

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jim Shannon

SUBJECT: SEE BELOW

DATE: June 7, 2024

Approved

Gregory B. Maguire

Date

6/7/24

**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 2024-2025 Measure E revenues:

- (1) Approving by two-thirds (2/3rds) affirmative vote the following percentage allocations as included in Manager's Budget Addendum #28 to the 2024-2025 Proposed Operating Budget for the spending of Measure E revenues totaling \$50.0 million anticipated to be received in Fiscal Year 2024-2025:
 - (i) 5% for administration with the remaining revenue allocated as follows:
 - (ii) 12% for the creation of new affordable housing for extremely low-income households;
 - (iii) 11% for the creation of new affordable housing for low-income households;
 - (iv) 2% for the creation of new affordable housing for moderate-income households;
 - (v) 10% for homeless prevention, gender-based violence programs, legal services and rental assistance; and
 - (vi) 65% 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 2024-2025 Proposed Budget for the spending of Measure E revenue totaling \$50.0 million anticipated to be received in Fiscal Year 2024-2025.
- (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 2024-2025 Proposed Budget for the spending of Measure E revenue totaling \$50.0 million anticipated to be received in Fiscal Year 2024-2025.

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 in accordance with the Manager's Budget Addendum (MBA) #28, *2024-2025 Measure E Revenue Percentage Allocations*¹.

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 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.

In accordance with the process identified in the Council Policy, the City issued a notice of public hearing to the City's website on May 1, 2024, 60 days in advance of the proposed changes to the spending priorities becoming effective. Two public hearings were scheduled as required by Section 22 of Council Policy 1-18. Concurrent with the 2024-2025 Proposed Budget, the first public hearing was held by the City Council on Tuesday, May 14, 2024, and the second public hearing will be held by the City Council on Monday, June 10, 2024. The approval of the 2024-2025 Proposed Operating Budget, which includes the recommended spending plan, along with any modifications as included in the Mayor's June Budget Message for Fiscal Year 2024-2025 will be considered by the City Council on Tuesday, June 11, 2024.

The City Council's approval of the Mayor's March Budget Message for Fiscal Year 2024-2025 directed the City Manager to bring forward a Proposed Budget that addresses the General Fund shortfall as projected in the 2025-2029 Five-Year General Fund Forecast and allows for investments the areas identified in the March Budget Message by considering the following strategies:

- Identifying cost savings and efficiencies that do not result in service impacts;
- Eliminating vacant positions, the removal of which is expected to have minimal service impacts;
- Reducing or eliminating current services, including the consideration of budget reductions for Mayor and City Council Offices, that – while important and valued by

¹ MBA #28: <https://www.sanjoseca.gov/home/showpublisheddocument/112486/638528251266070000>

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many – must be considered in order to bring the General Fund into structural alignment and still fund the City Council’s most critical priorities as identified in the March Message; and

- Identifying any revenue sources that could be used to offset these service reductions, including new contributions from state and regional partners and the potential reallocation of a portion of Measure E resources over a multi-year period, for the provision of necessary services to our homeless residents and to meet Stormwater Permit requirements.

The City Manager’s 2024-2025 Proposed Operating Budget complied with this direction by leveraging all four strategies, including General Fund cost and service reductions, position eliminations, recognizing new revenues, and recommended the reallocation of Measure E revenues in both 2024-2025 and 2025-2026 to provide sheltering and support services to unhoused residents currently living along waterways and other services as described below.

ANALYSIS

The information within the 2024-2025 Proposed Operating Budget and presented at the City Council Proposed Budget Study Sessions describe in detail the use of these reallocated funds, including a summary of the new investments to comply with the City’s Stormwater Permit². It is important to note that while the 2024-2025 Proposed Operating Budget recommends a two-year strategy for the reallocation of Measure E resources, the formal policy action recommended in this memorandum is specific only to 2024-2025 Measure E revenue percentage allocations. The formal percentage allocations for 2025-2026 Measure E revenues will be considered during the 2025-2026 Proposed Budget development process, which will be informed by a revised Five-Year General Fund Forecast and any revisions to City Council direction with their approval of next year’s Mayor’s March Budget Message for Fiscal Year 2025-2026.

