

Appendix I. Citywide Residential Anti-Displacement Strategy

The San José City Council approved the Citywide Residential Anti-Displacement Strategy (Anti-Displacement Strategy) during the COVID-19 pandemic, on September 22, 2020, by a vote of 10-1. The Council approval directed staff to work on the top three priorities of the Anti-Displacement Strategy, a multi-year plan with strategies in all “3P” areas of Production, Preservation and Protection.

The Anti-Displacement Strategy was based on almost two years of staff’s listening to feedback from an estimated 800-1,000 community members and stakeholders through a variety of events and activities. The contents of the final Strategy were based on this extensive community engagement and local research; anti-displacement practices across the nation; an analysis of gaps in San José’s then-current anti-displacement policies and programs; an assessment of past discriminatory practices and policies which contribute to displacement; and ongoing housing policy developments at regional and state levels.

The relationship between the Sixth Cycle Housing Element strategies and the Anti-Displacement Strategy’s work items is analyzed in Chapter 2. The Strategy is included as an Appendix to the Housing Element as additional information on the foundations of 20 of the Housing Element’s strategies in Chapter 3.



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: August 19, 2020

Approved

Date

8/20/2020

SUBJECT: CITYWIDE RESIDENTIAL ANTI-DISPLACEMENT STRATEGY

RECOMMENDATION

- (a) Accept the staff report and approve the 10 recommendations of this Citywide Residential Anti-Displacement Strategy.
- (b) Approve workplans for the first three recommendations:
 - (1) Support Equitable COVID-19 Recovery and Impact Mitigation Measures for Renters and Homeowners;
 - (2) Establish a Neighborhood Tenant Preference for Affordable Housing; and
 - (3) Explore a Community Opportunity to Purchase Program/Ordinance.
- (c) Direct staff to return to the City Council with an update on progress in 12 months.

OUTCOME

The Citywide Residential Anti-Displacement Strategy (Strategy) responds to existing City Council direction to develop anti-displacement strategies. Adoption of the Strategy will enable staff to develop new policies and programs to prevent, mitigate, and decrease residential displacement for low-income residents of San José.

EXECUTIVE SUMMARY

A blue ribbon task force of elected and civic leaders convened by the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC), developed a set of policy recommendations called the CASA Compact to address the region's housing crisis. The CASA Compact stated that the region faces a housing crisis because the Bay Area has failed to:

1. **Produce** enough housing for residents at all income levels;
2. **Preserve** the affordable housing that already exists, and
3. **Protect** current residents from displacement where neighborhoods are changing rapidly.

Known as the “three Ps,” they form a foundation on which the City can grow equitably and mitigate low-income residents' displacement. This Citywide Residential Anti-Displacement Strategy (Strategy) provides 10 recommendations that the City should take action on in all “three P” areas. Staff's research on best practices indicates that cities that focus on keeping their current residents in place focus on all “three Ps” to have the best chance at reducing and mitigating the effects of residential displacement.

This Strategy is based on extensive community engagement and local research (p.6), anti-displacement practices across the nation, an analysis of gaps in San José's current anti-displacement policies and programs (p.16), an assessment of past discriminatory practices and policies which contribute to displacement (p.11), and ongoing housing policy developments at regional and State levels. Staff has also taken into consideration the unique displacement risks created by the current pandemic (p.4), which has made the issue of displacement even more urgent.

While displacement is a complex market-created phenomenon, the City's taking a leadership role in being thoughtful about its policies and funding priorities can help alleviate the problem in both the short-and long-term. By focusing attention on all “three Ps” at the same time, San José will improve its ability to grow sustainably while preserving its greatest asset – its existing residents.

The 10 recommendations in this multi-year Strategy are designed to complement each other and are listed below. The recommendations are prioritized by timing, from near-term to medium-term, as follows, and are described in more detail in **Attachment A**:

1. Support Equitable COVID-19 Recovery and Impact Mitigation Measures for Renters and Homeowners
2. Establish a Neighborhood Tenant Preference for Affordable Housing
3. Explore a Community Opportunity to Purchase Program/Ordinance (COPA)
4. Increase Equitable Representation of Historically Underrepresented Communities on City Commissions

5. Create a Role for Local Government in State Tenant Protections
6. Increase Housing Quality and Prevent Code Enforcement-related Displacement
7. Create a Preservation Report and Policy
8. Develop YIGBY Land Use – Yes in God’s Backyard
9. Optimize Urban Villages for Affordable Housing Development and Anti-Displacement
10. Establish New Sources of Funding for Affordable Housing and Anti-Displacement.

Full descriptions of these recommendations are contained in **Attachment A**. As this Strategy will take multiple years to accomplish, both staff time and additional financial resources will be needed to develop the recommendations. To prioritize the work, staff recommends the first three actions be done first: the COVID strategy, given its urgency; and the Neighborhood Tenant Preference and Community Opportunity to Purchase Program, given both their strong support in the community and the staffing resources to develop them. Workplans for these first three recommendations are contained in **Attachment B**.

BACKGROUND

On March 7, 2017, the City Council established Council Priority Item #13: Anti-Displacement Tenant Preference to set aside affordable housing units to prioritize residents being displaced that live in low-income neighborhoods undergoing displacement and/or gentrification. (This has since been renumbered to Priority #10.)

On June 12, 2018, the City Council prioritized the issue of displacement again within the Housing Crisis Response Workplan, Item #9: Develop Anti-Displacement Strategies.

On October 1, 2019, the City Council held a study session on the topic of displacement in San José. The study session brought together academic, housing advocate, and real estate industry perspectives to provide a common understanding of the issue of residential displacement in San José. (Small business displacement was also part of the study session.)

Displacement has also become a significant and reoccurring topic in other San José initiatives:

- The new **2020-2025 Community Plan to End Homelessness** has emphasized protecting residents from evictions, displacement, and housing discrimination as ways to prevent homelessness.
- The **2016 Analysis of Impediments to Fair Housing** cites displacement of low-income residents as an impediment to fair housing.
- The **VTA BART Phase II TOD Corridor Strategies and Access Planning Study** specifically analyzed neighborhood vulnerability to displacement at the planned BART station areas. The study found residents in neighborhoods surrounding the planned

downtown and Five Wounds BART stations are more likely to be low-income renters and particularly vulnerable to displacement.

- The **Diridon Station Area Plan community engagement process** revealed housing and displacement as the top issue of concern by those who participated in the engagement process. The Affordable Housing Implementation Plan for the Diridon Station Area also will include a “three Ps” framework and will likely contain some compatible or similar strategies to this Citywide Residential Anti-Displacement Strategy.

San José was Part of the National PolicyLink Anti-Displacement Policy Network (ADPN)

In November 2018, San José applied for and was chosen to participate in the PolicyLink Anti-Displacement Policy Network (ADPN), a 14-month learning cohort of 10 U.S. cities working to address urban displacement. The San José ADPN team members included the following: City Councilmember Magdalena Carrasco and staff, Housing Director Jacky Morales-Ferrand and staff, and Planning Building and Code Enforcement Director Rosalynn Hughey and staff; Working Partnerships’ Dereka Mehrens, Jeffrey Buchanan, and Asn Ndiaye; Law Foundation's Nadia Aziz and Michael Trujillo; and Planning Commissioner/Executive Director of Silicon Valley Bike Coalition, Shiloh Ballard.

In January 2020, the San José ADPN team released its co-written report entitled “Ending Displacement in San José: Community Strategy Report” (Community Report). The intention of the report was to center the values, lived experiences, and solutions requested by the residents most impacted by displacement in San José. The San José ADPN team assessed the gaps in the City’s current housing policies, studied new anti-displacement tools, and worked hard to facilitate meaningful listening sessions in the community with displaced households and in neighborhoods most impacted by development and displacement. The San José ADPN team collaborated with outreach partners SOMOS Mayfair and AV Consulting to reach community members in a culturally competent and inclusive manner to elicit high-quality information.

While City staff was part of the San José ADPN Team, the Community Report is a coalition report, not a City document. However, City staff were key contributors to the displacement analysis in the Community Report, and research, data, and some recommendations from the Community Report are referenced in this memorandum. The Community Report was used to launch the expanded stakeholder outreach conducted by the Housing Department.

Housing is Vital to COVID-19 Response and Recovery

Given the huge impact of the current health crisis on our community, the Strategy has incorporated a new COVID-19 recommendation to reflect the changed conditions the City is now encountering given the pandemic. The health crisis has caused nationwide disruptions across nearly every social and economic sector. Safe, stable, and healthy housing has been increasingly recognized as vital to ensuring a person’s health and for containing the pandemic.

At the same time, the virus and the wave of unemployment and furloughs due to shelter-in-place doubled down on the existing housing and displacement crisis. Many households in San José have lost some or all income during this time, making it very difficult for these households to pay their rent or mortgages.

COVID-19 has caused a seismic disruption to the local economy. Pre-COVID-19, the unemployment rate was 2.7%. In June, the unemployment rate in the San José-Sunnyvale-Santa Clara area was 10.8%. At the end of July 2020, over 200,000 residents in the City of San José had filed for unemployment insurance since shelter-in-place came into effect.¹ According to CHAS 2012-16 data, 49% of San José renters and 30% of San José homeowners were already housing cost-burdened prior to COVID-19, spending more than 30% of their gross income on housing. This dramatic increase of unemployment is an indicator even more households in San José are now at risk of displacement than before.

In response, local, State, and national leaders established temporary emergency eviction and foreclosure moratoriums to keep residents housed. However, this temporary intervention has also created what some call an impending “rent cliff.” The neighborhoods with the most cases of COVID-19 are in zip codes 95122, 95127, 95116, and 95148. These same neighborhoods seem likely to experience the brunt of the “rent cliff.” These neighborhoods are primarily Latinx and Asian, experience more overcrowding and poverty than the Citywide average. Most neighborhoods in these four zip codes are at-risk of or are undergoing displacement. The UCLA Center for Neighborhood also developed a renter vulnerability index (RVI) for each neighborhood in Santa Clara County based on the proportion of renters, housing cost burden, exposure to job displacement, and exclusion from economic relief programs. The RVI map also highlights these neighborhoods.

Many families in San José are now facing months of back rent and mortgage payments they are likely unable to afford at the conclusion of these moratoriums. Without intervention, the end of the moratoriums could lead to a wave of displacement and homelessness. The federal eviction moratorium already ended on July 24, 2020. Governor Newsom’s Executive Order N-71-20 extends the Statewide eviction moratorium until September 30; however, the Judicial Council of California has voted to lift Emergency Rule 1, so that issuances of summonses and defaults in eviction cases will resume on September 1, 2020. The City’s Eviction Moratorium ends on August 31, 2020, unless extended by the City Council before that date. The City Council will have an opportunity to extend the moratorium on August 25th.

The federal and State governments are both pursuing stimulus packages this year that include funding for housing. While we do not know if those resources will be approved, the City’s focus on the Citywide Anti-Displacement Strategy is extremely timely. Approval of this multi-year Strategy and staff’s work on its recommendations could help to support our community’s short-term and long-term recovery from COVID-19.

¹ Number of Weekly New UI and PUA Claims Combined Santa Clara County

ANALYSIS

It is helpful to define the terms of displacement and gentrification. These terms are often used interchangeably, and often occur together, but they have different meanings. This Strategy focuses on trying to reduce the negative occurrence of “displacement” that has been shown to have detrimental effects on low-income residents. It does not veer into the more complicated effects of “gentrification,” which includes several different components as defined below.

Definitions

Displacement: Displacement is generally defined as when a household must move out of their home for reasons outside of their control. For example, displacement can be physical (as building conditions deteriorate), or economic (as costs, including housing costs, rise). Residents may be expelled from their housing such as through formal evictions. They can also be displaced from the City due to exclusion, such as when a renter is unable to find replacement housing in the City due to the high rents. Residents may also become displaced because of natural disasters (COVID-19), domestic violence, or other reasons. Multiple types of displacement can also overlap.

Gentrification: Gentrification is when a historically disinvested neighborhood changes through real estate investment and new higher-income residents move in, changing the demographic makeup and character of the overall neighborhood. Gentrification is often associated with displacement.

