



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jim Shannon

SUBJECT: SEE BELOW

DATE: June 9, 2023

Approved

Date

6/9/2023

**SUBJECT: PROPOSED CHANGES TO THE SPENDING PRIORITIES AND
PERCENTAGE ALLOCATION OF MEASURE E REAL PROPERTY
TRANSFER TAXES**

RECOMMENDATION

(a) Adopt a resolution related to estimated 2023-2024 Measure E revenues:

- (1) Approving by two-thirds (2/3rds) affirmative vote the following percentage allocations as included in Manager's Budget Addendum #2 of the 2023-2024 Proposed Operating Budget for the spending of Measure E revenues totaling \$50.0 million anticipated to be received in Fiscal Year 2023-2024:
 - (i) 5% for administration with the remaining revenue allocated as follows:
 - (ii) 0% for the creation of new affordable housing for extremely low-income households;
 - (iii) 0% for the creation of new affordable housing for low-income households;
 - (iv) 0% for the creation of new affordable housing for moderate-income households;
 - (v) 20% for homeless prevention, gender-based violence programs, legal services and rental assistance; and
 - (vi) 80% for homeless support programs including shelter construction and operations.
- (2) In the alternative to (a)(1), approve by majority vote to maintain the current allocation under Council Policy 1-18, Section 22, of Measure E spending priorities for the 2023-2024 Proposed Budget for the spending of Measure E revenue totaling \$50.0 million anticipated to be received in Fiscal Year 2023-2024;
- (3) In the alternative to (a)(1) or (a)(2), approve by two-thirds (2/3rds) affirmative vote an alternative allocation for Measure E spending priorities for the 2023-2024 Proposed Budget for the spending of Measure E revenue totaling \$50.0 million anticipated to be received in Fiscal Year 2023-2024;

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(b) Adopt a resolution related to prior year Measure E revenues:

- (1) Approving by two-thirds (2/3rds) affirmative vote the following percentage allocations as included in Manager's Budget Addendum #2 of the 2023-2024 Proposed Operating Budget for the combined spending of uncommitted Measure E revenues totaling \$87.0 million, comprised of \$17.1 million from Fiscal Year 2020-2021, \$20.4 million from Fiscal Year 2021-2022, and \$49.5 million from Fiscal Year 2022-2023:
 - (i) 22% for administration, which is inclusive of a revenue stabilization reserve to protect funding commitments from an anticipated revenue shortfall, with the remaining revenue allocated as follows:
 - (ii) 21% for the creation of new affordable housing for extremely low-income households;
 - (iii) 57% for the creation of new affordable housing for low-income households;
 - (iv) 0% for the creation of new affordable housing for moderate income households;
 - (v) 4% for homeless prevention, gender-based violence programs, legal services and rental assistance; and
 - (vi) 18% for homeless support programs including shelter construction and operations.
- (2) In the alternative to (b)(1), approve by two-thirds (2/3rds) affirmative vote the following percentage allocations as included in the Mayor's June Budget Message for Fiscal Year 2023-2024 for the combined spending of uncommitted Measure E revenues totaling \$87.0 million, comprised of \$17.1 million from Fiscal Year 2020-2021, \$20.4 million from Fiscal Year 2021-2022, and \$49.5 million from Fiscal Year 2022-2023:
 - (i) 17% for administration, which is inclusive of a revenue stabilization reserve to protect funding commitments from an anticipated revenue shortfall, with the remaining revenue allocated as follows:
 - (ii) 20% for the creation of new affordable housing for extremely low-income households;
 - (iii) 31% for the creation of new affordable housing for low-income households;
 - (iv) 0% for the creation of new affordable housing for moderate income households;
 - (v) 4% for homeless prevention, gender-based violence programs, legal services and rental assistance; and
 - (vi) 45% for homeless support programs including shelter construction and operations.
- (3) In the alternative to (b)(1) or (b)(2), approve by a majority vote to maintain the current allocation under Council Policy 1-18, Section 22, of Measure E spending priorities for the combined spending of uncommitted Measure E revenue totaling \$87.0 million, comprised of \$17.1 million from Fiscal Year 2020-2021, \$20.4 million from Fiscal Year 2021-2022, and \$49.5 million from Fiscal Year 2022-2023.
- (4) In the alternative to (b)(1), (b)(2), or b(3), approve by two-thirds (2/3rds) affirmative vote an alternative allocation to the 2023-2024 Proposed Budget, for the combined spending of uncommitted Measure E revenue totaling \$87.0 million, comprised of \$17.1 million from Fiscal Year 2020-2021, \$20.4 million from Fiscal Year 2021-2022, and \$49.5 million from Fiscal Year 2022-2023.