Based on recent information regarding the anticipated receipt of Sales Tax and Parks, Recreation, and Neighborhood Services Fee revenues, and recent developments regarding the State of California’s budget process related to the receipt of Property Tax revenues, MBA #27³ recommends increasing the ongoing General Fund revenue estimates for these categories by a total of \$12.0 million. This increase allows for the partial restoration of Measure E resources that were reallocated from affordable housing development to interim housing construction and operations, and results in a revised contingency plan that is much less impactful to affordable housing production. The percentage allocations in the recommendation language assume the modifications due to MBA #27.

Attachment A to this memorandum provides a breakout of the entire \$50.0 million spending plan for 2024-2025 Measure E, including a comparison of percentage allocations and amounts

²2024-2025 Proposed Operating Budget, Attachment D to the City Manager’s Transmittal Memorandum:

<https://www.sanjoseca.gov/home/showpublisheddocument/111397/638504124374800000>

³ MBA #27: <https://www.sanjoseca.gov/home/showpublisheddocument/112482/638527733121730000>

between the 2024-2025 Base Budget (the existing spending priorities), and the spending priorities included in the 2024-2025 Proposed Operating Budget as revised by MBA #27.

In accordance with Council Policy 1-18, a two-thirds vote of the City Council of Recommendation (a)(1) is required to approve the Measure E allocations included in Attachment A.

The Mayor's June Budget Message for Fiscal Year 2024-2025⁴, while also incorporating the revenue adjustments described in MBA #27, recommends retaining the same spending plan for 2024-2025 as included in the 2024-2025 Proposed Operating Budget. Approving the Measure E spending allocation recommended in the Mayor's June Budget Message for Fiscal Year 2024-2025, as included in Attachment B, would require a two-thirds approval of Recommendation (a)(3).

Should the City Council choose to retain the existing spending percentages, simple majority vote of Recommendation (a)(2) would be required.

Should members of the 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

While the 2024-2025 Proposed Operating Budget employs a two-year strategy for the spending of Measure E resources, the formal percentage allocations for 2025-2026 Measure E revenues will be considered during the 2025-2026 Proposed Budget development process, which will be informed by a revised Five-Year General Fund Forecast and any revisions to City Council direction with their approval of next year's Mayor's March Budget Message for Fiscal Year 2025-2026.

COST SUMMARY/IMPLICATIONS

The revenue estimate of Measure E Real Property Transfer Tax revenues in 2024-2025 is \$50.0 million. The percentage allocation for each plan is summarized in the table below and additional detail is provided in Attachment A. The only difference between the two spending plans is that MBA #28 reallocates \$1.0 million from the "Homeless Support Programs, Shelter Construction and Operations" (previously intended to support Interim Housing Construction and Operations) to the "Creation of New Affordable Housing for Moderate-Income Households" category. The

⁴ Mayor's June Budget Message for Fiscal Year 2024-2025:

<https://sanjoseca.primegov.com/api/compilemeetingattachmenthistory/historyattachment/?historyId=558ca5dc-5317-4ce6-aa24-65ee08462a40>

Mayor's June Budget Message for Fiscal Year 2024-2025 retains the spending plan included in the 2024-2025 Proposed Operating Budget.

Table - Measure E Spending Plan Allocation

Spending Priority	2024-2025 Proposed Operating Budget with MBA #28	Mayor's June Budget Message for Fiscal Year 2024-2025
Creation of New Affordable Housing for Extremely Low-Income Households	\$5,830,000	\$5,830,000
Creation of New Affordable Housing for Low-Income Households	\$5,170,000	\$5,170,000
Creation of New Affordable Housing for Moderate-Income Households	\$1,000,000	\$0
Homelessness Prevention, Gender-based Violence Programs, Legal Services and Rental Assistance	\$4,750,000	\$4,750,000
Homeless Support Programs, Shelter Construction and Operations	\$30,750,000	\$31,750,000
Program Administration	\$2,500,000	\$2,500,000
Total	\$50,000,000	\$50,000,000

COORDINATION

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

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the June 11, 2024 City Council meeting.