Gentrification is a more complicated phenomenon than Displacement, involving both positive and negative consequences. Staff’s focus has been on how best to prevent displacement, which research shows is associated with negative outcomes especially for low-income residents. To the extent that these residents can stay in their communities, they have the hope of gaining positive benefits from increased neighborhood investment.

San José Residents Are Concerned About Economic Displacement

While displacement can occur due to different causes, the rising cost of housing was the most commonly expressed displacement concern that staff heard from San José residents during outreach. The San José metro area’s housing market is often cited one of the top five most expensive in the U.S. Renters must earn \$54/hour (\$112,320/year) to afford the average rent for a two-bedroom apartment (\$2,808/month) and homebuyers must earn \$110/hour (\$230,169/year) to afford a median-priced single family home,² while the minimum wage in San José is just \$15 per hour. San José’s median home sales price is 8.5 times the median income of its residents, which makes it the eighth most expensive for-sale housing market in the

² City of San José Housing Market Update, First Quarter 2020
<https://www.sanjoseca.gov/home/showdocument?id=61698>

world, ahead of San Francisco and London, in the 2020 Demographia international survey.³ A 2019 poll conducted by the Silicon Valley Leadership Group revealed 83% of Silicon Valley residents believe “cost of housing is an extremely serious problem.”⁴

City staff has heard many residents wish to stay in San José for valuable reasons. San José is their home, where they work, where they were born and raised, where their friends and family live, or where their kids go to school. These reasons lead to households making major trade-offs to stay in San José.

Many residents shared their experiences during the community engagement process. Some residents shared they first became homeless due to an eviction or a foreclosure. Some shared that they sometimes skip buying groceries to pay for housing. Some were debating whether to move to the Central Valley, increasing their commutes to work or family, or moving even further, severing ties from this community completely. Staff also heard that residential displacement is occurring at a level that impacts more than just those who are moving away, citing concerns about the impact of displacement on their family and friends, local school closures, employee retention, and more.

Research Shows Displacement Has Negative Impacts for the Community and Families

In recent years, researchers have published a number of studies looking at the impact of displacement on communities and on lower-income households, especially lower-income households of color. The findings are compelling that displacement is damaging and needs to be avoided.

Displacement leads to resegregation

Although data does not exist to calculate the exact number of San José residents displaced in recent years, Census migration data used in the Turner Center’s report Disparities in Departure indicates that from 2010 to 2016, approximately 1.5 million residents moved out of the Bay Area.⁵ To put this number into context, this is roughly equal to one in five residents living in the Bay Area today. But those leaving the Bay Area are changing the socio-economic and racial makeup of the Bay Area. The study found that for each one high-income resident that moved out of the Bay Area, six low-income residents moved out. The report also found that Asian and White residents represent a larger share of the region’s higher-income out-movers, whereas Latinx and Black residents make up a disproportionately large share of low-income out-movers.

This study also found high-income out-movers tended to have access to a wide range of large

³ “16th Annual Demographia International Housing Affordability Survey: 2020,” <http://demographia.com/dhi.pdf>. Using data from 3Q 2019, San José was eighth most expensive in the world.

⁴ Silicon Valley Poll: 83% of Bay Area Voters Say Cost of Housing is an Extremely Serious Problem, <https://www.svlg.org/silicon-valley-poll-83-of-bay-area-voters-say-cost-of-housing-is-an-extremely-serious-problem/>

⁵ Romem, Issi; Kneebone, Elizabeth; Disparity in departure: who leaves the bay area and where do they go? <https://turnercenter.berkeley.edu/disparity-in-departure>

cities across the nation. However, low-income out-movers tended to move to other areas of California such as the Central Valley. Low-income movers reported fewer options for employment, education, and access to health care compared to where they had previously lived.

A 2016 report from Urban Habitat found a significant regional out-migration of Black and Latinx households to outlying areas of the Bay Area or to neighboring counties like San Joaquin and Stanislaus.⁶ Further, a 2018 study from the California Housing Partnership and the Urban Displacement Project found that rising housing costs have led to large increases in Black and Latinx households living in high poverty, segregated areas.⁷ Between 2000 and 2015, the study found a 15% increase in the number of Black households and 100% increase in the number of Latinx households living in segregated and high poverty neighborhoods in the Bay Area.

This research shows that without policy intervention, the current trend of displacement can result in more segregated and less racially diverse communities.

Displacement leads to negative household impacts

Displacement data for Silicon Valley from 2018⁸ indicates that more than half of displaced renters left their city of residence, where their social networks exist. Of displaced Santa Clara County renters surveyed, 55% moved out of their city. Of that group, 34% moved to a new city within Santa Clara County, 16% left the County altogether, while 5% became homeless.

Numerous studies have found that residential displacement, and even constant worry over housing instability, significantly hurts residents' health and educational outcomes. Displaced children experience more absences, lower school completion rates, and increased educational delays or behavioral problems.⁹ The emotional toll of displacement and living with the threat of displacement is significant, affecting mental wellbeing, sense of belonging and community cohesion.¹⁰ People experiencing housing insecurity are almost three times more likely to be in frequent mental distress than those who have secure housing.¹¹ Evictions are very detrimental for mental health, as mothers who experienced an eviction were more likely to report depression even two years after the eviction.¹² Displacement also has been found to increase respiratory and other health issues as families move to more polluted, lower air-quality areas.¹³

⁶ <https://urbanhabitat.org/sites/default/files/UH%20Policy%20Brief2016.pdf>

⁷ <https://news.berkeley.edu/2018/09/19/rising-housing-costs-are-re-segregating-the-bay-area-study-shows/#:~:text=New%20reports%20from%20the%20Urban,segregation%20in%20the%20Bay%20Area.>

⁸ Marcus, Justine; Disruption in Silicon Valley – The Impacts of Displacement on Resident' Lives; December 2018 <https://www.urbandisplacement.org/blog/displacement-impacts-santa-clara>

⁹ Several sources cited in Bay Area Regional Health Inequities Initiative (BARHII), "Displacement Brief: Housing Insecurity and Displacement In The Bay Area," Oct. 2017. <http://barhii.org/wp-content/uploads/2016/02/BARHIIIdisplacement-brief.pdf>

¹⁰ Bay Area Regional Health Inequities Initiative (BARHII) and the Federal Reserve Bank of San Francisco, "Housing Stability and Family Health: An Issue Brief," Sep. 2018. http://barhii.org/wp-content/uploads/2018/09/Housing_Stability_and_Family_Health.pdf

¹¹ Liu, Y., Njai, R. S., Greenlund, K. J., Chapman, D. P., & Croft, J. B. (2014). Relationships Between Housing and Food Insecurity, Frequent Mental Distress, and Insufficient Sleep Among Adults in 12 US States, 2009. *Preventing Chronic Disease*, 11, E37. doi:10.5888/pcd11.130334 <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3958143/>

¹² Matthew Desmond and Rachel Tolbert Kimbro, Harvard University and Rice University, "Eviction's Fallout:

Housing, Hardship, and Health," Feb. 2015, http://scholar.harvard.edu/files/mdesmond/files/desmondkimbro.evictions.fallout.sf2015_2.pdf

¹³ http://www.rajchetty.com/chettyfiles/movers_paper1.pdf

Displacement holds back cities' and households' economic potential

Recent studies also detail the economic impacts of housing unaffordability and segregation. A Chicago study found that without segregation, the average income of African Americans in that region would rise by \$2,982 per person per year, a total injection of \$4.4 billion in additional income into the region.¹⁴

In San José, housing burdened renters would have an estimated extra \$8,500 per two-person household, or an extra \$599 million in total, that could be spent in our community on food, healthcare, entertainment, or educational expenses. The high cost of rent in San José has led to economic harm for those who stay, as 53% of renters are considered to be rent-burdened.¹⁵

These economic impacts on residents puts at risk San José's history and tradition as a place of opportunity for people with wide a range of incomes.¹⁶

Which San José neighborhoods are vulnerable to displacement?

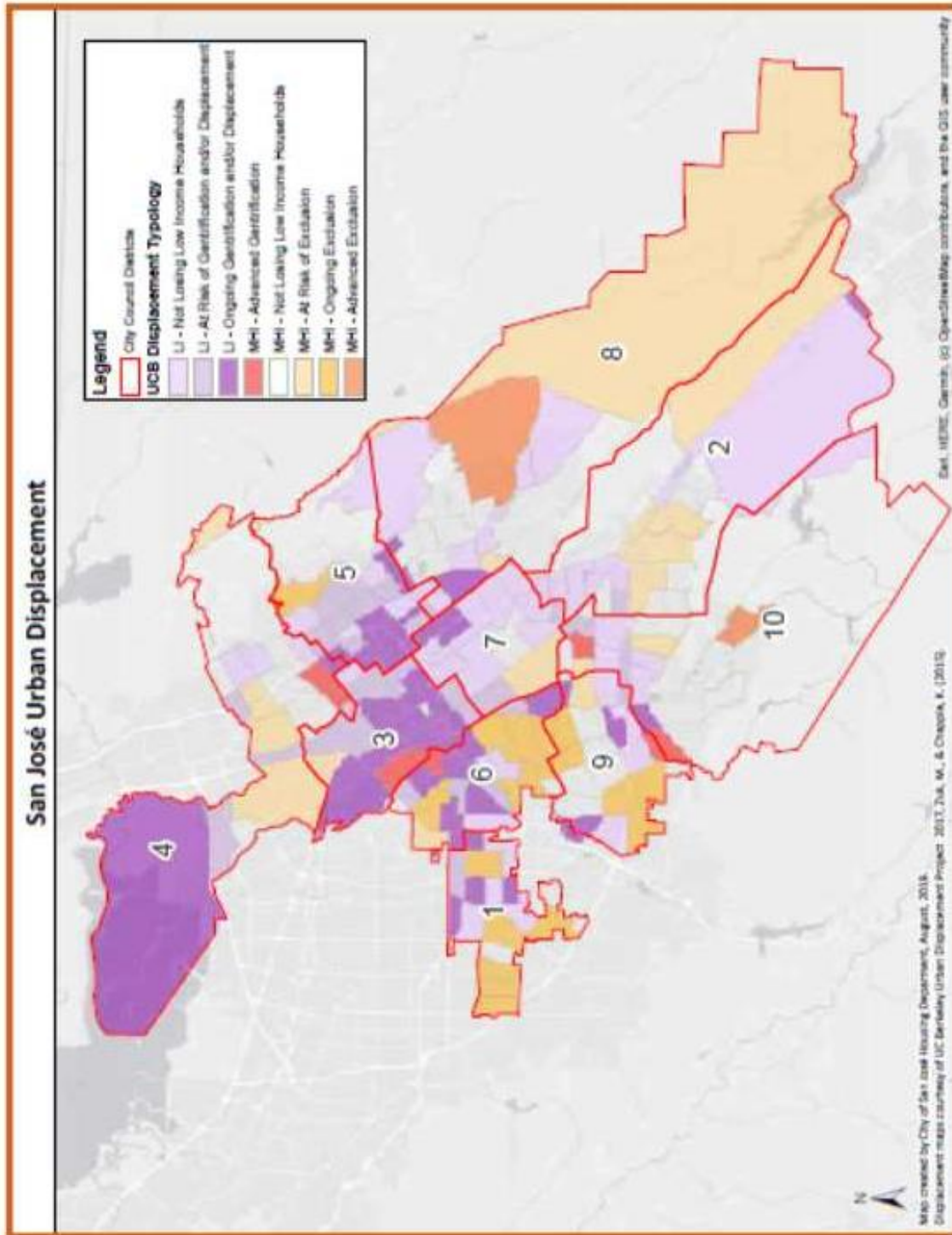
The Urban Displacement Project (UDP) is a research and action initiative of UC Berkeley, UCLA and Portland State University which has been conducting research and producing reports on displacement in the Bay Area since 2009. In 2015, the Urban Displacement Project received an award from the Metropolitan Transportation Commission to create a “regional displacement warning system” to develop indicators of neighborhoods that were undergoing or likely to undergo displacement. UDP developed its methodology to identify areas undergoing and at-risk of gentrification/displacement, as well as those that are at-risk and ongoing exclusionary.