SUMMARY AND OUTCOME

Approval of the actions included in this memorandum will result in the allocation of Measure E revenues to support affordable housing development, homeless prevention, homeless support, and related program administration costs.

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 million. All revenues received from Measure E are deposited into the General Fund and can be used for any governmental purpose. 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.

Following the above procedure, on April 19, 2022, the City Council approved modifications to the spending priorities and the allocation percentages of Measure E revenue under Section 22 of Council Policy 1-18 as detailed in the table below:

Measure E Spending Priorities (Does not include 5% Administration)	
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, Gender-Based Violence Programs, Legal Services and Rental Assistance	10%
Homeless Support Programs Including Shelter Construction and Operations	15%

Measure E also allows 5% of the revenue to be used for administrative purposes. This percentage is taken before the percentage allocations are applied.

City Council's approval of the Mayor's March Budget Message for Fiscal Year 2023-2024 included direction to the City Manager to explore the use of uncommitted Measure E resources for reallocation to homeless prevention, support, and management to fund various programmatic

initiatives in the March Budget Message to reduce unsheltered homelessness, including the doubling of the 2023-2024 homelessness prevention category on a one-time basis.

Consistent with City Council Policy 1-18, Section 22, the Housing Department posted a [public notice on May 2, 2023](#), 60 days in advance of the proposed changes to the spending priorities becoming effective. The first City Council public hearing was Tuesday, May 16, 2023, and the second City Council public hearing will be held on Monday, June 12, 2023.

ANALYSIS

The Administration has interpreted “uncommitted” Measure E revenues as resources that have been allocated to the various spending categories identified in City Council Policy 1-18, but not yet formally committed to a specific project or use by the City Council. The total amount of Measure E revenue subject to reallocation is \$137.0 million: \$87.0 million of revenues received in 2022-2023 and earlier, and \$50.0 million anticipated to be received in 2023-2024.

The 2023-2024 Proposed Operating Budget response to City Council direction for the consideration of the reallocation of Measure E is further detailed in Manager’s Budget Addendum #2, *One-Time Changes to Measure E Revenue Percentage Allocations*¹, which includes a reallocation of both prior year revenues and 2023-2024 revenues. In accordance with City Council Policy 1-18, approval of the Measure E allocations included in the 2023-2024 Proposed Operating Budget would require a two-thirds vote of the City Council. Two-thirds approval of Recommendations (a)(1) and (b)(1) would approve the allocation of Measure E revenues as included in the 2023-2024 Proposed Operating Budget.

The Mayor’s June Budget Message for Fiscal Year 2023-2024² recommends an alternative spending plan for Measure E revenues that would include a reallocation of prior year revenues (Fiscal Years 2020-2021, 2021-2022, and 2022-23), but the allocation of 2023-2024 revenues would remain in accordance with existing policy. Approving the Measure E spending allocation recommended in the Mayor’s June Budget Message would require a two-thirds vote for prior year allocations, but only a simple majority vote for allocation of 2023-2024 revenues. A simple majority approval of (a)(2) and a two-thirds approval of (a)(2) would approve the allocation of Measure E revenues as included in the Mayor’s June Budget Message.