COMMISSION RECOMMENDATION/INPUT

Acting in its role as the Measure E Oversight Committee, the Housing and Community Development Commission (Commission) reviewed two 2024-2025 Measure E spending plans at its meeting on May 9, 2024: 1) the spending plan included in the 2024-2025 Proposed Operating Budget, which is similar to the percentages included in this memorandum, and 2) the contingency plan should the City not receive \$11.0 million of state grant funding, which is no longer needed due to the actions included in MBA #27. The Commission voted against the recommended spending plans by a vote of 6-2.

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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 A – 2024-2025 Proposed Operating Budget Measure E Spending Plan, as amended by MBA#28

Attachment B – Mayor's June Budget Message for Fiscal Year 2024-2025 Measure E Spending Plan



Attachment A
2024-2025 Proposed Operating Budget Measure E Spending Plan, as amended by MBA#28

Measure E Spending Categories and Percentage Allocations				
	2024-2025 Base Budget Allocation		2024-2025 Proposed Spending Plan (Revised)	
Spending Category Items	%	Amount	%	Amount
Creation of New Affordable Housing for Extremely Low-Income Households	40%	\$19,000,000	12%	\$5,830,000
Funding for New Construction of Affordable Rental Housing				\$5,830,000
Creation of New Affordable Housing for Low-Income Households	30%	\$14,250,000	11%	\$5,170,000
Funding for New Construction of Affordable Rental Housing.				\$5,170,000
Creation of New Affordable Housing for Moderate-Income Households	5%	\$2,375,000	2%	\$1,000,000
Funding for New Construction of Affordable Rental Housing				\$1,000,000
Homelessness Prevention, Gender-based Violences Programs, Legal Services and Rental Assistance	10%	\$4,750,000	10%	\$4,750,000
Santa Clara County Contract				\$4,500,000
Eviction Protection and Diversion				\$250,000
Homeless Support Programs, Shelter Construction and Operations	15%	\$7,125,000	65%	\$30,750,000
First Street Interim Housing Operations				\$3,000,000
Supportive Parking Site Berryessa Road				\$1,700,000
Lived-In Vehicle Safe Parking Site				\$1,000,000
City Outreach Team (Reactive)				\$600,000
Interim Housing Construction and Operations				\$9,425,000
Storm Water Permit Implementation				\$15,025,000
<i>Safe or Alternative Sleeping Sites</i>				<i>\$10,000,000</i>
<i>Outreach, Sanitation and Other Support Services</i>				<i>\$3,600,000</i>
<i>Recreational Vehicle Pollution Prevention Program</i>				<i>\$1,425,000</i>
Total Funds Allocated				\$47,500,000
Program Administration*	5%	\$2,500,000	5%	\$2,500,000
Program Administration				\$2,500,000
Measure E Total Available		\$50,000,000		\$50,000,000

* 5% of the revenue to be used for administrative purposes, which is taken before the remaining percentage allocations are applied.

Affordable Housing (25%, \$12 million)

- **New Construction** – The proposed plan sets aside \$12 million towards the construction of new affordable housing of which \$5.8 million is for the development of housing for extremely low-income households and \$5.2 million for low-income households. The funds will be used to support waitlisted developments from the October 2023 NOFA. An additional \$1.0 million will help catalyze projects that target moderate-income households. This amount reflects a decrease of \$23.6 million that would otherwise be available to these spending categories in the 2024-2025 Base Budget.

Homelessness Prevention and Rental Assistance (10%, \$4.75 million)

- **Homelessness Prevention** – \$4.5 million will be dedicated towards homelessness prevention activities. The goal of the Homelessness Prevention System is to expand the ability of families with children to become quickly connected to prevention services with multiple points of entry to keep them housed. The Homelessness Prevention System identifies households at risk of experiencing homelessness and provides client-centered services, including short-term rental subsidies, financial assistance, and supportive services to help them regain stability. Measure E will fund program personnel and financial support for at-risk San José households.
- **Eviction Diversion and Settlement Program** – \$250,000 will be dedicated to the City’s Eviction Diversion and Settlement Program. The purpose of the Eviction Diversion and Settlement Program is to intervene in pending eviction court actions based on non-payment of rent due to temporary financial impacts experienced by tenants, in which the tenant households are able to pay rent going forward. In eligible cases, the landlord receives payment for all or part of the unpaid rent and agrees to dismiss the eviction action, and the tenant household remains stably housed.

