council heard and adopted the FY 2021-2022 Spending Plan. In the past two fiscal years, the City had a significant influx of revenue from the high number of property transfers subject to the tax.

This memorandum provides the Housing Department's FY 2022-2023 Proposed Measure E Spending Plan to the City Council - consistent with the changes to the spending priorities reflected in Table 1 below that was approved by the [City Council on April 19, 2022](#). This memorandum also provides the Housing Department's proposed Spending Plan for excess funds received in FY 2020-2021 and FY 2021-2022.

Table 1: Measure E Spending Priorities

| Measure E Spending Priorities (Does Not Include 5% Administration Fee) | |
|--|--------------------------|
| Spending Priority | % of Transfer Tax |
| Creation of New Affordable Housing for Extremely Low-Income Households | 40% |
| Creation of New Affordable Housing for Low-Income Households | 30% |
| Creation of New Affordable Housing for Moderate-Income Households | 5% |
| Homelessness Prevention and Rental Assistance | 10% |
| Homeless Support Programs Including Shelter Construction and Operations | 15% |

ANALYSIS

Measure E has quickly become a critical source of funding for both the production of affordable housing and funding for homeless prevention and rental assistance programs. Measure E is anticipated to generate \$205 million in revenue since its approval in March 2020 through the end

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of FY 2022-2023. This revenue will help address the ongoing housing and homelessness crisis in the City of San José.

Measure E Spending Plan for FY 2020-2021

The Spending Plan for FY 2020-2021 was approved by the City Council on October 29, 2020. The plan allocated the initial estimates of \$30 million in revenue. However, an additional \$20 million was received. Staff requests that the City Council approve amendments to the FY 2020-2021 Measure E Spending Plan. The proposed changes are indicated in the gray highlighted column in **Table 2**. The far right column of this table shows the Consolidated Spending Plan for FY 2020-2021 including the Adopted Spending Plan and the Proposed Spending Plan for the additional \$20 million in revenue.

Table 2: Amended FY 2020-2021 Measure E Spending Plan

| Spending Category Items | % | 2020-2021 Adopted Spending Plan | 2020-2021 Proposed Spending Plan (New) | 2020-2021 Consolidated Spending Plan |
|---|------------|---------------------------------|--|--------------------------------------|
| Funding for Permanent Supportive Housing and Extremely Low-Income Households | 45% | \$12,825,000 | \$8,776,929 | \$22,590,629 |
| Funding for New Construction of Affordable Rental Housing | | \$12,825,000 | \$8,776,929 | \$22,590,629 |
| Funding for Low-Income Households | 35% | \$9,975,000 | \$6,826,500 | \$17,570,489 |
| Funding for New Construction of Affordable Rental Housing | | \$4,975,000 | | \$4,975,000 |
| Acquisition and rehabilitation of existing buildings for low-income housing | | \$5,000,000 | \$6,826,500 | \$12,595,489 |
| Funding for Rental and For-Sale Housing for Moderate-Income Households | 10% | \$2,850,000 | \$1,950,429 | \$5,020,140 |
| ADU Program | | \$2,850,000 | \$1,950,429 | \$5,020,140 |
| Funding for Homeless Prevention and Rental Assistance | 10% | \$2,850,000 | \$1,950,429 | \$5,020,140 |
| Destination Home: Homelessness Prevention and Rental Assistance | | \$2,735,000 | | \$2,735,000 |
| Bill Wilson Center: Student Housing - FY 2020-21 | | \$55,000 | | \$55,000 |
| Bill Wilson Center: Student Housing - FY 2021-22 | | \$60,000 | | \$60,000 |
| Destination Home: Homelessness Prevention** | | | \$1,950,429 | \$2,170,140 |
| Total Funds Allocated | | \$28,500,000 | \$19,504,287 | \$50,201,398 |
| Administration Fee | 5% | \$1,500,000 | \$1,026,541 | \$329,430* |
| Administrative Costs | | \$1,500,000 | | |
| Measure E Total Available | | \$30,000,000 | \$20,530,828 | \$50,530,828 |

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**Per direction from the Budget office, any unused balance in Administration is allocated across the other categories proportionally*

***The plan presented to Commission showed these funds allocated to the Homeless Prevention Reserve. Staff has outlined a more specific use eligible in this category.*

Measure E Spending Plan for FY 2021- 2022

The adopted spending plan for FY 2021-2022 was approved by City Council on June 15, 2021 and was based on a revenue projection of \$40 million. On April 19, 2022, the City Council approved amending the spending priorities and allocations identified in Council Policy 1-18, as described in Table 1 above. The Council also authorized that any residual funds in the Homeless Support Programs category may be used for homelessness prevention and rental assistance if the five-year forecast identified that the funds were not needed. The funding is not available to be reallocated at this time as the five-year forecast has identified a need for the funds.