A memorandum authored by Councilmembers Davis, Torres, and Ortiz³ regarding the June Budget Message recommends an allocation of both prior year and 2023-2024 Measure E revenues in accordance with existing policy. Approving the spending allocation recommended

¹ MBA #2: <https://www.sanjoseca.gov/home/showpublisheddocument/97676/638195071650170000>

² Mayor’s June Budget Message for Fiscal Year 2023-2024:
<https://sanjose.legistar.com/View.ashx?M=F&ID=12070424&GUID=15BEF8FE-E6C0-4FF1-92F3-73FFCCF6E488>

³ Memorandum from Councilmembers Davis, Torres, and Ortiz:
<https://sanjose.legistar.com/View.ashx?M=F&ID=12076277&GUID=47E37878-3D28-45F3-BCD4-663C9FC2B088>

by Councilmembers Davis, Torres, and Ortiz would only require a simple majority vote for both prior year and 2023-2024 allocations. A simple majority approval of (a)(2) and (b)(3) would approve the allocation of Measure E revenues as included in the memorandum from Councilmembers Davis, Torres, and Ortiz.

A memorandum authored by Councilmembers Cohen and Jimenez⁴ regarding the June Budget Message recommends a reallocation of prior year revenues and 2023-2024 revenues. Approving the Measure E spending allocation recommended by Councilmembers Cohen and Jimenez would require a two-thirds vote for prior year allocations and a two-thirds vote of 2023-2024 revenues. A two-thirds majority approval of (a)(3) and a two-thirds approval of (b)(4) would approve the allocation of Measure E revenues as included in the memorandum from Councilmembers Cohen and Jimenez.

Should other City Councilmembers submit a memorandum on the June Budget Message that would impact the allocation of Measure E revenues, the Administration will issue a replacement memorandum so that all alternatives can be considered within this memorandum.

EVALUATION AND FOLLOW-UP

Regardless of City Council action on this agenda item, spending percentages for 2024-2025 would be unaffected and continue under the existing percentages in City Council Policy 1-18, absent future City Council direction.

COST SUMMARY/IMPLICATIONS

The amount of uncommitted Measure E resources received in 2020-2021, 2021-2022 and 2022-2023 totals \$87.0 million, and the Measure E revenue estimate for 2023-2024 is \$50.0 million. The total amount of Measure E revenues subject to allocation is \$137.0 million. The spending allocation for each plan is summarized below, ordered from left to right by date of publication, with additional detail and percentage allocations provided in Attachments 1-4.

⁴ Memorandum from Councilmember Cohen and Jimenez:

<https://sanjose.legistar.com/View.ashx?M=F&ID=12081821&GUID=0FE3126E-19C3-4A3A-9287-561195C27E94>

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Spending Priority	2023-2024 Proposed Operating Budget	Mayor's June Budget Message	CM Davis, Torres, and Ortiz	CM Cohen and Jimenez
Creation of New Affordable Housing for Extremely Low-Income Households	\$14,220,000	\$33,200,000	\$43,553,478	\$39,575,000
Creation of New Affordable Housing for Low-Income Households	\$38,615,253	\$36,885,253	\$49,676,315	\$40,885,253
Creation of New Affordable Housing for Moderate-Income Households	\$0	\$2,375,000	\$12,708,416	\$0
Homelessness Prevention, Gender-based Violence Programs, Legal Services and Rental Assistance	\$12,212,628	\$7,462,628	\$7,462,628	\$7,462,628
Homeless Support Programs, Shelter Construction and Operations	\$50,054,868	\$40,054,868	\$21,129,809	\$32,054,868
Program Administration	\$6,824,941*	\$6,824,941*	\$2,500,000	\$6,824,941*
Program Administration – Revenue Stabilization Reserve	\$15,102,956	\$10,227,956	\$0	\$10,227,956
Total	\$137,030,646	\$137,030,646	\$137,030,646	\$137,030,646

*Includes \$4.3 million to be spent over a three-year period to support 4.0 full-time equivalent (FTE) positions in the Housing Department to support and coordinate homeless outreach services and 3.0 FTE in the City Manager's Office for enhanced homelessness data analysis, policy work, and interdepartmental and interagency coordination.

