



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Lee Wilcox

SUBJECT: TRANSFER TAX COMMUNITY
OVERSIGHT COMMITTEE

DATE: June 11, 2020

Approved

Date

6/11/2020

RECOMMENDATION

Adopt a resolution designating the City's Housing and Community Development Commission as the Real Property Transfer Tax Community Oversight Committee, as outlined in the City's Measure E Real Property Transfer Tax ballot measure approved by the voters on March 3, 2020.

OUTCOME

This action establishes the Housing and Community Development Commission as the Community Oversight Committee for the voter-approved real property transfer tax measure (Measure E), identifies the scope of duties of the Committee, and sets forth an annual meeting requirement.

BACKGROUND

On December 3, 2019, City Council approved a resolution to include a measure (Measure E) for a new general fund real property transfer tax (Transfer Tax), to appear on the special municipal election to be consolidated with the statewide primary election on March 3, 2020. This new tax is imposed at a tiered level for property transfers \$2 million and over. Property transfers under \$2 million are exempt from the Transfer Tax, and based on 2017-2018 data, this exempts approximately 95% of real property sales in San José.

For transfers of \$2 million or more, there are three tiers:

- \$2,000,000 to \$5,000,000 at 0.75%
- \$5,000,000.01 to \$10,000,000 at 1.00%
- Over \$10,000,000 at 1.50%

Revenues generated by the Transfer Tax will fund general City services, including affordable housing for seniors, veterans, disabled, and low-income families, and helping homeless residents

move into shelters/permanent housing. Measure E requires a Community Oversight Committee, comprised of residents of the City to review annual expenditures.

On December 10, 2019, City Council approved spending priorities for the General Fund revenue from the potential Transfer Tax. Five percent (5%) of the overall revenue will be spent on City administration, and the remaining revenue will be allocated as described below:

| Spending Priority | % of Transfer Tax Revenue |
|--|----------------------------------|
| Permanent supportive and affordable rental housing for extremely low-income households | 45% |
| Affordable rental housing for low-income households | 35% |
| Below market-rate for-sale housing and rental housing for moderate income households | 10% |
| Homelessness prevention | 10% |

Additionally, Council directed staff to provide amendments to City Council Policy 1-18, Operating Budget and Capital Improvement Program Policy, to incorporate the identified spending priorities of the anticipated General Fund revenue if Measure E passed, and to require a 60-day notice and at least two public hearings prior to the City Council taking action on any proposed change to the spending priorities. The directed policy amendments are described in Manager’s Budget Addendum #19 and is recommended for adoption as Item 3.5(c) for the City Council meeting on the June 16, 2020 agenda.

On March 3, 2020, San José voters approved the Transfer Tax with over 53% support. The new tax goes into effect on July 1, 2020; if approved by City Council on June 23, 2020, the County of Santa Clara will provide the notification, demand, collection, and distribution of the Transfer Tax on behalf of the City. The County will transmit to the City all transfer tax collected during each month, on the tenth (10th) day of the following month. For example, transfer tax collected in July by the County will be transmitted to the City on August 10. A separate Council memorandum outlines this agreement between the City and County.

The 2020-2021 Proposed Operating Budget includes \$30 million in Transfer Tax revenue. This level will fluctuate in accordance with activity levels of the local real estate market. These funds are allocated as part of the annual budget process, in accordance with the Council approved Measure E spending priorities, and will be reconciled each year as part of the City Manager’s Annual Report.

ANALYSIS

The Administration recommends the City's Housing and Community Development Commission (HCDC) serve as the oversight body required by Measure E. The HCDC is staffed by the Housing Department, and technical assistance for matters related to Transfer Tax will be provided by the Finance Department and the City Manager's Budget Office.

The HCDC advises the Director of Housing, the Mayor, and the City Council regarding issues, policies, and programs related to housing and community development. The Commission's current work plan includes providing recommendations on rent stabilization, homelessness, and tenant protections, which align with the Council approved spending priorities for Transfer Tax revenue.

Given this alignment, it is recommended that the HCDC serve as the Transfer Tax Community Oversight Committee. The use of the HCDC as the Community Oversight Committee, as opposed to creating a separate Committee entirely, will conserve resources and staff time. The Administration recommends the HCDC be provided the Measure E spending plan, and any amendments to the plan for comment, prior to Council review and approval, and agenda an annual review of expenditures.

CONCLUSION

The City's new real property transfer tax (Measure E) is imposed at a tiered level for property transfers \$2 million and over, and General Fund revenues generated will fund City services, including affordable housing for seniors, veterans, disabled, and low-income families, and helping homeless residents move into shelters/permanent housing. This measure requires a Community Oversight Committee; the Administration recommends the HCDC serve as the Committee, based on the alignment of their work plan and scope of duties with the Council-approved Measure E revenue spending priorities.

EVALUATION AND FOLLOW-UP

Staff will return to Council with a Transfer Tax spending plan in fall 2020. In its role as the Community Oversight Committee, the HCDC will review and provide comment on this plan prior to Council review and approval.

CLIMATE SMART SAN JOSE

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

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the June 23, 2020 Council Meeting.

COORDINATION

This memorandum was coordinated with the City Attorney's Office, the Finance Department, the Housing Department, and the City Manager's Budget Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

CEQA

Not a Project, File No. PP17 010, City Organizational and Administrative Activities resulting in no changes to the physical environment.

/s/
LEE WILCOX
Chief of Staff, City Manager's Office

For questions, please contact Lee Wilcox, City Manager's Office at 408-535-4873.