Initial revenue projections for FY 2021-2022 were exceeded by \$50 million. Staff is recommending that City Council approve the 2021-2022 Proposed Spending Plan as shown in the gray highlighted column in **Table 3**.

Table 3: Amended FY 2021-2022 Measure E Spending Plan

| Spending Category Items | Allocations | 2021-2022 Adopted Spending Plan | 2021-2022 Proposed Spending Plan (New) | 2021-2022 Consolidated Spending Plan |
|--|-------------|---------------------------------|--|--------------------------------------|
| Creation of new affordable housing for Extremely Low-Income households | 40% | \$17,100,000 | \$18,100,000 | \$35,200,000 |
| Funding for New Construction and Land Acquisition for Affordable Rental Housing | | \$17,100,000 | \$5,100,000 | \$22,200,000 |
| Acquisition of Hotels | | | \$13,000,000 | \$13,000,000 |
| Creation of new affordable housing for Low-Income households | 30% | \$13,300,000 | \$13,100,000 | \$26,400,000 |
| Funding for New Construction, Land Acquisition for Affordable Rental Housing | | \$4,987,500 | \$13,100,000 | \$18,087,500 |
| Funding for the Construction of Commercial Space for New Affordable Housing Developments | | \$3,325,000 | | \$3,325,000 |
| Funding for Acquisition and Rehabilitation* | | \$4,987,500 | | \$4,987,500 |
| Creation of new for-sale and rental affordable housing for Moderate-Income households | 5% | \$3,800,000 | \$600,000 | \$4,400,000 |
| Funding for New Construction of Affordable Rental Housing | | \$3,800,000 | \$600,000 | \$4,400,000 |
| Homeless prevention and rental assistance | 10% | \$3,800,000 | \$5,000,000 | \$8,800,000 |

| Spending Category Items | Allocations | 2021-2022 Adopted Spending Plan | 2021-2022 Proposed Spending Plan (New) | 2021-2022 Consolidated Spending Plan |
|--|-------------|---------------------------------|--|--------------------------------------|
| Destination Home: Homeless Prevention and Rental Assistance | | \$3,200,000 | | \$3,200,000 |
| Destination Home: Homeless Prevention and Rental Assistance Serving Victims of Domestic Violence | | \$600,000 | | \$600,000 |
| Rental Assistance, Supportive Services, Deposits and Move-in Support for targeted encampments | | | \$3,000,000 | \$3,000,000 |
| Destination Home: Homeless Prevention and Rental Assistance ** | | | \$2,000,000 | \$2,000,000 |
| Homeless Support Programs including shelter construction and operations | 15% | \$0 | \$13,200,000 | \$13,200,000 |
| Operation and Construction of Interim Housing | | | \$13,200,000 | \$13,200,000 |
| Total Funds Allocated | | \$38,000,000 | \$50,000,000 | \$88,000,000 |
| Administration Fee | 5% | \$2,000,000 | \$0 | \$2,000,000 |
| Administrative Costs | | | | |
| Measure E Total Available | | \$40,000,000 | \$50,000,000 | \$90,000,000 |

*Staff provided a more specific activity of acquisition and rehabilitation from a previously adopted spending plan to provide more specific programming for funds.

**The plan presented to the Commission showed these funds allocated to a Homeless Prevention Reserve. Staff has outlined a more specific use eligible in this category.

Measure E Spending Plan for FY 2022- 2023

For FY 2022-2023, initial projections anticipate \$65 million in Measure E Revenue. Staff has programmed the incoming revenue in alignment with identified priorities which can be found below in **Table 4**.