The overall amount for this category is unchanged from the 2024-2025 Base Budget.

Homeless Support Programs including Shelter Construction and Operations (65%, \$30.75 million)

- **First Street Interim Housing (Formerly the Surestay Hotel)** – \$3.0 million has been set aside to support the maintenance and operations at First Street Interim Housing. The program provides various support services to 58 households, including meals, case management, life skills development, employment opportunities, housing navigation, and linkages to other community resources. The funding will cover expenses such as site maintenance to improve operational efficiency, utilities, security, and services for clients.
- **Berryessa Supportive Parking** – \$1.7 million will pay for the annual lease of 1300 Berryessa Road, which is currently under development to host a supportive parking site. The project aims to provide a secure location with amenities and supportive services for individuals living in recreational vehicles and cars.
- **Lived-In Vehicle Safe Parking Site** – \$1.0 million will be used to open one safe parking site for residents of lived-in vehicles. As directed by City Council’s approval

of the Mayor's March Budget Message for Fiscal Year 2024-2025, in contrast to the Berryessa Supportive Parking Site, this new site will provide a minimally serviced, controlled environment for lived-in vehicles to be safely parked off city streets.

- **City Outreach Team (Reactive)** – \$600,000 will fund a program that provides reactive outreach services in response to concerns received from San José 311, homelessness concerns hotline, or other sources, regarding an individual or encampment.
- **Interim Housing Construction and Operations** – \$9.4 million will be allocated for commitments to new interim housing construction and ongoing operations and maintenance of existing interim housing to improve operational efficiencies, which includes \$2.4 million of the existing allocation and \$7.0 million of additional funding. As described in the 2024-2025 City Manager's Budget Request and 2025-2029 Five-Year Forecast, the General Fund Base Budget includes \$25 million of ongoing resources to support this portfolio in 2024-2025, an amount that increases to \$40 million in 2025-2026. This action would reallocate \$7 million of this cost from the General Fund to Measure E resources in 2024-2025 and \$10.5 million in 2025-2026.
- **Stormwater Permit Compliance Implementation** – \$15.0 million will be necessary in 2024-2025 to comply with Stormwater Permit requirements which involves preventing and removing discharges associated with people experiencing unsheltered homelessness and relocating individuals away from waterways. This amount decreases to \$10.2 million in 2025-2026.
 - *Safe or Alternative Sleeping Sites* – \$10.0 million will be allocated towards developing sleeping sites for an initial estimate of up approximately 500 unsheltered community members that are currently in encampments along waterways. While the scope and operational model of these sites are under development, the identified goal is to move these unsheltered community members to a managed environment within a tent or other minimal temporary shelter. (\$5.0 million assumed in 2025-2026)
 - *Outreach, Sanitation, and other Support Services* – \$3.6 million will be allocated to providing sanitation services to encampments, as well as countless of homeless residents, along the waterways. Outreach and other support services will be dedicated towards meeting the basic needs of residents along the waterways and conduct housing assessments to refer and place individuals into shelter and housing opportunities. (\$3.5 million assumed in 2025-2026)

- *Recreational Vehicle (RV) Pollution Prevention Program* – \$1.4 million will be allocated towards the RV Pollution Prevention Program which provides waste disposal services to residents of RVs and lived-in vehicles so that waste from vehicles is prevented from entering into the storm drains and waterways. (\$1.7 million assumed in 2025-2026)

The overall amount for this category is \$23.6 million higher than the amount included in the 2024-2025 Base Budget.

Program Administration (\$2.5 million)

- **Program Administration** – \$2.5 million is programmed towards administration costs. This cost covers personnel and outside costs that support the initiatives within the Measure E spending plan.

The overall amount for this category is unchanged from the 2024-2025 Base Budget.

Attachment B
Mayor's June Budget Message for Fiscal Year 2024-2025 Measure E Spending Plan

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