The UDP map on the following page shows indicators of gentrification and displacement as of 2017, calculated using 2015 data by census tract. This map shows San José's Council Districts superimposed, and areas in San José at different stages of gentrification, displacement, and exclusion.

¹⁴ <https://www.metroplanning.org/costofsegregation/cost.aspx>

¹⁵ <https://www.wpusa.org/files/reports/WhenRentersRiseOurCityThrives.pdf>

¹⁶ <https://www.theatlantic.com/business/archive/2016/02/the-place-where-the-poor-once-thrived/470667/>



The dark and light purple areas are low-income areas that are either undergoing gentrification and/or displacement or are at-risk of gentrification and/or displacement, according to UDP.¹⁷ The light orange areas are moderate- and high-income areas that are either at-risk of or have ongoing exclusion, while the dark orange areas represent advanced exclusion. Exclusion means rents and home prices are so high that it is very difficult for low-income residents to afford to live there.

According to UDP research,¹⁸ 43% of all census tracts in San José are either at-risk of or are experiencing ongoing displacement. While all City Council districts are experiencing some level of displacement, Council Districts 3 and 5 have the highest number of census tracts with either ongoing displacement or being at-risk of displacement. Latinx households are overrepresented in these areas. In San José, 47% of all Latinx households and 45% of all Black households live in areas categorized as experiencing ongoing displacement or at-risk of displacement.¹⁹

Racial Composition of Ongoing and At-risk of Gentrification/Displacement Areas	
All Ongoing Gentrification	33% White 27% Asian 32% Latinx Households; *Hispanics make up 40% of all households 80% or less of AMI
All Low-Income - At Risk of Gentrification	25% White 28% Asian 39% Latinx Households; *Hispanics make up 45% of all households 80% or less of AMI

Source: UDP Typologies Race Data, Race by Census Tract, June 2020.

Systemic Racism Underpins San José’s Displacement Problems

It is important to recognize how past policy decisions and the tradition of racial exclusion are root causes of San José’s current displacement issues. For many Black and Latinx communities, today’s wave of displacement is a continuation of a multi-generational housing crisis, intertwined with other problems created by systemic racism.²⁰ A few notable events

¹⁷ The Urban Displacement Project methodology for ongoing displacement (dark purple) areas is as follows: In 2000-15, the census tract initially housed a higher percentage of low-income, non-white renters, with less education than the region. Then by 2015, the neighborhood experienced a net loss of low-income households and had a hot market with a decrease in low-income residents moving into the neighborhood. OR if there was not a net loss of low-income households, the neighborhood had less low-income residents move in to the neighborhood and went from income and education levels lower than the regional average to levels higher than the regional average.

¹⁸ City of San José Housing Department, GIS analysis of UDP Census Tracts by Council District.

¹⁹ UDP Typologies Race Data, Race by Census Tract, June 2020.

²⁰ Levin, Matt; “Black Californians’ housing crisis, by the numbers,” Jun. 23, 2020 <https://www.mercurynews.com/2020/06/23/black-californians-housing-crisis-by-the-numbers/>

which are foundational for San José's displacement problems are described below.

People of Color Were Excluded from the New Deal and Prohibited from Homeownership through Redlining

Homeownership can be a source of stability for residents in rapidly-changing neighborhoods. Historically, homeownership has been the main vehicle for everyday residents to build generational wealth. In San José, Black households have a homeownership rate of 33%. The homeownership rate for Latinxs is 41%. In comparison, White households have the highest homeownership rate in the City at 66%.²¹

Unequal access to homeownership and affordable housing is considered a top factor contributing to the growing racial wealth divide.²² While it is often acknowledged that income and wealth contribute to a household's financial resiliency and ability to avoid displacement, for people of color, it is important to understand that a household's income and wealth is also influenced by enduring systemic barriers to safe and stable housing.

People of color have faced major barriers to obtaining homeownership. When the U.S. housing market collapsed in the Great Depression, the Federal government attempted to revive it through New Deal agencies, which included the Federal Housing Administration (FHA) and Home Owners Loan Corporation. At that time, restrictive covenants barring people of color from owning land in white neighborhoods were common and they remained legal until 1948.

Redlining, in particular, was a discriminatory practice from the 1930-1970s where loans and mortgages were withheld from specific geographic areas where non-white populations lived. The Homeowners Loan Corporation appraisal standards indicated these neighborhoods as "hazardous" areas (red) and "definitely declining areas (yellow). This lack of investment led to redlined neighborhoods underdevelopment and deterioration. Families of color living in redlined neighborhoods were unable to access the same government loan benefits that allowed many others to purchase homes.

According to John A. Powell, Ph.D., Director of the Haas Institute for a Fair and Inclusive Society,²³ the white middle class was largely built through the Marshall Plan for investment created in the Great Depression. He states people of color in the United States were excluded or not allowed to participate in what became the greatest tool for wealth creation for a large number of people in the world. 87% of San José's historically redlined neighborhoods also align with today's at-risk and ongoing displacement areas, further impacting some of the same families who have been subject to this housing discrimination.²⁴

²¹ ACS 2018 5-Year data, B25003 - Tenure

²² <https://calbudgetcenter.org/resources/the-racial-wealth-gap-what-california-can-do-about-a-long-standing-obstacle-to-shared-prosperity/>

²³ Grossman, Sara; "The Other Wealth Gap: The Racial Wealth Rift No One is Talking About" <https://belonging.berkeley.edu/other-wealth-gap-racial-wealth-rift-no-one-talking-about>

²⁴ Urban Displacement Project, Redlining and Gentrification. <https://www.urbandisplacement.org/redlining>

Formerly Redlined Neighborhoods Became Locations for Speculative Investment Due to Relative Affordability

This history of segregation and uneven investment made some formerly redlined neighborhoods “blighted” and attractive for redevelopment by the San José Redevelopment Authority (SJRA) in the 1980s and 1990s. During this time, the SJRA created the Strong Neighborhoods Initiative, intended to help improve conditions in these neighborhoods. Unfortunately, some redevelopment projects displaced people of color who had been forced to settle in these redlined areas.

For example, the primarily Latinx Guadalupe-Auzerais neighborhood was displaced to create the Children’s Discovery Museum. Gen Fujioka, a Senior Legal Counsel and Policy Director who worked for the Guadalupe-Auzerais residents, described their displacement concerns in an interview in 1986. The situation he describes is very similar to the concerns facing San José residents today.

“This process of ‘gentrification’ will, in turn, force out many existing residents and businesses. A retired cannery worker on a fixed income cannot compete on the rental market with an unmarried accounts manager with money to spare. Similarly, many neighborhood businesses will not be able to compete for commercial rentals with boutiques, espresso and fashion shops, and expensive restaurants. The irony here is that communities that have maintained the vitality of the downtown area through many lean years of marginal public and private services will now be pushed out of their historic neighborhoods exactly at a time when the area becomes, because of massive public investment, a ‘desirable’ place in which to live and do business” (Fujioka, 1986).

People of Color Were Disproportionately Impacted in the Foreclosure Crisis through Subprime Mortgages

When redlining was effectively outlawed, the subprime mortgage product was created and marketed to those with lower credit scores, which involved extensive marketing to non-white consumers. These loans had higher interest rates, fees, and penalties to reflect higher lending risk— regardless of the borrowers’ ability to repay. Subprime mortgages were a chief cause of the foreclosure crisis from 2007 to 2010. This type of lending had a disproportionate impact on Black and Latinx communities, which also experienced high unemployment during the recession. At this time, East San José was dubbed “Ground Zero for the Foreclosure Crisis.”²⁵

According to research by Zillow,²⁶ nationally, homes in Black and Latinx communities were two to two and a half times as likely to experience foreclosure than homes in White communities from 2007 to 2015. Many renters who experience displacement pressures today may be former homeowners who lost their homes during the foreclosure crisis.

²⁵ “Cassidy: East San José neighborhood is ground zero for foreclosure crisis,” 2008
<https://www.mercurynews.com/2008/10/16/cassidy-east-san-jose-neighborhood-is-ground-zero-for-foreclosure-crisis/>

²⁶ Mikhitarian, Sarah; “How the Housing Bust Widened the Wealth Gap for Communities of Color” Apr. 2019,
<https://www.zillow.com/research/housing-bust-wealth-gap-race-23992/>

Racial Wealth Gap Contributes to Black and Latinx Communities Vulnerability to Displacement

The racial income gap and racial wealth gap in San José also demonstrates how the problem of housing unaffordability varies greatly when disaggregated by race. Prior to COVID, 65% percent of all Black households and 64% of all Latinx households were considered low-income, as compared to 43% percent of White non-Hispanic households and 40% of Asian households. The difference for women-headed households is even more pronounced, with 70% percent of women-headed households earning incomes below 80% of area median income (AMI).

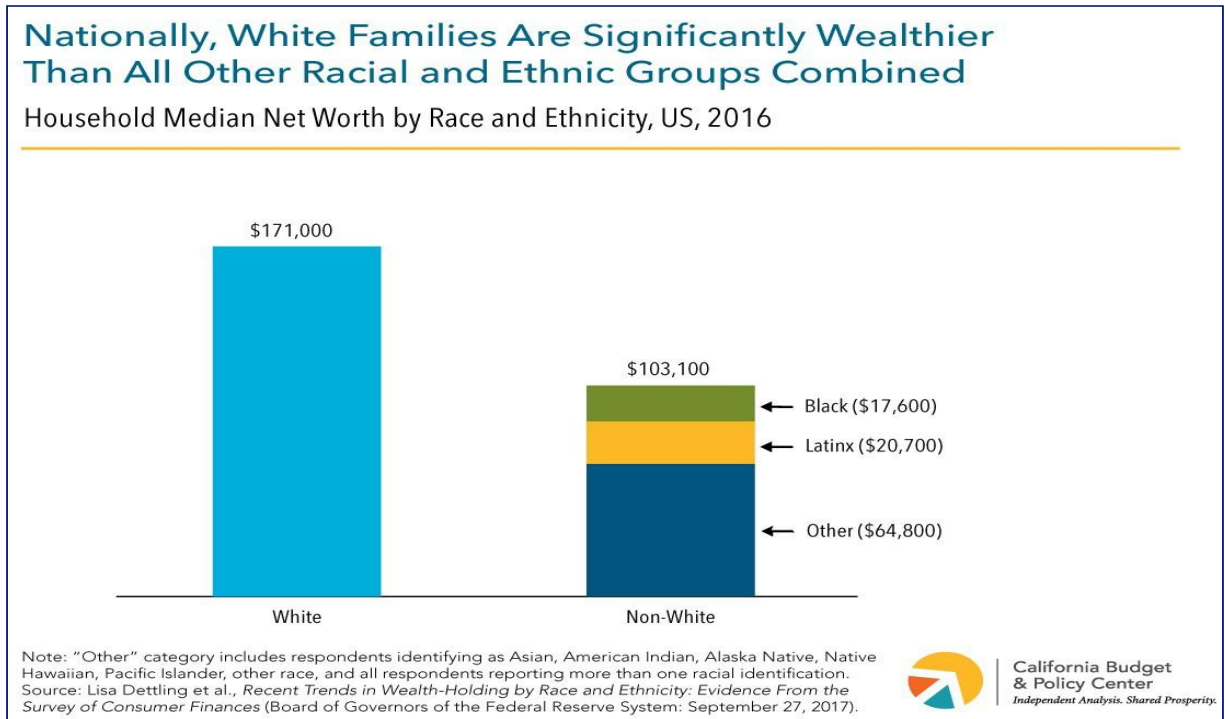
Percentage of Low-Income San José Households (Below 80% Area Median Income) by Race						
	All Households	Asian Households	White Non-Hispanic Households	Black/African American Households	Hispanic/Latinx Households	Women Head of Household
Total Households	359,059	119,548	133,873	11,416	83,961	37,577
Number of Households < 80% AMI	170,724	47,451	57,070	7,407	53,830	26,153
Percent of Households < 80% AMI	48%	40%	43%	65%	64%	70%

Source: American Community Survey 2014-2018, 5-Year Data.

