

Council Policy Prioritization: Early Consideration Response Form

Department CMO-API

Department Rep. Name/Ext. Michelle McGurk/5-8254

Policy/Ord. Subject Exemptions of certain transfers from proposed
Real Property Transfer Tax on March 2020 ballot

Rules Date January 8, 2020 Item G3

Council Member Sponsorship Mayor Liccardo

Staff Recommendation

☒ **GREEN*** The Administration can implement this Nominated Idea under its current workplan *Pending outcome of the March election

☐ **ALREADY UNDERWAY** ☐ **MINIMAL WORK LESS THAN 40 HOURS** ☐ **REQUEST FOR INFORMATION**

☐ **YELLOW** The Administration recommends Council send this Nominated Idea to the Priority Setting Process (See Complexity Level Below)

☐ **RED** The Administration recommends Council not adopt this Nominated Idea

☐ **NEEDS CLARIFICATION OR MORE TIME TO EVALUATE**

Criterion to Determine Scale of Project Complexity

Project complexity is determined by scoring the project in each of the 3 criteria below and then summing the score.

- a. Low Complexity is a sum of 6 or less.
- b. Medium Complexity is a sum of 7 - 9
- c. High Complexity is a sum of 10 or greater.

Total Score = 12

DEPT. Required	Scoring Criterion	Low Complexity		Medium Complexity		High Complexity	
		Description	Score	Description	Score	Description	Score
<input type="checkbox"/> Airport <input checked="" type="checkbox"/> CA <input checked="" type="checkbox"/> Housing <input type="checkbox"/> ES <input checked="" type="checkbox"/> CMO <input type="checkbox"/> DOT <input type="checkbox"/> OED <input type="checkbox"/> LIB. <input type="checkbox"/> PRNS <input type="checkbox"/> PW <input type="checkbox"/> PD <input checked="" type="checkbox"/> FINANCE <input type="checkbox"/> PBCE <input type="checkbox"/> EM	Estimated Duration	6 - 9 months	<input checked="" type="checkbox"/> =1	9 - 18 months	<input type="checkbox"/> =2	More than 18 months	<input type="checkbox"/> =3
	Organizational Complexity	Can Easily be Absorbed into Existing Workplan	<input type="checkbox"/> =1	Planned Work (Future)	<input type="checkbox"/> =2	Work Not Currently Proposed	<input checked="" type="checkbox"/> =3
	(Internal)	Have staff with required skillset/ knowledge	<input type="checkbox"/> =1	Have staff with required skillset/ requires moderate research	<input checked="" type="checkbox"/> =2	Do not have staff with required skillset/ requires significant research	<input type="checkbox"/> =3
		Less than or equal 2 Staff required	<input type="checkbox"/> =1	3 - 4 Staff required	<input type="checkbox"/> =2	More than 5 Staff required	<input checked="" type="checkbox"/> =3
	(External)	1 Additional Departments	<input type="checkbox"/> =1	2 Other Department Involved	<input type="checkbox"/> =2	3 or more Depts Involved	<input checked="" type="checkbox"/> =3

Analysis

Explain the rationale for Staff recommendation, including any mitigating factors that need to be considered (recent legislative action, significant workplan changes, etc). Please address the following as well.

GREEN LIGHT: The Administration can implement this Nominated Idea under its current workplan. Item should be sent to Council to add to Department workplan. Explain how the Idea will be approached.

This recommendation proposes to create exemptions from the proposed real property transfer tax, which voters will consider on the March 2020 ballot, for transfer to/from 501(c)3 nonprofit organizations a) when the land is donated, rather than sold, to a tax-exempt 501(c)3 organization, and b) to be used for building or preserving affordable housing, improving economic equity and access, or other publicly articulated City objectives. The recommendation is for staff to place consideration of the exemption on a January or early February Council agenda. The proposed Real Property Transfer Tax cannot be amended prior to the March election because the deadline for submitting the measure to the Registrar of Voters was December 6, 2019.

Should San Jose voters approve the measure, the ordinance before the voters does provide Council with the ability to create such an exemption. The Administration could then bring forward a potential exemption ordinance for consideration in time for implementation of the tax on July 1, 2020. Should the Rules Committee wish Council to consider the policy matter prior to the election, the Administration could bring forward a framework for the ordinance at the Council meeting of February 11 or February 25. It is important to note the significant policy work required to develop this framework and the multiple departments involved along with significant coordination with the County as collector of the tax. It will require pulling staff from other priority projects and likely will delay completion of existing Council Policy Priorities. Analysis required will include: Defining who is eligible for the exemption; defining "affordable housing" for purposes of the exemption; developing the mechanism for applying the exemption and the mechanism for ensuring the property will be used for affordable housing (e.g. recorded affordability restriction); etc.

The memorandum also recommends directing staff to analyze "possible criteria in addition to or instead of the 501(c)3 status designation," which will require additional analysis and staff work.

For the above reasons, the Administration recommends that this item be green-lighted if the measure is approved by the voters in order to have the potential exemption in place prior to the effective date of July 1, 2020.

YELLOW LIGHT: The Administration recommends Council send this Nominated Idea to the Priority Setting Process due to [describe cost implications, workload impacts, or other factors].

RED LIGHT: The Administration recommends Council not adopt this Nominated Idea due to [describe reason implementation would be difficult if not impossible – conflict with other laws, etc].