COORDINATION

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

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the June 13, 2023 City Council meeting.

COMMISSION RECOMMENDATION/INPUT

As described in more detail in Manager's Budget Addendum #47, *Housing and Community Development Commission as Measure E Oversight Committee*⁵, at its meeting on May 11, 2023, the Housing and Community Development Commission voted to reject (11-0 with 3 commissioners absent) the one-time revisions to the spending priorities and percentage allocation of Measure E real property transfer taxes as included in the 2023-2024 Proposed Operating Budget. At that meeting the Commission also approved drafting a letter to the City Council regarding its opposition to reallocating funds, reflecting comments given during the

⁵ MBA #47: <https://www.sanjoseca.gov/home/showpublisheddocument/98946/638214084400070000>


Commission's meeting, which was posted for the May 16, 2023 City Council public hearing⁶. In addition, the Commission authorized the Commission Chair, Alex Shoor, to make a statement on behalf of the Commission at the public hearing to voice its desire to retain the already established allocation percentages.

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

For questions, please contact Jim Shannon, Budget Director, at (408) 535-8142.

Attachment 1 – 2023-2024 Proposed Operating Budget Measure E Allocation
Attachment 2 – Mayor's June Budget Message for Fiscal Year 2023-2024 Measure E Allocation
Attachment 3 – City Councilmembers Davis, Torres and Ortiz Measure E Allocation
Attachment 4 – City Councilmembers Cohen and Jimenez Measure E Allocation

⁶ Letter from the Housing and Community Development Commission:
<https://sanjose.legistar.com/View.ashx?M=F&ID=11976485&GUID=754C7594-E904-4AC0-8080-9D54AE54481B>



**Attachment 1 – 2023-2024 Proposed Operating Budget
Measure E Allocation**

	Revised Plan			
	Distribution of Unspent Funds \$ / %		Distribution of Funds for FY 23-24	
Creation of New Affordable Housing for Extremely Low-Income Households	\$14,220,000	21%	\$0	0%
- Funding for New Construction of Affordable Rental Housing (2021 NOFA)	\$14,200,000			
- New NOFA				
Creation of New Affordable Housing for Low-Income Households	\$38,615,253	57%	\$0	0%
- Funding for New Construction of Affordable Rental Housing (2021 NOFA)	\$21,280,000			
- Funding for Commercial Space in Affordable Housing	\$1,335,253			
- Funding for Inflation Reserve for Affordable Developments Under Construction	\$11,000,000			
- New NOFA (New Construction & Acquisition/Preservation)				
- Funding for Land Acquisition & Acquisition/Preservation	\$5,000,000			
Creation of New Affordable Housing for Moderate-Income Households	\$0	0%	\$0	0%
- New NOFA				
Homelessness Prevention, Gender-based Violence Programs, Legal Services and Rental Assistance	\$2,712,628	4%	\$9,500,00	20%
- Eviction Prevention and Diversion	\$2,712,628			
- Homeless Prevention and Rental Assistance			\$9,500,00	
Homeless Support Programs, Shelter Construction and Operations	\$12,054,868	18%	\$38,000,000	80%
- OWLs	\$1,500,000			
- Public Works Interim Shelter Site Identification and Development (4.0 FTE)	\$2,006,789			
- Interim Housing Operation and Maintenance Reserve	\$8,548,079		\$3,081,730	
- Surestay Operations			\$500,000	
- Public Works Interim Shelter Staffing (5.0 FTE)			\$2,000,000	
- Public Works Interim Shelter Maintenance			\$3,000,000	
- CARE Coordination Program (CCP)			\$1,000,000	

- Homeless Outreach Contracts			\$3,700,000	
- SJBridge			\$5,000,000	
- Interim Shelter Site Identification and Development			\$18,890,750	
- Housing Homeless Response Staffing (2.0 FTE)			\$827,520	
Administration	\$19,427,897	22%	\$2,500,000	5%
- Housing Homeless Response Staff (4.0 FTE)	\$2,472,471			
- City Manager's Office Homelessness Coordination Team (3.0 FTE)	\$1,852,470			
- Measure E Revenue Stabilization Reserve	\$15,102,956			
- Program Administration			\$2,500,000	
Total	\$87,030,646		\$50,000,000	