While income is often used to measure for a household’s vulnerability to displacement, wealth can illustrate a more accurate picture of a household’s access to resources to withstand displacement. When a household owns assets, regardless of income, they are able to use those resources to prevent or weather emergencies like an eviction or foreclosure. For example, a study released just before shelter-in-place started in March 2020 found that 77% percent of Black residents in the Bay Area reported a time when they did not have \$400 in savings, compared to just 18% of White residents.²⁷

While there is not much data on wealth by race at the local level, there are studies that describe the racial wealth gap at the national level. The data shows that racial disparities by wealth are even more prominent than those by income. The data below from the California Budget & Policy Center shows that nationally, the median White family has a net worth equal to \$171,000, as compared to \$17,000 for Black families, and \$20,700 for Latinx families.

²⁷ Tipping Point Community and Othering and Belonging Institute, “Taking Count, a study on poverty in the Bay Area,” Mar. 2020, <https://tippingpoint.org/wp-content/uploads/2020/05/Taking-Count-Executive-Summary-2020.pdf>



One of the aspects behind the racial wealth gap is tied to the value of assets owned by people of color. For example, according to Andre Perry, a researcher at the Brookings Institute, racism depletes wealth from black homeowners. While laws have changed since the days redlining was legal, the value of assets such as buildings, schools, leadership, and land are still linked to perceptions of Black people. A home in a Black majority part of the Bay Area is worth about \$164,000 less than the equivalent home in a neighborhood with few Black people, even when controlling for the quality of the local school district and access to amenities such as parks.²⁸

Today, we see the devastating outcomes from these systems' operations. Black and Latinx residents are overrepresented in San José's homeless counts,²⁹ Black and Latinx residents experience higher housing cost burden, Latinx residents experience higher levels of overcrowding and housing quality problems, and citizenship requirements for housing programs which could prevent displacement continue to exclude many Latinx, Asian, and Black San José residents.

These contributing factors describe why certain communities and neighborhoods suffer the most from housing instability and are especially vulnerable to displacement.

²⁸ Levin, Matt; "Black Californian Housing Crisis by the Numbers," <https://www.kqed.org/news/11825550/black-californians-housing-crisis-by-the-numbers>.

²⁹ Silicon Valley Pain Index, White Supremacy and Income/Wealth Inequality in Santa Clara County; <https://www.documentcloud.org/documents/6955119-Silicon-Valley-Pain-Index.html?embed=true&responsive=false&sidebar=false>

This Strategy Advances the City’s Obligation to Affirmatively Further Fair Housing

The 1968 Civil Rights Act, also known as the Fair Housing Act, was intended to reduce social inequities by prohibiting discrimination in housing. In 2015, the United States Supreme Court concluded that the Fair Housing Act embodies the concept of “disparate impact,” meaning that color-blind policies resulting in unequal outcomes can be discriminatory.³⁰ In 2018, the State of California signed into law Assembly Bill 686 (Santiago), which codified California jurisdictions’ obligation to “Affirmatively Further Fair Housing” per federal standards from the Obama Administration in 2015. Affirmatively furthering fair housing means that it is not sufficient for jurisdictions to simply avoid implementing new discriminatory policies; they must actively work to eliminate existing housing discrimination and segregation.

It is important for policymakers to understand the historical context of why these uneven outcomes in our community exist. This Citywide Residential Anti-Displacement Strategy supports the City’s obligation to affirmatively further fair housing and helps address past injustices and reduce further harm to our low-income residents, particularly those in San José’s Black and Latinx communities.

The City of San José has been Responding to Residential Displacement

CASA, a blue ribbon task force of elected and civic leaders convened by the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC), stated that the region faces a housing crisis because the Bay Area has failed to:

1. Produce enough housing for residents at all income levels;
2. Preserve the affordable housing that already exists, and
3. Protect current residents from displacement where neighborhoods are changing rapidly.

This “three Ps” framework has been adopted by State and Regional efforts to combat the Housing Crisis. They also create a foundation upon which the City can grow equitably and help to mitigate low-income residents’ displacement. The City Council has taken several actions in each of these areas to address displacement by developing what are, in effect, anti-displacement policies and programs. While the City’s actions have not been categorized as “anti-displacement” before, when taken in aggregate, they do support the three Ps framework in helping to keep low-income residents in place:

³⁰ Texas Dept. of Housing and Community Aff., et al. v. Inclusive Comm. Proj., 135 S.Ct. 2507 (2015). An example of a disparate impact case: June 2018, Bank of America and Safeguard Properties Management were sued by the National Fair Housing Alliance for intentionally failing to provide routine exterior maintenance and marketing for Bank of America-owned homes in African American and Latino neighborhoods across 37 metro areas, while consistently maintaining similar bank-owned properties in white neighborhoods. <https://www.housingwire.com/articles/49596-housing-discrimination-lawsuit-against-bank-of-america-gets-green-light>

Production of new affordable housing:

- Adopted an Inclusionary Housing Ordinance with a 15% requirement for affordable housing
- Established a production goal of 10,000 new affordable homes goal in five years through the Housing Crisis Workplan
- Passed Measure E, a new funding source that can be used to support the development and preservation of affordable housing

Preservation of existing affordable housing:

- Adopted underwriting guidelines that call for City or County land ownership and long-term ground leases for new affordable developments
- Funded limited proactive Enhanced Code Enforcement in Project Hope neighborhoods through federal grants

Protection of residents in rapidly-changing neighborhoods:

- Updated the Apartment Rent Ordinance to lower the cap on rent increases from 8% to 5% per year on apartments in buildings with three or more units built by September 1979
- Established just cause eviction protection for tenants in buildings with three or more units through the Tenant Protection Ordinance
- Established relocation protections and affordability requirements for ARO tenants whose buildings are demolished through the Ellis Act Ordinance
- Prevented housing discrimination against Section 8 and other rental subsidy recipients by establishing the Housing Equality Payment Ordinance
- Provided grants for low-income tenants and landlords for legal education and eviction defense
- Funded a staff position to work with landlords and tenants to resolve problems in troubled buildings while preventing displacement
- Established an eviction moratorium and rental assistance to prevent evictions of residents who have been unable to pay rent due to COVID-19, and to help landlords at the same time.

In addition, the City Council recently directed staff to update the City's Inclusionary Housing Ordinance to increase the likelihood of on-site affordable housing production, and to update the Ellis Act Ordinance including an option with an expansion of tenants' rights to return. The City Council will also consider a Commercial Linkage Fee which could help fund new affordable housing production and acquisition/rehabilitation to preserve existing residences.

Along with the work that the City has already accomplished, several other initiatives are currently underway to help to stem or mitigate displacement:

- Increasing homelessness prevention
- Establishing Anti-Displacement and Displaced tenant preferences for affordable housing

- Implementing “No Net Loss” law of housing unit per SB 330 (2019)
- Conducting a feasibility study of innovative housing solutions, including limited equity co-ops and community land trusts
- Creating an online housing opportunity sites tool for developers (Tolemi)
- Conducting a public land survey and partnering with the State
- Funding a staff position to work with landlords and tenants to resolve problems in troubled buildings while preventing displacement. The City was also fortunate to receive an award of a two-year Challenge Grant fellow through the Partnership for the Bay’s Future.³¹ The fellow is working on Preservation and Protection anti-displacement policy and program development. The fellow and the City will also be evaluated to the extent that the City’s work results in systems change to ensure that the voices of those in the community most affected by displacement become a regular part of the decision-making process.

The Value of the Three Ps Framework

Displacement is a complex market-based phenomenon. The challenge of changing the effects of market forces is not easy. However, the City taking a leadership role in its policies and funding priorities can help alleviate the problem in both the short-term and long-term. Below is an explanation why all “three Ps” are necessary components of the Citywide Residential Anti-Displacement Strategy.

Building housing for our growing community must focus on affordable as well as market-rate

Some experts have argued that the most effective way to address the housing crisis is to just keep producing new market-rate housing to induce “filtering,” when older market-rate housing becomes more affordable as new units are added to the market. However, examining this theory for an expensive market like San José, it seems highly unlikely that simply producing market-rate housing will ever serve the needs of our low-, very-low, and extremely-low income renters.

The housing market is complex, with many different products and prices that form tiers that operate largely separately. In the expensive Bay Area, new market-rate apartments pre-COVID had been affordable to households earning at least 110% of area median income or higher. The chart below shows that for filtering to work, today’s new Class A apartment in San José would have to reduce in price by almost 50% over time to be affordable to the very low-income family, and 70% for the extremely low-income family, all other things being equal. But that large of a rent reduction is unlikely to happen, regardless of an apartment’s age, and still be safe to live in.

³¹ The Partnership for the Bay’s Future is a collaborative regional effort funded by philanthropy and business to increase affordable housing and ensure vibrant communities of racial equity and economic inclusion; <https://baysfuture.org/>

Differences in Maximum Rents that Can Be Afforded at Different Income Levels					
Household income	Annual income	Monthly income	Maximum rent (3.0)	Needed rent decrease (\$)	Needed rent decrease (%)
110% AMI (Moderate)	\$155,760	\$ 12,980	\$ 4,327	-	-
50% AMI (VLI)	\$78,950	\$ 6,579	\$ 2,193	\$ (2,134)	-49%
30% AMI (ELI)	\$47,350	\$ 3,946	\$ 1,315	\$ (3,011)	-70%

Planning expert Richard Florida agrees, writing “the markets—and neighborhoods—for luxury and affordable housing are very different, and it is unlikely that any increases in high-end supply would trickle down to less advantaged groups.”³² A 2016 study focused on the Bay Area also agrees, stating, “The filtering process can take generations, meaning that units may not filter at a rate that meets these needs at the market’s peak, and the property may deteriorate too much to be habitable.”³³ Staff’s conclusion is that the City should continue to encourage the construction of market-rate apartments but must focus on integrating construction of affordable housing into those developing neighborhoods and others throughout the City, as market-rate housing and affordable housing will always serve different residents.

San José residents’ difficulty affording an increasingly expensive and changing market can be partially explained in the income distribution of the City’s households. As the figures below show, the City’s households are clustered in the lowest- and highest-income segments and this gap is expected to grow. This income divide creates upward pressure on rents as higher-income households set the price on housing. Although 44% of the City’s population is considered lower- income (the first three rows in the chart below), the market does not adequately supply housing affordable to these households without the provision of subsidy.

³² Florida, Richard; Does Upzoning Boost the Housing Supply and Lower Prices? Maybe Not. Jan. 2019 <https://www.bloomberg.com/news/articles/2019-01-31/zoning-reform-isn-t-a-silver-bullet-for-u-s-housing>

³³ Zuk, Miriam; Chapple, Karen; Housing Production, Filtering and Displacement: Untangling the Relationships https://www.urbandisplacement.org/sites/default/files/images/udp_research_brief_052316.pdf

San José Household Distribution by Area Median Income ³⁴			
Income Range	Approximate AMI	Number of San José Households	Percent of San José Households
Less than \$44,999	Below 30% AMI	66,050	20.1%
\$45,000 to \$74,999	31% to 50% AMI	47,993	14.6%
\$75,000 to \$99,999	51% to 80% AMI	32,855	10.0%
\$100,000 to \$149,999	81% to 120% AMI	59,611	18.2%
\$150,000 and above	Above 120% AMI	121,339	37.0%

Source: US Census 2018 1-Year ACS, City of San José 2020 HCD Income Limits

The chart below demonstrates how the stiff competition for middle- and lower-priced apartments leads to inefficiency. Recent vacancy rates indicate a strong demand for lower-priced apartments and lower demand for those at the highest rent levels. According to CoStar data in early April 2020, Class A (highest rent) apartments had a 7.9% vacancy rate, while every other class had vacancy rates in the 4% range. The lower the rent, the lower the vacancy rate.