Table 4: Proposed 2022-2023 Measure E Spending Plan

| Spending Category Items | % | 2022-2023 Proposed Spending Plan |
|---|------------|----------------------------------|
| Funding for Permanent Supportive Housing and Extremely Low-Income Households | 40% | \$24,700,000 |
| Funding for New Construction of Affordable Rental Housing | | \$13,700,000 |
| Funding for Acquisition and Rehabilitation | | \$3,000,000 |
| Acquisition of Hotels | | \$8,000,000 |
| Funding for Low-Income Households | 30% | \$18,525,000 |
| Funding for New Construction of Affordable Rental Housing. | | \$3,525,000 |

| Spending Category Items | % | 2022-2023 Proposed Spending Plan |
|--|------------|----------------------------------|
| Funding for Acquisition and Rehabilitation | | \$5,000,000 |
| Funding for Land Acquisition | | \$10,000,000 |
| Funding for Rental and For-Sale Housing for Moderate-Income Households | 5% | \$3,087,500 |
| Funding for Affordable For-Sale Housing | | \$3,087,500 |
| Funding for Homeless Prevention and Rental Assistance | 10% | \$6,175,000 |
| Destination: Home: Homeless Prevention and Rental Assistance | | \$3,460,000 |
| Destination: Home: Homeless Prevention and Rental Assistance Serving Victims of Domestic Violence | | \$600,000 |
| Bill Wilson Center: Student Housing* | | \$60,000 |
| County of Santa Clara, Office of Supportive Housing: Rental Assistance, Supportive Services, Deposits and Move-in Support for targeted encampments | | \$2,055,000 |
| Funding for Homeless Support Programs** | 15% | \$9,262,500 |
| HomeFirst: Arena Hotel Operations | | \$3,000,000 |
| PATH: Pacific Motor Inn Operations | | \$3,000,000 |
| Emergency Interim Housing Maintenance and Operations | | \$1,800,000 |
| Reserve for Emergency Interim Housing Operations | | \$1,462,500 |
| Total Funds Allocated | | \$61,750,000 |
| Administration Fee | 5% | \$3,250,000 |
| Administrative Costs | | \$3,250,000 |
| Measure E Total Available (est.) | | \$65,000,000 |

* The plan presented to Commission showed \$115,000 allocated towards student housing. After reviewing the Mayor's Budget memo, staff aligned this amount to match; the remaining \$55,000 has been allocated to Rental Assistance.

**The plan presented to Commission showed all funds allocated to the Reserve for Emergency Interim Housing Operations. Staff outlined more specific uses eligible in this category.

Spending Plan Highlights

Over the three years of spending plans, several housing and homeless programs now receive ongoing funding allocations. This provides a sustainable model for critical housing programs. Highlights of this funding are included below.

- **New Construction** – Establishing an ongoing source for new development will provide the financing to build much needed new affordable housing developments. This aligns with the Mayor and City Council goal to finance 10,000 new affordable housing units by 2023. Over \$67 million in Measure E funding is available for new construction of affordable housing for extremely low-income and low-income households. The Housing Department recently released a Notice of Funding Availability of \$150 million to solicit

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applications for the development of new affordable housing; the Notice of Funding Availability was exceeded by \$40 million.

- **Acquisition Rehabilitation** – In total, these three spending plans make \$25 million available for the acquisition and rehabilitation of existing market rate apartments. This is a strategy that has been identified in the City’s Anti-Displacement Plan to preserve existing affordable housing. A Notice of Funding Availability will be issued in the coming year to begin awarding these funds. This will support the City’s Anti-Displacement Plan that seeks to keep lower-income residents in their homes and ensures that they are not priced out of their neighborhoods.
- **Acquisition of Hotels** – On October 5, 2021, City Council approved a plan for the City to apply for HomeKey funding. The City intends to acquire two hotels in the current year once state HomeKey funds are awarded. Additional funds are programed into next year to allow for the City to pursue funds in the HomeKey 3.0 program.
- **Funding for Land Acquisition** – In order to further the development of affordable housing in opportunity areas, the Housing Department will create a \$10 million land acquisition program specifically for sites located in Category 1 neighborhoods as defined by the pending Affordable Housing Siting Policy. This program will be managed by a nonprofit lending institution selected through a Request for Proposals process. This recommendation is consistent with strategies identified in the Affordable Housing Siting Policy. This policy encourages affordable housing developers to purchase sites in neighborhoods that have higher performing schools and are amenity rich, as there are fewer affordable housing options currently in these neighborhoods.
- **For-Sale Housing Program** – In the coming year, the Housing Department will work to establish a for-sale program for moderate-income households. This recommendation will allow the City to establish a funding source while staff explores options to create homeownership opportunities for buyers who have been priced out of the market.
- **Homeless Prevention** – Over the three years covered by the spending plans, \$14.9 million in funds are dedicated to homeless prevention programs. This demonstrates the City’s strong commitment to coordinated homeless prevention efforts to keep people in their homes. This investment is aligned with the Plan to End Homelessness.
- **Support for Targeted Encampments** – The City is coordinating with the County of Santa Clara to provide funding for rental assistance, supportive services, deposits, and move-in support for targeted encampments. The proposed spending plans allocate \$5 million for this activity over two years. This recommendation supports the City’s efforts to provide housing options for people living in the Guadalupe Gardens and other targeted encampments.
- **Reserve for Interim Housing Construction and Operations** – Consistent with City Council policy changes adopted on April 19, 2022, \$14.6 million in funds are set aside for an interim housing construction and operating reserve. Additionally, \$7.8 million will be expended in FY 2022-2023 for the operation of three interim housing locations.