**Attachment 2 –Mayor’s June Budget Message for Fiscal Year 2023-2024
Measure E Allocation**

	Revised Plan			
	Distribution of Unspent Funds \$ / %		Distribution of Funds for FY 23-24	
Creation of New Affordable Housing for Extremely Low-Income Households	\$14,200,00	20%	\$19,000,000	40%
- Funding for New Construction of Affordable Rental Housing (2021 NOFA)	\$14,200,000			
- New NOFA			\$19,000,000	
Creation of New Affordable Housing for Low-Income Households	\$22,635,253	31%	\$14,250,000	30%
- Funding for New Construction of Affordable Rental Housing (2021 NOFA)	\$21,300,000			
- Funding for Commercial Space in Affordable Housing	\$1,335,253			
- Funding for Inflation Reserve for Affordable Developments Under Construction				
- New NOFA			\$14,250,000	
- Funding for Land Acquisition & Acquisition/Preservation				
Creation of New Affordable Housing for Moderate-Income Households	\$0	0%	\$2,375,000	5%
- New NOFA			\$2,375,000	
Homelessness Prevention, Gender-based Violence Programs, Legal Services and Rental Assistance	\$2,712,628	4%	\$4,750,000	10%
- Eviction Prevention and Diversion	\$2,712,628			
- Homeless Prevention and Rental Assistance			\$4,750,000	
Homeless Support Programs, Shelter Construction and Operations	\$32,929,868	45%	\$7,125,000	15%
- OWLs	\$1,500,000			
- Public Works Interim Shelter Site Identification and Development (4.0 FTE)	\$2,006,789			
- Interim Housing Operation and Maintenance Reserve	\$11,004,809		\$625,000	
- Surestay Operations			\$500,000	
- Public Works Interim Shelter Staffing (5.0 FTE)			\$2,000,000	
- Public Works Interim Shelter Maintenance			\$3,000,000	
- CARE Coordination Program (CCP)			\$1,000,000	
- Homeless Outreach Contracts	\$3,700,000			

- SJBridge	\$5,000,000			
- Interim Shelter Site Identification and Development	\$8,890,750			
- Housing Homeless Response Staffing (2.0 FTE)	\$827,520			
Administration	\$14,552,897	17%	\$2,500,000	5%
- Housing Homeless Response Staff (4.0 FTE)	\$2,472,471			
- City Manager's Office Homelessness Coordination Team (3.0 FTE)	\$1,852,470			
- Measure E Revenue Stabilization Reserve	\$10,227,956			
- Program Administration			\$2,500,000	
Total	\$87,030,646		\$50,000,000	

**Attachment 3 – City Councilmembers Davis, Torres and Ortiz
Measure E Allocation**

	Revised Plan			
	Distribution of Unspent Funds \$ / %		Distribution of Funds for FY 23-24	
Creation of New Affordable Housing for Extremely Low-Income Households	\$24,553,478	28%	\$19,000,000	40%
- Funding for New Construction of Affordable Rental Housing (2021 NOFA)	\$14,200,000			
- New NOFA	\$10,353,478		\$19,000,000	
Creation of New Affordable Housing for Low-Income Households	\$35,426,315	41%	\$14,250,000	30%
- Funding for New Construction of Affordable Rental Housing (2021 NOFA)	\$21,300,000			
- Funding for Commercial Space in Affordable Housing	\$1,335,253			
- Funding for Inflation Reserve for Affordable Developments Under Construction	\$11,000,000			
- New NOFA (New Construction & Acquisition/Preservation)	\$1,791,062		\$14,250,000	
- Funding for Land Acquisition & Acquisition/Preservation	\$0			
Creation of New Affordable Housing for Moderate-Income Households	\$10,333,416	12%	\$2,375,000	5%
- New NOFA	\$10,333,416		\$2,375,000	
Homelessness Prevention, Gender-based Violence Programs, Legal Services and Rental Assistance	\$2,712,628	3%	\$4,750,000	10%
- Eviction Prevention and Diversion	\$2,712,628			
- Homeless Prevention and Rental Assistance			\$4,750,000	
Homeless Support Programs, Shelter Construction and Operations	\$14,004,809	16%	\$7,125,000	15%
- OWLs	\$1,500,000			
- Public Works Interim Shelter Site Identification and Development (4.0 FTE)	\$668,930			
- Interim Housing Operation and Maintenance Reserve	\$8,135,879		\$625,000	
- Surestay Operations			\$500,000	
- Public Works Interim Shelter Staffing (5.0 FTE)			\$2,000,000	
- Public Works Interim Shelter Maintenance			\$3,000,000	
- CARE Coordination Program (CCP)			\$1,000,000	