Average Vacancy Lower for Older Buildings* (82% of total rental stock)



³⁴ US Census Bureau American Communities Survey 2018 Household Income in the past 12 months (2018 inflation adjusted) <https://data.census.gov/>
 City of San José 2020 HCD Income Limits <https://www.sanjoseca.gov/home/showdocument?id=61061>

Higher-income residents have more housing choices. They may choose to live in high-cost new housing, or they may choose lower-cost housing so they can save to buy a house, start a business, or send money home to their families. However, low-income renters usually do not have the choice to rent very expensive housing, as they would not meet required income or credit standards. If they could meet these standards, they would overpay for housing and be unable to afford other necessities like food and transportation.

The high demand for lower-cost housing indicates the need to preserve and grow this segment of the housing stock. If lower-income residents are displaced, the data supports what they report – they would have a hard time finding a reasonably-priced, safe place to live in our expensive City.

Balanced Citywide Strategy Would Focus More on Preservation and Protection

San José is a growing city and is developing in denser areas per its General Plan. As some neighborhoods change rapidly, it heightens the importance and urgency of the City's need to put in place anti-displacement solutions for current low-income residents. Residents facing displacement today will not have the chance to benefit from solutions that may take generations.

The need for affordable housing Production is clear, and has always been recognized by the City Council. Today, while approximately 45% of the City's residents currently qualify as low-income, only 23% of the homes in the City are restricted affordable. Fortunately, the City has some funds for affordable housing production, including repayments from former redevelopment-funded loans, Inclusionary in-lieu fees, and new Measure E funds. The City Council will also be considering a Commercial Linkage Fee, which if approved, may be spent for affordable housing production or acquisition and preservation. This Strategy encourages more affordable housing production and preservation in a way that is sensitive to potential displacement areas and qualifying for competitive funding sources.

Because affordable housing Production is a long-term endeavor, tenant Protections are needed in the near-term to help residents remain safely in place. The housing market is not a theoretically perfect market, where residents can easily opt out of one bad apartment if it has a condition problem or if they experience discrimination, and into a better apartment that meets their needs at a similar price and set of amenities. Besides the shortage of low-cost apartments, there are significant monetary costs to moving which require savings – which many low-income households lack. There are also non-monetary costs to moving, such as forcing children to leave their schools, leaving family and friends, and leaving support networks. For these reasons, low-income residents will always require Protection policies and programs, as they frequently experience housing problems they cannot easily escape.

What the City has never developed fully are Preservation policies, data collection, or programs. Focused strategies to preserve existing affordable housing and to support residents to stay in their current housing can be a relatively cost-effective way to stabilize the community. Without efforts to preserve housing affordable for lower-income households, the affordable housing

supply is very likely to dwindle further through redevelopment or raised rents, despite the fact San José's total housing stock is growing overall. The City has taken a few steps in the right direction to encourage preservation; for example, it requires the City or County to own land and enter into long-term ground leases for new affordable developments to ensure perpetual affordability. City staff also extends affordability restrictions when it does transactions on existing subsidized affordable housing. Nonetheless, the City's lack of resourced preservation policies or programs erodes the value of the millions of dollars that the City is spending on new affordable housing.

Preserving Affordability Where It Already Exists

So-called "affordable housing" usually refers to housing that has recorded covenants by public agencies, and/or restrictions put in place through public agency funding agreements. But there are also two other types of affordable housing to consider for preservation – rent-stabilized homes (apartments and mobilehomes), and 'naturally-occurring affordable housing' (NOAH) with rents that are priced at levels that lower-income households can afford.

All of these types of affordable homes can lose their affordability in different ways: demolition, expired deed restrictions, expiration of bond regulatory agreements, vacancy decontrol, redevelopment, sale of units, withdrawals from the rental market, and/or conversion of apartments to condominiums. When these events occur, current residents can be displaced.

According to a recent California Housing Partnership (CHPC) report, Santa Clara County has the largest restricted affordable housing preservation problem of the nine Bay Area Counties, being at risk of losing an additional 2,059 restricted affordable apartments in the next 10 years. CHPC estimates of those units, over 1,000 at-risk restricted homes are in San José.³⁵ While the Housing Department's Residential Production team does its best to extend the City's affordability on existing affordable developments, it lacks dedicated resources and sufficient staff to focus on proactive approaches and strategic analysis of how best to deploy very limited resources.

Whereas the production of affordable housing helps alleviate the overall housing affordability crisis, housing preservation can provide immediate and permanent relief to existing tenants. San José has approximately 78,000 apartments under either the Apartment Rent Ordinance or recorded deed restrictions. Preserving these homes, and those that are unregulated but have rents affordable to lower-income families, allows the City to address displacement more efficiently and quickly, and maintain important family and community relationships. By maintaining affordability where it already exists, the City could subsidize existing homes to become newly-affordable homes with relatively short rehabilitation timeframes while it helps to preserve the city's cultural and economic diversity.³⁶

³⁵ California Housing Partnership; Affordable Homes at Risk | 2020 Report <https://chpc.net/resources/affordable-homes-at-risk-2020-report-california/>

³⁶ Catching Affordability Where It's At: Acquisition/Rehab of Oakland's Unsubsidized Affordable Housing https://www.urbandisplacement.org/sites/default/files/images/pr_somayaabdelgany_5.25.pdf

Citywide Residential Anti-Displacement Strategy Recommendations

Focused on Lower-income Renters

The proposed Citywide Strategy focuses on the displacement of extremely low-, very low-, and low-income renters earning 0% to 80% AMI. Displacement among homeowners is less of a concern based upon feedback of homeowners with some expressing that they are experiencing the benefits of increases in the housing market in the form of appreciation in their home values. By contrast, renters in San José are much more likely to experience housing cost burden than homeowners.³⁷ Housing cost burden for the homeowner population has decreased in recent years, and foreclosure rates in San José are the lowest in the nation.³⁸ Given that renters are less secure and are more prone to involuntary displacement than owners, and as lower-income residents have fewer housing options or savings to help them weather times of change, low- income renters are the focus of staff's displacement work.

Proposed Strategies to Address Displacement Are Interwoven and Prioritized by Timing

Below and detailed in Attachment A are staff's 10 recommendations of strategies that could help address displacement in San José. More detailed proposals will be developed in conjunction with community stakeholders for each item if the City Council approves this Strategy.

The full list of recommendations is comprehensive. It takes into consideration extensive community engagement, anti-displacement practices across the nation, gaps in San José's current anti-displacement policies and programs, recommendations from the planning processes noted in the Background section of this memo, and ongoing developments at regional and State levels. The 10 recommendations include all three Ps – Protection, Preservation and Production – as well as one general governance recommendation.

Staff selected these 10 recommendations after considering several dozen different ideas and examples. All ideas were screened with the concept of the optimal role for the City to play in helping address the multi-dimensional issue of residential displacement.

³⁷ CHAS 2012-16, defined as paying more than 30% of gross income on housing plus a reasonable set of utility costs. 49% of SJ renters and 30% of SJ owners are cost burdened, while 24% of renters and 12% of owners are severely cost burdened paying more than half of gross income on housing costs.

³⁸ "Griping about home prices? San José's foreclosure rates are nation's lowest," *Silicon Valley Business Journal*, Apr. 11, 2019, <https://www.bizjournals.com/sanjose/news/2019/04/11/san-jose-silicon-valley-housing-prices-foreclosure.html>. Census data indicates that some moderate-income residents are cost-burdened. Staff is in the process of developing a moderate- income housing strategy to serve this population; that group is outside the scope of this anti-displacement work, given their higher level of income.

Staff considered the following key criteria when determining the final recommendations for what the City could do to help displacement:

- **Responsiveness to needs surfaced** through the community engagement process;
- **Potential impact** to help stem or mitigate effects of displacement;
- **Effort** based on current staffing levels and capacity of potential service providers;
- **Resources** for staffing, outreach, organizational capacity, capital projects; and
- **Examples** of other implementing jurisdictions.

Many selected recommendations work best in conjunction with or are foundational to other recommended strategies. For example, Recommendation 7, Create a Preservation Report and Policy, would provide data enabling City staff to identify how best to target resources gained by Recommendation 10, Establish a New Source of Funding. These funds could be directed to certain types of affordable housing, or to certain geographic neighborhoods, to have the greatest impact. Similarly, Recommendation 3, Explore a Community Opportunity to Purchase program, works only if there is flexible funding appropriate to be used for preservation, which again would involve new funds under Recommendation 10. Working on the composition of Boards and Commissions under Recommendation 4 is foundational, in that it may change recommendations to the City Council, and doing that work now would build on the momentum of the current discussion of changes to the Planning Commission's composition.

The following are brief overviews of staff's 10 recommendations on Protection, Preservation and Production programs and policies for the City to pursue. They are presented in order of suggested priority, with the most urgent listed first. **Attachment A** contains longer descriptions with more details:

Recommendations

1. Support Equitable COVID-19 Recovery Impact Mitigation Measures for Renters and Homeowners

Many families in San José are now facing months of back rent and mortgage payments they are likely unable to afford at the end of the current COVID-19 eviction moratoriums. Without additional intervention, the end of the moratorium could lead to a wave of displacement and homelessness. This recommendation is to support federal and state legislation and private sector action to support resources to help pay and restructure back owed rent and mortgages, including for excluded workers, and otherwise mitigate the impact on housing providers and tenants due to the economic impacts of COVID-19. The City should also coordinate with the County Superior Court and the State to help establish the Housing Collaborative Court currently under development and partially fund costs for legal services to respond to evictions related to COVID-19. This recommendation would also support long-term wellness and resiliency of highly- impacted communities by funding emergency planning and preparedness grants for community-based organizations to increase residents' ability to access resources during an emergency and to develop long-term disaster resiliency in vulnerable neighborhoods. *Recommendation 1 is the most urgent to work on*

immediately, given the COVID-19 crisis and looming threat of new displacement and homelessness.

2. Establish a Neighborhood Tenant Preference for Affordable Housing

This recommendation is for staff to explore development of a Neighborhood Tenant Preference for new affordable apartments, consistent with State and federal fair housing law, IRS tax credit rules and other related law. This preference could give renters living close to new affordable apartments a greater chance at renting a portion of the new homes in their neighborhoods that were intended for the general public. Staff would coordinate with California HCD to ensure State funding could be used in these developments. This work would also likely involve legislative strategy to support widespread acceptance by counsel on developments with bonds and tax credits.

Recommendation 2 was deemed extremely important by many residents from East San José, it could be worked on efficiently together with existing staff work, and resources of the City's Challenge Grant Fellow are available to work on this program, so this item is being prioritized.

3. Explore a Community Opportunity to Purchase Program/Ordinance (COPA)

A Community Opportunity to Purchase Program/Ordinance, also known as a right to make a first offer to purchase, could provide advance notice of the sale of multifamily residential properties to qualified nonprofit affordable housing developers, tenants, and public agencies to provide them the first opportunity to purchase a property. The "community purchasers" would have a certain number of days to notify the seller they intend to make an offer, then a certain number of days to make an offer. Whether a seller would accept an offer, and the price they would accept, would be completely up to them. To the extent that long-term public subsidies were available to turn market-rate properties into restricted affordable housing, this preservation strategy would keep residents in place and increase the number of long-term affordable apartments with mission-oriented owners. COPA also has a long-term possibility to create affordable homeownership opportunities for tenants under different scenarios, whereas homeownership in San José is generally out of reach for low-income households.

Ownership would allow residents greater control over their housing, would help to prevent displacement if buyers do not overspend on their mortgages, and would enable buyers to increase their equity. *Recommendation 3 was strongly supported among residents during community outreach, and resources of the City's Challenge Grant Fellow are available now to work on this program, so this item is being prioritized.*

4. Increase Equitable Representation of Historically Underrepresented Communities on City Commissions

Several City Commissions evaluate and provide recommendations to the City Council on policies and programs that may impact renters. This recommendation is for staff to conduct an analysis of appointments and composition of two commissions – the Housing and Community Development Commission and the Neighborhoods Commission – to track the representation of protected classes and historically underrepresented neighborhoods. This recommendation would also pilot requiring an equitable distribution of seats of historically underrepresented populations on these commissions, such as low- income renters and homeless/formerly homeless residents, and examine whether additional resources and changes to the State’s Brown Act would help increase equitable representation. Providing a small stipend to support and compensate the participation of low-income and homeless residents will also be explored.