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Conflict of Interest

The Director of Housing, Jacky Morales-Ferrand, serves as a member of the Board of Directors for Destination: Home. This memorandum includes recommendations for the allocation of Measure E funds to Destination: Home, therefore the Director of Housing has not signed this memorandum in order to avoid a conflict of interest.

CONCLUSION

In summary, the FY 2022-2023 Spending Plan includes \$65 million in Measure E funding, of which \$3.25 million is budgeted for administrative costs, and the remaining \$61.75 million is allocated according to the funding priorities. Additionally, staff has presented Proposed Spending Plans regarding revenue in excess of initial projections as amendments to FY 2020-2021 and FY 2021-2022 Adopted Spending Plans. With approval of the presented plans, staff will use City Council's direction to negotiate and execute contracts with service providers.

EVALUATION AND FOLLOW-UP

In its role as an oversight committee, the Commission reviewed the Proposed FY 2021-2022 and FY 2022-2023 Measure E Spending Plans on April 21, 2022. The Commission will hear the Proposed amendments to the FY 2020-2021 Spending Plan at the upcoming meeting on May 12, 2022. The Commission will also review the annual expenditure report in fall 2022 to ensure it is consistent with the Amended Spending plan. Future spending plans will be reviewed by the Commission and approved by the City Council.

CLIMATE SMART SAN JOSE

The recommendation in this memorandum has no effect on Climate Smart San José energy, water, or mobility goals

PUBLIC OUTREACH

This memorandum was discussed at the Commission meeting on April 21, 2022. This memorandum will be posted on the City's website for the May 17, 2022, City Council meeting.

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COORDINATION

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

COST SUMMARY/IMPLICATIONS

Contracts funded through the updated 2022-2023 Measure E Spending Plan:

- Destination: Home for rental assistance services up to \$8,230,140
- PATH for the operation of the Pacific Motor Inn up to \$3,000,000
- HomeFirst for the operation of the Arena Hotel up to \$3,000,000
- Bill Wilson for student housing up to \$60,000
- County of Santa Clara, Office of Supportive Housing for rental assistance, supportive services, deposits, and move-in support for targeted encampments up to \$2,055,000

There is no ongoing fiscal impact to the General Fund or other City funds as a result of the actions recommended in this memorandum.

COMMISSION RECOMMENDATION/INPUT

On April 21, 2022, the Housing Department presented the Proposed Measure E FY 2022-2023 Spending Plan and the Proposed amendments to the FY 2021-2022 Spending Plan to the Commission. The Commission serves as oversight committee for Measure E funds. Below is a summary of the discussion held by the Commission.

The Commission made general comments, but none were specific to the presented Spending Plans. Overall, the Spending Plans were supported by the Commission.

The Commission voted to accept the Proposed FY 2022-2023 and the amended FY 2021-2022 Spending Plans. The motion passed on a 7-0-1 vote.

The Commission will provide comments to the Proposed amendments to the FY 2020-2021 Spending Plan at their May 12, 2022, meeting. Due to the timing of this memorandum being released prior to the Commission hearing the plan, staff will provide City Council with a supplemental memorandum summarizing the input from the Commission.

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CEQA

Not a Project, File No. PP17 004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in no changes to the physical environment.

/s/

RACHEL VANDERVEEN
Deputy Director of Housing

The principal author of this memorandum is Shelsy Bass, Senior Development Officer. For questions, please contact Rachel VanderVeen, Deputy Director, at (408) 535-8231.