- Homeless Outreach Contracts	\$3,700,000			
- SJBridge				
- Interim Shelter Site Identification and Development				
- Housing Homeless Response Staffing (2.0 FTE)				
Administration	\$0	0%	\$2,500,000	5%
- Housing Homeless Response Staff (4.0 FTE)	\$0			
- City Manager's Office Homelessness Coordination Team (3.0 FTE)	\$0			
- Measure E Revenue Stabilization Reserve	\$0			
- Program Administration			\$2,500,000	
Total	\$87,030,646		\$50,000,000	

**Attachment 4 – City Councilmembers Cohen and Jimenez
Measure E Allocation**

	Revised Plan			
	Distribution of Unspent Funds \$ / %		Distribution of Funds for FY 23-24	
Creation of New Affordable Housing for Extremely Low-Income Households	\$18,200,00	25%	\$21,375,000	45%
- Funding for New Construction of Affordable Rental Housing (2021 NOFA)	\$14,200,000			
- New NOFA	\$4,000,000		\$21,375,000	
Creation of New Affordable Housing for Low-Income Households	\$26,635,253	37%	\$14,250,000	30%
- Funding for New Construction of Affordable Rental Housing (2021 NOFA)	\$21,300,000			
- Funding for Commercial Space in Affordable Housing	\$1,335,253			
- Funding for Inflation Reserve for Affordable Developments Under Construction				
- New NOFA	\$4,000,000		\$14,250,000	
- Funding for Land Acquisition & Acquisition/Preservation				
Creation of New Affordable Housing for Moderate-Income Households	\$0	0%	\$0	0%
- New NOFA				
Homelessness Prevention, Gender-based Violence Programs, Legal Services and Rental Assistance	\$2,712,628	4%	\$4,750,000	10%
- Eviction Prevention and Diversion	\$2,712,628			
- Homeless Prevention and Rental Assistance			\$4,750,000	
Homeless Support Programs, Shelter Construction and Operations	\$24,929,868	34%	\$7,125,000	15%
- OWLs	\$1,500,000			
- Public Works Interim Shelter Site Identification and Development (4.0 FTE)	\$2,006,789			
- Interim Housing Operation and Maintenance Reserve	\$11,004,809		\$625,000	
- Surestay Operations			\$500,000	
- Public Works Interim Shelter Staffing (5.0 FTE)			\$2,000,000	
- Public Works Interim Shelter Maintenance			\$3,000,000	

- CARE Coordination Program (CCP)			\$1,000,000	
- Homeless Outreach Contracts	\$3,700,000			
- SJBridge	\$2,000,000			
- Interim Shelter Site Identification and Development	\$3,890,750			
- Housing Homeless Response Staffing (2.0 FTE)	\$827,520			
Administration	\$14,552,897	17%	\$2,500,000	5%
- Housing Homeless Response Staff (4.0 FTE)	\$2,472,471			
- City Manager's Office Homelessness Coordination Team (3.0 FTE)	\$1,852,470			
- Measure E Revenue Stabilization Reserve	\$10,227,956			
- Program Administration			\$2,500,000	
Total	\$87,030,646		\$50,000,000	