5. Create a Role for Local Government in State Tenant Protections

AB 1482 (Chiu) is a new State law that prevents rent spikes and requires just cause for eviction. AB 1482 covers more homes than the City’s Apartment Rent Ordinance, but the only current enforcement mechanism is a lawsuit brought by a tenant or the State Attorney General’s Office. This recommendation is for the City to sponsor state legislation for local education, reporting and enforcement to help increase understanding and compliance with AB 1482 as well as the City’s ordinances. At the same time, mobilehome evictions may be an issue, but the City is unable to study this as it lacks data. Amending the state’s mobilehome residency law would allow the City to legally obtain this information.

6. Increase Housing Quality and Prevent Code Enforcement-related Displacement

Retaliatory evictions sometimes occur in response to code enforcement complaints. The current Multiple Housing inspection program only includes proactive inspections for multifamily rental units in building of three units or more, but increasing proactive rental inspections would help to spur necessary maintenance of rental properties and remove some of the risk of retaliatory evictions. This recommendation would seek to expand proactive code inspections to single family, duplex, and rented condominiums, determining the level of effort, cost, and potential time horizon for the expansion. Landlords who have long-time residents also may not be able to do expensive rehabilitation without assistance, so staff could seek funding for low-cost loans and grants for rental property improvements. Staff could work with the City Attorney’s Office to consider use of the receivership process for buildings in chronic, serious disrepair that threatens tenants’ safety. Staff could also assess the clarity and level of compensation under the City’s ordinances concerning situations that result in tenant displacement, including ‘red-tagging’ of buildings and conversions of rented condominiums to for-sale homes.

7. Create a Preservation Report and Policy

This recommendation would create an annual Housing Balance Report that tracks the net gain and loss of all types of affordable housing to determine the City's progress toward increasing the availability of housing opportunities for its residents. It would also require staff to bring to the City Council for its consideration a Preservation Policy that establishes a goal of preserving existing affordable housing and helping to prevent displacement, to inform programs, resources, and development policy decisions.

8. Develop YIGBY Land Use – Yes in God’s Backyard

This recommendation is to amend the General Plan and the zoning ordinance to allow deed restrictive affordable housing under the Public Quasi Public (PQP) General Plan land use designation and zoning district, when such residential uses are developed as a secondary use in conjunction with the primary use of the property as the property for assembly uses. This recommendation would permit owners of sites with assembly uses, such as houses of worship, to more easily build restricted affordable housing on their land. Long-term land control by mission-oriented nonprofits is a production strategy that can help avoid displacement of tenants.

9. Optimize Urban Villages for Affordable Housing Development and Anti- Displacement

Urban Villages are the primary growth areas in the City’s General Plan. The City has a goal of producing 25% affordable housing in Urban Villages, but no way to require that much be built on individual sites as 25% exceeds the 15% Inclusionary Housing site-specific requirement. This recommendation is to analyze the locations that would be most competitive for affordable housing funding sources in unplanned Urban Villages to help promote affordable developments to proceed before market-rate housing. It could help to ensure that housing can be built in those optimal areas for affordable housing, identify the displacement risk for Urban Villages, and capture all this information in Urban Village Plans. Finally, this recommendation is to track affordable housing production in Urban Villages and report on it annually to the City Council.

10. Establish New Sources of Funding for Affordable Housing and Anti- Displacement

The need for the involvement of all sectors to help meet the community’s need for stable and affordable housing is particularly evident at this time, given the COVID-19 crisis, the City’s current 10,000-unit affordable production goal, and its forthcoming much higher RHNA goals. In addition, some of the initiatives of this Citywide Anti- Displacement Strategy require new resources to implement. This recommendation is for the City to explore additional sources of public funding, particularly to fund Preservation and Protection strategies, and to work with corporate and philanthropic partners to identify funds for property acquisition and long-term patient capital with below-market return expectations.

Note that work on all of the recommendations will include an assessment of their interactions and limitations under federal and State law, funding source restrictions, and applicable legal requirements.

Possible Future Action Items

Of the dozens of other ideas raised by the community and other stakeholders, the following are additional recommendations that staff recommend it could pursue as a secondary priority:

- Create a Plan to Establish a Housing Resource Center and Anti-Displacement Hotline
- Develop Strategies to Increase Fair Access to Housing
- Expand Apartment Rent Ordinance Disclosure Requirements
- Study Short-term Rental Housing.

Anti-Displacement Working Group

Displacement is not just the City's responsibility to solve; it is a joint issue of community importance that will take involvement from many members of the community to make progress. Engaging community members and organizations with a variety of perspectives, backgrounds, and expertise in sustained conversations over the long-term has been important to foster understanding and make progress in developing anti-displacement strategies in other cities. Peer cities in the ADPN group emphasized that it is important to have organizations with interest and enthusiasm in anti-displacement to participate because they want to collaborate ongoing, rather than because they are part of an appointed body that should be represented.

For these reasons, staff intends to convene an Anti-Displacement Working Group with a broad membership of relevant stakeholders and subject matter. Staff can use the Working Group as an important source of input to further develop the recommendations of this Strategy and its implementation plans. The Working Group will be self-selected and self-governing, and existing Housing Department staff would participate to work in partnership, developing program details and partnerships across sectors over time.

CONCLUSION

Residential displacement continues to be an urgent and ongoing issue for thousands of San José residents. Housing is an essential need, both for personal well-being and for public health. The COVID-19 crisis has made the importance of safe and stable housing all too apparent. Housing stability is critical, because every community relies on each other. When low-income residents are displaced against their desires, they lose their support systems and their assets, and their health and economic outcomes suffer. The residents who remain behind also lose from displacement, losing friends, classmates, and community culture. San José's residents and culture are what make it unique from other places. When residents who belong to this community can stay, the whole community benefits.

Adopting the proposed Citywide Residential Anti-Displacement Strategy will enable staff to

develop new policies and programs to prevent, mitigate, and decrease residential displacement. While market forces and changes in the world are more powerful than what the City can do alone, this Strategy is the start of a comprehensive response to a difficult issue.

EVALUATION AND FOLLOW-UP

For the entire Strategy per the Recommendation on page 1, staff intends to return to Council after 12 months with a progress update.

Individual policy items on each recommendation in this Strategy that require City Council approval would be brought forward for the City Council's consideration individually. Attachment B identifies proposed workplans for the first three priority recommendations, which include potential City Council consideration of an ordinance for a Neighborhood Tenant Preference and an ordinance for a Community Opportunity to Purchase program.

In addition, Recommendation 7 proposes an annual Housing Balance Report, which would be brought to the City Council for discussion on the need to preserve certain types of affordable units or those in certain locations. And, per Recommendation 9, the affordable housing production in Urban Villages would be tracked and reported annually to the City Council in the General Plan Annual Performance Report.

Although this Strategy is taking steps in the right direction, the charge to prevent, mitigate, and decrease displacement will be a difficult and multi-year effort. The City should regularly assess the impact of these actions to decrease displacement.

To best assess the impact of the policies and programs recommended in this memorandum, the City will develop a set of metrics to track the progress of key indicators of displacement. These indicators could include the increase or maintenance of low-income and minority households, the increase in the number of naturally-occurring affordable housing units preserved, and a reduction in the number of households experiencing evictions or Ellis Act demolitions. The City would update progress on these indicators at regular intervals and make them available to the public through reports or use of a data dashboard.

CLIMATE SMART SAN JOSÉ

The recommendation in this memorandum has no effect on Climate Smart San José energy, water, or mobility goals. Adopting the Citywide Residential Anti-Displacement Strategy aligns with the Climate Smart San José goals of an economically inclusive city of opportunity and making homes which are efficient and affordable for our families.

POLICY ALTERNATIVES

Alternative #1: Do not adopt the Citywide Residential Anti-Displacement Strategy

Pros: This alternative would allow staff to focus on other housing priorities.

Cons: Staff's existing workplan will not have as much impact to prevent, mitigate, and decrease residential displacement.

Reason for not recommending: This course of action is not recommended because residential displacement is an urgent ongoing issue for San José residents.

Alternative #2: Adopt some recommendations of the Citywide Residential Anti-Displacement Strategy

Pros: This alternative could allow staff to focus more deeply on some strategies than others and potentially have less impact on staff workload.

Cons: Some recommendations work best in conjunction with other recommended strategies. Each recommendation Citywide Residential Anti-Displacement Strategy was developed to address different and interrelated problems contributing to residential displacement. Moving forward with some and not others may leave identified problems unaddressed. Practitioners and academics in the anti-displacement field widely believe that actively pursuing strategies in all "three Ps" is critical to reduce and/or mitigate the effects of residential displacement.

Reason for not recommending: The full list of recommendations takes into consideration extensive community engagement, anti-displacement practices across the nation, gaps in San José's current anti-displacement policies and programs, as well as recommendations from parallel City planning processes, and ongoing developments at regional and State levels. Adopting the complete Strategy would be the most comprehensive approach. Staff will undertake the most urgent and time-sensitive recommendations first, and then move to the next recommendations.

PUBLIC OUTREACH

Staff engaged an estimated 800-1,000 community members and stakeholders through a variety of events and activities over close to two years of work on developing this Strategy. Staff conducted outreach from early 2018 through early 2019 through a series of interviews and focus groups to learn directly from residents in neighborhoods experiencing ongoing displacement and those that had been displaced in the past. From summer 2019 to winter 2020, staff gathered feedback on potential anti-displacement solutions and received new ideas from a broad base of stakeholders at both public and one-on-one meetings. This input helped to generate the list of recommendations included in the Citywide Residential Anti-Displacement Strategy. Staff then did additional outreach to real estate professionals and other stakeholders in early 2020 to get their perspectives. Please see **Attachment C** for a list of community engagement activities.

COORDINATION

The Citywide Residential Anti-Displacement Strategy was developed in coordination with the Office of Economic Development and the Department of Planning, Building, and Code Enforcement. Staff also coordinated with the City Manager's Budget Office and the City Attorney's Office on this memorandum.

COMMISSION RECOMMENDATION/INPUT

The Citywide Residential Anti-Displacement Strategy was discussed at the August 13, 2020, Housing and Community Development Commission meeting held over Zoom. The Commission's feedback will be submitted in a Supplemental memorandum.

FISCAL/POLICY ALIGNMENT

The Citywide Residential Anti-Displacement Strategy aligns with the following General Plan and Housing Element anti-displacement goals:

- **H-1.16**: Identify, assess, and implement potential tools, policies, or programs to prevent or to mitigate the displacement of existing low-income residents due to market forces or to infrastructure investment.
- **H-1.18**: Develop tools to assess and to identify neighborhoods and planning areas that are experiencing or that may experience gentrification in order to identify where anti-displacement and preservation resources should be directed.
- **H-2.1**: Support local, state and federal regulations that preserve "at-risk" subsidized and rental-stabilized units subject to potential conversion to market-rate housing and that will encourage equitable and fair policies that protect tenant and owner rights
- **Housing Element Program #34**: Consider proposed policies or ordinances to protect low- and moderate-income residents in market-rate and deed-restricted affordable housing from displacement.

As the City works to achieve the planned growth and investment per our General Plan 2040, preventing and decreasing displacement will help more long-time and low-income San José residents to stay and receive the benefits of these investments.

HONORABLE MAYOR AND CITY COUNCIL

August 19, 2020

Subject: Citywide Residential Anti-Displacement Strategy

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CEQA

Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

/s/

JACKY MORALES-FERRAND

Director, Department of Housing

For questions, please contact Kristen Clements, Division Manager at (408) 585-8236.

