



Memorandum

TO: CITY COUNCIL

FROM: Mayor Sam Liccardo
Councilmember Raul Peralez
Councilmember Lan Diep
Councilmember Dev Davis

SUBJECT: SEE BELOW

DATE: March 13, 2020

APPROVED:
 HS



DATE: 3/13/20



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SUBJECT: DRAFT FRAMEWORK RELATED TO NONPROFIT TRANSFERS AND THE NEW REAL PROPERTY TRANSFER TAX / MEASURE E

RECOMMENDATIONS

1. Accept staff's recommendations approving the proposed draft framework related to nonprofit real estate transactions and returning to Council with the implementation of the framework.
2. Direct the City Manager and City Attorney to explore how to rebate the transfer tax for real estate transactions that are executed for charitable community-serving purposes for education, health, and human services targeting low-income residents ("charitable purposes").
 - a. Require that any proceeds from a real estate transaction be executed for charitable purposes within six months of the recorded transaction.
 - b. Because the County will be collecting the new transfer tax, a rebate system is the preferred approach.

Background

Our deepest appreciation to San José voters for approving Measure E on March 3 and collectively joining in the effort to end our homelessness and affordable housing crises. Given

the current public health emergency, the passage of Measure E allows for more options and resources to protect our most vulnerable residents during this trying time.

The proposed draft framework addresses real estate transactions that are directly related to affordable housing development. The framework in which the City provides pre-development assistance in the amount of the transfer tax works well in these situations because it is a closed loop that eventually requires City funding, in most cases. The proposed framework also addresses potential issues around affordable housing development transactions, including that the City is not directly collecting the transfer tax and uncertain timeframes between real estate transactions and if/when affordable housing development is actually moving forward.

However, the proposed framework does not address real estate transactions that are executed for charitable community-serving purposes. While donations of real estate are already exempted from the transfer tax per the ordinance approved by Council this past fall, transactions where real estate is sold and the proceeds are designated for charitable community-serving purposes would still need to pay the transfer tax.

If the real estate transactions are being made for charitable purposes, it accomplishes what Measure E was intended – to direct resources to the City’s most pressing needs, including homelessness prevention and affordable housing.