



Memorandum

TO: CITY COUNCIL
SUBJECT: SEE BELOW

FROM: Mayor Sam Liccardo
DATE: November 10, 2020

APPROVED:

DATE: *November 10, 2020*

SUBJECT: MEASURE E REAL PROPERTY TRANSFER TAX

RECOMMENDATIONS

1. Direct the City Clerk to agendize for future Council discussion and consideration, by the end of this year, the “Draft Framework Related to Nonprofit Transfers and the Proposed Real Property Transfer Tax,” item 3.3 on the March 17, 2020 Council agenda, which was deferred on March 17, but has not yet been re-agendized due to the pandemic.

Direct the City Manager and City Attorney to:

2. Report to Council regarding the status of occupancy of the Bridge Housing site on Mabury Road, consistent with the Council’s March 6, 2020 direction, and as referenced on page 5 of the staff memo.
 - a. Identify and remedy any bureaucratic or regulatory obstacle that prevents the full and immediate use of the site for housing homeless individuals.
 - b. Where Council action is required for such resolution, return to Council with a recommendation. Where County or other agency action or regulation inhibits full utilization of the site, report to Council and the City Manager so that resolution can be achieved immediately.
 - c. Further report regarding the status of its current and past residents, and their access to permanent housing.
3. Reassess eligibility of Measure E funds for use in the SJ Bridge Employment program or similar programs where the employment is linked to an individual’s ability to remain housed, i.e., to enable a formerly or currently homeless individual to become self-sufficient to be able to pay rent. Please refer to Discussion below for specific points Staff should address and report back.
4. Ensure that the City’s allocation of funding to the SJ Bridge Employment program—from whatever source—accords with Council’s prior March 6, 2020 direction.

5. Regarding funding allocated for a rent-restricted ADU program, partner with consultants funded by the San Francisco Foundation or other foundations that will assist in exploring innovative approaches to financing ADU construction.

Discussion

SJ Bridge is an employment program for homeless residents, in which homeless individuals work to clean our city—and provide a critically needed public service—while paid through two non-profits, Downtown Streets Team and Goodwill. The organizations also provide other supports for the participants to aid in their efforts to get back on their feet. The pilot year of the program has proven successful, as about one-third of the participants have used their earnings to secure stable housing, and several have moved on to permanent employment.

Related to Recommendation #3 above, the chart on page 6 of the staff memorandum offers a conclusory dismissal of the SJ Bridge Employment program, stating only “After further review, it was determined Measure E is not an eligible source for this program as it focuses on employment rather than housing.” The facts available to us about the eligibility of this program include the following:

- Council’s unanimously-approved spending priorities includes a 10% specific allocation for “***Homelessness Prevention & Rental Assistance***,” and the SJ Bridge Employment program has enabled 17 working individuals, formerly homeless, to find permanent stable housing and employment. Their earned wages comprise a form of rental assistance.
- The City Attorney has repeatedly deemed Measure E to be a general tax;
- The second sentence of the impartial analysis provided to the voters by the City Attorney reads, “The Transfer Tax is a proposed general tax which means the City of San Jose could use the revenue for any governmental purpose including, but not limited to, ***assisting the homeless*** and providing affordable housing.”
- The very first words of the Measure E’s ballot statement, approved by the voters, provides: “To fund ***general City of San José services***, including affordable housing for seniors, veterans, disabled, and low-income families, and ***helping homeless residents move into shelters/permanent housing***,” and nothing in the Measure E’s text (<https://www.sanjoseca.gov/home/showdocument?id=45889>) contravenes that direction.
- In the event that staff believes that the March 6, 2020 Council vote constituted some “reallocation” of Measure E funding—which it does not—then any reallocation was validated by the fact that (1) both the March and June votes of the Council on the budgetary decision were unanimous and exceeded a two-thirds threshold, (2) the March 6th vote on this budget direction was taken contemporaneous with voters’ approval on Measure E, and (3) the March 6th action, and the subsequent June budgetary vote incorporated a budget process that included multiple public hearings, thereby satisfying any procedural requirement for reallocation.