Attachments:

Attachment A – Detailed Descriptions of Anti-Displacement Strategy Recommendations

Attachment B – Workplans for Top Three Highest Priority Recommendations

Attachment C – Anti-Displacement Strategy Community Engagement

ATTACHMENT A

**DETAILED DESCRIPTIONS OF ANTI-
DISPLACEMENT STRATEGY RECOMMENDATIONS**

Please see attached PDF.

ATTACHMENT B

Workplans for Top Three Highest Priority Recommendations

1. Equitable COVID-19 Recovery and Impact Mitigation Measures for Renters and Homeowners Workplan		
Task	Description	Timeline
Program development and research	Plug into coordinated response across City Departments for COVID relief and recovery.	Q3 2020
	Research COVID-19 housing recovery strategies of other large cities and recovery metrics they are tracking.	
	Consider seeking advice or assistance from universities or thinktanks on tracking outcomes.	
	Develop a plan to track data on the success of repayment plans to avoid resident displacement from their homes and from the City, and on the financial condition of small property owners.	
	Survey existing anti-displacement housing programs to identify impediments to eligibility for immigrant households most at risk of homelessness and displacement. Pinpoint possible administrative program changes to remove these barriers.	
Funding	Identify available and possible new sources of ongoing funding that could be used for legal services to prevent eviction, Housing Collaborative Court positions, and housing mediation services if County resources are insufficient.	Q3 2020
	Identify available funding sources, including philanthropic and private grants, for emergency planning and preparedness activities for communities most vulnerable to disaster and/or highly impacted by COVID-19.	
Advocacy	Support active federal and State legislation and budget proposals to repay and subsidize back rent and mortgages, to help mitigate the economic impact of COVID-19 on housing providers and prevent displacement of residents.	Q3-Q4 2020
	Express City support for legislation on eviction and foreclosure prevention and housing recovery from COVID-19 on the 2021 Citywide Legislative Priorities.	
Community Outreach	Participate in existing working groups driving COVID-19 response and recovery to align efforts and eliminate duplication.	Q4 2020
	Interview community leaders in highly COVID-19 impacted neighborhoods with renters at risk of displacement in zip codes 95233, 95127, 95116, and 95148.	
	Prior to the end of the eviction moratorium, hold two COVID-19 housing and displacement meetings led by elected leaders convening civic and private sector leaders, residents, and community-based organizations to: <ol style="list-style-type: none"> 1. Hear the experiences of stakeholders as related to housing and COVID-19 and identify urgent housing problems that must be addressed. 2. Develop equitable short-term and long-term housing recovery strategies. 	Q3-Q4 2020
	Analyze feedback and community-led recommendations. Use feedback to inform future Housing funding priorities. If community feedback and research suggests new policy changes authorized by the City Council are needed, develop recommendations for Council consideration.	Q1 2021

2. Neighborhood Tenant Preference Workplan		
Phase	Description	Timeline
Program Development & Research	Meet with State HCD to clarify policy parameters and necessary fair housing analysis	Q3 2020
	Receive additional guidance from HCD on its revised fair housing analysis framework	
	Do modeling of disparate impact analysis per HCD feedback (definition of neighborhood, residents, set-aside, process)	
	Determine how to prioritize and administer different preferences, and whether fair housing analysis changes	
	Work with City Attorney's Office to identify legal issues, findings for Ordinance, and approve proposed parameters	
	Work with Intergovernmental Relations and State and federal elected delegations on legislation to support acceptance of tenant preferences by bond and tax credit counsel	
	Stakeholder meetings (community and neighborhood, property owners & managers, residents/advocates)	
Community Outreach & Feedback	Draft Ordinance, program description, and disparate impact analysis per HCD guidelines	Q4 2020
	Issue survey to property owners	
	Update rent roll systems programming to incorporate demographic data	
	Incorporate tenant preference language into IHO Ordinance changes sample affordability restriction and memo	
	Second round of stakeholder meetings (community and neighborhood, property owners & managers, residents/advocates)	Q1 2021
	Public meetings (3)	Q1/Q2 2021
	HCD approval of methodology	
Program Finalization & Approvals	Present to Housing & Community Development Commission	Q2 2021
	Present to Community & Economic Development Committee	
	Final revisions based on feedback	
	Final draft Ordinance & materials on public review	
	Check-in meetings with key stakeholders	
	City Council approves Ordinance & program	
Program Implementation	Hosted meetings for public	Q3/Q4 2021
	Preparation of guidance for property owners & the public	
	Community outreach (neighborhood meetings, tabling, associations)	
	Educational meetings for property owners/managers	
	Renter online portal full implementation (to get applicant racial data, screen applicants for preference eligibility)	
	Analysis & implementation / annual HCD reviews	Ongoing

3. Community Opportunity to Purchase Workplan		
Phase	Description	Timeline
	Research COPA results and management in comparable cities	Q3/Q4 2020

Program Development & Research	Meet with counterparts in comparable cities and assess best practices and processes	
	Work with City Attorney's Office to identify legal issues and approve proposed parameters	
	Compile data to determine program parameters (applicability, terms, process, timelines, qualification of purchasers, City staffing needs)	
Community Outreach & Policy Feedback	Meet with specialized stakeholders (property owners, realtors, brokers, lenders, other experts)	Q1 2021
	Meet with potential qualified nonprofit developers/community development corporations	
	Prepare analysis of long-term funding need and possible sources for financing acquisition & rehabilitation/permanent	
	Stakeholder forums	Q2 2021
	First draft of Ordinance and supporting materials incorporating community feedback and study findings	
	Stakeholder public review period and feedback	
Program Finalization & Approvals	Make refinements based on first public review period	Q3/Q4 2021
	Meetings with key stakeholders on refinements	
	Present to Housing & Community Development Commission	
	Present to Community & Economic Development Committee	
	Program revisions based on Commission/Committee comments	
	Stakeholder and community consultation	
	Final draft Ordinance & materials on public review	
City Council approves ordinance & program parameters	Dec 2021	
Program Implementation	Educational component/Public Webinars/Notice period	Q1/Q2 2022
	Create guidance	
	Co-hosted educational meetings; Meet with property owners/managers re. rollout	
	Program begins implementation (6-month notice)	Jul 2022
	Info memo on progress to the City Council after 6 months	Jan 2023
Assess Program performance after 1 year in report to City Council	Aug 2023	

ATTACHMENT C

ANTI-DISPLACEMENT STRATEGY COMMUNITY ENGAGEMENT

Community Leader Interviews

November - December 2018 - 8 interviews from leaders in ongoing displacement neighborhoods in Council Districts 1, 3, 6, 7, and 8.

Events

November 16, 2018 - Anti-Displacement Policy lunch

May 9, 2019 - Affordable Housing Week Event

September 6, 2019 - Summer at the Flea

Renter Focus Groups

November 29, 2018

February 26, 2019

March 13, 2019

March 27, 2019

April 12, 2019

San José Resident Survey

July 2019 – October 2019

Community Forums

August 15, 2019, Seven Trees Community Center

August 24, 2019, Alma Senior Center

September 7, 2019, School of Arts and Culture

September 19, 2019, Camden Community Center

January 21, 2020, SCC Association of Realtors Office

January 24, 2020, MLK Library

January 27, 2020, MLK Library

February 5, 2020, School of Arts and Culture

February 27, 2020, Silicon Valley Organization Office

ATTACHMENT A

Detailed Descriptions of Anti-Displacement Strategy Recommendations

1. Support Equitable COVID-19 Recovery and Impact Mitigation Measures for Renters and Homeowners

- a. Support new federal and State stimulus funding and other legislation focused on eviction and foreclosure prevention and housing recovery from COVID-19.
- b. Explore ways to remove barriers for immigrant families and excluded workers to access COVID-19 relief funding and housing programs.
- c. Increase funding of legal services for tenants being evicted to negotiate rent repayment plans and avoid evictions.
- d. Coordinate with Santa Clara County Courts, the State, and local nonprofits to support the establishment of a Housing Collaborative Court to respond to evictions related to COVID-19.
- e. Track success of actions in preventing eviction of renters from their current housing and displacement from San José.
- f. Identify new funding for community emergency preparedness plans to increase residents’ ability to access resources during an emergency and to develop long-term disaster resiliency for vulnerable neighborhoods.

Type of Strategy	PROTECT Residents in Rapidly changing Neighborhoods
Summary	<p>Many families in San José impacted by the Shelter-In-Place order are seeking protection under San José’s COVID-19 Eviction Moratorium. Although currently sheltered, residents have a financial obligation to pay months of back rent and mortgage payments. Households with lower incomes are at high risk of not being able to fulfill their repayment obligation at the end of the Eviction Moratorium. Without immediate continued intervention, this situation could lead to a wave of displacement from San José and an increase in local homelessness.</p> <p>This recommendation is to develop programs to support an equitable recovery from the pandemic, equitable access to COVID-19 relief and housing programs, and the long-term wellness and resiliency of highly impacted communities. The City would continue to advocate for legislation and search for additional resources to support low-income families’ ability to pay and restructure payments of back-owed rent and mortgage payments to property owners accumulated during the emergency. Staff would analyze and identify possible ways to reach residents who are not eligible to access these supportive resources. This recommendation would involve support for alternatives to eviction, including seeking resources for increased legal services for tenants facing eviction with a focus on avoiding evictions and structuring rent repayment plans to benefit both tenants and landlords. It also would support creation of a Housing Collaborative Court to negotiate terms, settle cases, and link residents to services prior to a case proceeding to eviction court.</p> <p>Finally, staff would seek to track the success of these efforts to mitigate displacement of local residents and would Identify funding for resiliency planning and community preparedness that would be done together with the community.</p>

<p>Description</p>	<p>The COVID-19 pandemic has caused nationwide disruptions across nearly every social and economic sector. Safe and stable housing has been increasingly recognized as vital to ensuring a person’s health and to containing the spread of the virus. At the same time, the virus and the wave of unemployment and furloughs due to shelter-in-place doubled down on the existing housing and displacement crisis.</p> <p>In response, local, state, and national leaders established temporary eviction and foreclosure moratoriums to keep residents housed. While it has stabilized the community temporarily, this intervention will also lead to what some call an impending “rent cliff.” More than half of San José’s renters were already housing cost-burdened prior to COVID-19, while Latinx and Black residents are more likely to be cost-burdened than other renters. Different indicators of vulnerability agree that many lower-income San José residents lack the financial resources to weather periods of unemployment and will have difficulty paying back owed rent and mortgage payments. Their inability to pay housing payments also puts some rental property owners in a precarious financial position, as they also have mortgages and bills to pay.</p> <p>This recommendation is for the City to continue to advocate for State, federal, and private sector resources to help mitigate COVID-19’s negative impact on property owners and renters. Resources would be used to repay and/or subsidize renters’ back rent and owners’ mortgage payments. As an example, the City Council committed almost \$25 million in Rental Assistance since mid-August 2020 to help individuals, domestic violence survivors, and families who need rent assistance due to COVID-19. An increase in federal HOME or CDBG funding could increase those resources that enable both tenants and property owners to pay housing costs. An increase in federal CDBG funds could support the expansion of the City’s Legal Services program funding a local nonprofit consortium to provide legal support to property owners and tenants facing nonpayment of rent and eviction. Settlements in lieu of evictions that include some rent repayments would help both landlords and tenants to financially survive and recover from COVID-19 more easily.</p> <p>The City could also use its advocacy and could search for financial resources to facilitate the Law Foundation of Silicon Valley, the Santa Clara County Courts, the County Office of Supportive Housing, and the State to establish a Housing Collaborative Court. A mandatory settlement conference prior to eviction court dates would allow an opportunity for tenants and landlords to negotiate and settle before proceeding to eviction court. This innovative court structure would also incorporate service providers to help identify services for which tenants may be eligible, to increase their ability to pay for rent and other necessities and get them into a system of care. The Housing Collaborative Court has the potential to divert some of the eviction court volume that threatens to undermine renters’ ability to stay sheltered during the pandemic and damage their ability to stay in San José and obtain stable housing after being evicted.</p> <p>Staff could seek private, philanthropic, and/or university resources to help assess the success of these strategies to prevent evictions and displacement. The program evaluation could also suggest ways to more efficiently administer resources – by clustering geographically, or by targeting outreach in certain ways, for example.</p> <p>Finally, the City would work closely with the County and neighborhoods most affected by COVID-19 to plan and execute an equitable recovery that promotes the long-term wellness and resiliency of communities hit hard by the health crisis. The City would collaborate with resident groups and community-based organizations in highly-impacted neighborhoods and would seek resources to identify and adopt recovery strategies most beneficial to residents – starting with housing supports that help to stabilize these highly-stressed residents.</p>
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Problem it addresses	Homelessness and displacement due to eviction and foreclosure.
Potential Impact	Prior to the COVID-19 pandemic, over 7,000 households faced eviction every year in San José. In May 2020, new Unemployment Insurance claims for the San José area rose to 13,986, and 3,762 new claims for Pandemic Unemployment Assistance were filed. In the San José-Sunnyvale-Santa Clara metropolitan area alone, unemployment rose from 4% to 12%. There are many more thousands of households who have been impacted economically by COVID-19 who face the threat of eviction due to non-payment of rent.
Potential Cost	To be determined
Related Strategy(ies)	<p>Community Plan to End Homelessness 2020-2025 Strategies:</p> <ul style="list-style-type: none"> • Work with key stakeholders, including County agencies, school districts, and cities, to inventory existing prevention resources and identify regulatory, statutory, and policy changes necessary to close gaps in the safety net system. • Protect residents from evictions, displacement, and housing discrimination.
Recommendations/ Next Steps	<ol style="list-style-type: none"> a. Convene community stakeholders to identify their recovery needs. b. Help to shape and support federal and State legislation and budget proposals to forgive or subsidize back rent and mortgages. c. Explore ways to remove barriers to COVID-19 relief funding and housing programs for immigrant families and excluded workers. d. Seek increased funding for legal services to avoid evictions and seek negotiated settlements including rent repayment plans. e. Coordinate with the County Courts, the State, and the Law Foundation to support the establishment of a Housing Collaborative Court and assess financial needs for the future. f. Develop a plan to assess whether rent and mortgage repayment assistance, legal services, and the Housing Collaborative Court have been successful in helping residents to avoid displacement. g. Identify eligible funding sources for community emergency preparedness plans, including use of community-based organizations for outreach in preparing the plans.

2. Establish a Neighborhood Tenant Preference for Affordable Housing

- a. Develop a Neighborhood Tenant Preference that is broadly applicable to new restricted affordable apartments and is consistent with Fair Housing laws.
- b. Work with the State and/or federal elected representatives to support Neighborhood Tenant Preferences to maximize their ability to be used.

Type of Strategy	PROTECT Residents in Rapidly changing Neighborhoods
Summary	<p>The City could develop a Neighborhood Tenant Preference that is broadly applicable to new restricted affordable apartments for the general public, consistent with Fair Housing laws. To ensure that the Tenant Preference can be used on apartments financed with State funds and federal tax credits and/or bonds, staff would work with the California Department of Housing and Community Development, and may need to work on legislation with either the California Legislature or the U.S. Congress.</p>
Description	<p>In San José, most affordable housing developments have long waitlists, and it is hard for lower-income San José residents to quickly find replacement housing when they are displaced from their current rental homes.</p> <p>Tenant preferences set aside a percentage of affordable apartments in residential rental developments for people who meet certain criteria and are income eligible. Preferences can be geographic, meaning they can apply to neighborhoods where displacement is occurring, or they can apply to groups of people, such as residents who live or work in a city.</p> <p>A “Neighborhood” Tenant Preference sets aside some apartments for applicants who already live in the neighborhood in which affordable homes are becoming available. The main advantage of a Neighborhood Tenant Preference is that it would enable residents to remain in their neighborhoods, keeping their social networks and support systems intact. Cities must carefully study demographic data and design tenant preference programs to make sure they would not result in disproportionate selection of people of certain racial or ethnic groups or those in protected classes under federal and State laws.</p> <p>To enable the Neighborhood Tenant Preference to be used in developments funded by State funding, the State Department of Housing and Community Development would have to approve the preference at a program level and recertify it periodically.</p> <p>And, for preferences to have widespread acceptance for use in developments funded by federal tax credits and tax-exempt bonds issued by public agencies like the City, the State or the federal government would ideally acknowledge the specific population served under a policy or a funded program. However, different legal counsel disagrees on the importance of this interpretation, which varies by type of preference. Staff would explore potential solutions further with the City Attorney and external partners as part of this item’s workplan.</p>
Problem it addresses	<p>New affordable housing in a neighborhood may not directly benefit existing low-income residents in the neighborhood.</p>
Potential Impact	<p>Given the City’s potential pipeline of affordable apartments available to the general populations, a Neighborhood Tenant Preference could apply to an estimated 3,000-3,500 households over the next decade.</p>
Potential Cost	<p>Time of budgeted staff</p>

<p>Related Strategy(ies)</p>	<p><i>Tenant preferences are related to several other recommendations, as they would be used for all new affordable apartments produced under the Production recommendations (8. YIGBY, 9. Optimizing Urban Villages) and could be applied upon turnover to apartments acquired under preservation strategies (3. COPA) that become newly affordable.</i></p> <p>Community Plan to End Homelessness 2020-2025 Strategies:</p> <ul style="list-style-type: none"> • Provide rental assistance in a fair and equitable manner, especially to populations which are disproportionately vulnerable to societal and historical injustices. <p>City of San José Analysis of Impediments to Fair Housing 2016-2020:</p> <ul style="list-style-type: none"> • Explore the development of policy that will allow a set-aside in affordable housing developments that prioritizes residents who are being displaced that live in low- income neighborhoods undergoing displacement and/or gentrification.
<p>Recommendations/ Next Steps</p>	<ol style="list-style-type: none"> a. Research similar Neighborhood Tenant Preferences and analyze fair housing impact to identify possible program parameters b. Work with the City Attorney and State HCD on an evaluation framework c. Consult stakeholders on program design, if analysis indicates feasibility d. Work with State and federal lobbyists and representatives’ offices on legislation to support the preference’s legal support so it can be used with tax credits and bonds.

3. Explore a Community Opportunity to Purchase Program/Ordinance (COPA)

- a. Explore a Community Opportunity to Purchase Program (COPA) that would require advance notice and a right of first offer on the sale of multifamily residential properties to nonprofits, tenant organizations & public agencies to help keep properties affordable in perpetuity.
- b. Gauge interest of local philanthropy and other funders to develop a Preservation Investment Fund for San José.
- c. Target the use of subsidy on existing apartment buildings of a defined minimum size in neighborhoods at high risk of displacement.
- d. Determine new affordable housing development partners to work on small building acquisition and rehabilitation projects in San José and assess the capacity and needs for existing San José community organizations to learn to undertake preservation work and/or form local Community Development Corporations.

Type of Strategy	PRESERVE Existing Affordable Housing
Summary	<p>A Community Opportunity to Purchase Act (COPA) program would provide advance notice of the sale of multifamily residential properties to nonprofit developers, tenant organizations, and public agencies to provide them the first opportunity to purchase properties. COPA would enable more properties to become restricted affordable, to the extent public subsidies were available, and owned by mission-oriented organizations that would keep them affordable in the long-term.</p> <p>This strategy recommends the City learn from those involved with San Francisco’s COPA program to assess the current applicability of a similar program in San José. This recommendation leverages work that two other cities with Challenge Grant fellows through the Partnership for the Bay’s Future are also doing to explore COPA programs. Implementing COPA would require adequate long-term subsidy funding and quick-closing acquisition funds, which would entail the exploration of a new fund for preservation activities and could involve targeted investments in high displacement neighborhoods to help stabilize them. Developers who want to do this work are also necessary, so staff would identify existing affordable housing developers who would want to do this work in San José and would assess nonprofit organizations with capacity that are interested in acquiring and rehabilitating existing, potentially smaller buildings in San José in the near-term. In the long-term, San José would need to access resources and technical assistance to grow more local community development corporations to do this neighborhood perseveration work.</p>
Description	<p>When affordable housing properties deed restrictions expire, the property converts to market-rate, and the current residents may face sharp rent increases and displacement. When naturally affordable properties are sold, rent increases are also common. One of the most direct forms of displacement occurs when a property is purchased and “repositioned” by the new owner through redevelopment, increased rents, or renovations. Often, the properties are sold based not on current rents but on prospective market rents that can only be achieved through mass evictions. These purchases generally give tenants no recourse apart from relocation assistance under the Ellis Act, which in San José only applies to some tenants of buildings built before 1979.</p> <p>To help avoid these displacing situations, the City could explore a local Community Opportunity to Purchase Act (COPA) similar to those in cities such as San Francisco and Chicago. COPA would build on State law that requires owners of affordable housing to give advance notice and first right of purchase near the end of affordability periods. COPA would allow the community to have a chance to get involved earlier in the process of any</p>

multifamily building’s sale or transfer. This would increase the likelihood that properties are sold to organizations with the mission of perpetual affordability.

COPA would require all multifamily housing owners intending to sell or transfer their properties to give advance notice to qualified “community” organizations. These would include tenants’ groups, public agencies, and nonprofit affordable housing developers who would be determined to be qualified by certain experience criteria. The qualified buyers would have the right to make a first offer on the property, which they would have to inform the buyer they intend to do within a defined number of days. They would then have a certain amount of time to make the offer. The seller would be free to accept or decline the offer. If the community organization makes an offer that is rejected, and another potential buyer makes a higher offer, the community organization would have the chance to match the higher offer. In addition, the program would require relocation assistance for residents displaced due to a property’s sale, to subsequent financial restructuring, or the cessation of project-based subsidies.

Tenants of a building up for sale could by default always get the right of first refusal to purchase their own building. Generally, as tenants would often be unable to cover the cost of the property purchase, they would partner with an affordable housing developer, a philanthropic institution, or an investor who could lower return requirements to purchase the property at market price. This could allow the tenants to stay in the places they already call home, and could also provide a new pathway to homeownership in neighborhoods with few homeownership opportunities. If tenants were not able to or interested in exercising their rights, another community organization would then have the right to make an offer.

Most buildings need some rehabilitation even 10 or 15 years after they are built, and more as they age. Developers who want to acquire and rehabilitate buildings with existing residents and turn them into restricted affordable apartments are far less common than those that want to do new development. These transactions are not easy, as they involve a lot of work, considerable financial risk, and limited profit – especially if buildings are relatively small. Finding mission-oriented nonprofit affordable housing developers interested in doing this work in San José is part of making a preservation strategy feasible.

Another option would be to team existing community organizations that do not currently do development and teach them skills by helping them to access technical assistance providers (like Enterprise Community Partners and LISC) and pairing them with development partners and consultants so they can gain expertise over time. Growing these local community development corporations is a longer-term strategy that requires operating support (often from local philanthropy), but one that organizations in older east coast cities have employed for decades.

Finally, financing is the necessary ingredient for buyers to exercise their right to purchase. Quick-close acquisition financing would enable short timelines to be met; however, for preservation transactions, the amount needed to be borrowed is often much higher than a traditional lender would lend based on restricted rents. In addition, the acquisition lender will underwrite to the amount of the long-term senior mortgage and the long-term low-interest (public) subsidy. Therefore, establishing a long-term Preservation Investment Fund for San José that provides the long-term subsidy – and possibly the senior mortgage as well – is critical for acquisition financing to be available.

	<p>Once funding is available, staff could determine its most effective use in targeting buildings in neighborhoods that are experiencing displacement and those that need more restricted affordable housing to balance their housing stock.</p>
<p>Problem it Addresses</p>	<p>Lack of dependable pathway to keep low-income residents in place with affordable rents after multifamily building sales</p>
<p>Potential Impact</p>	<ul style="list-style-type: none"> • Encourages access by buyers that would keep buildings restricted affordable in the long-term • Avoids displacement from rental building sales • Gives advance notice to tenants to allow them to plan ahead • Creates a potential pathway for existing tenants to organize, form tenant co-ops, purchase buildings, and acquire assets.
<p>Potential Cost</p>	<p>To be determined</p> <p>Silicon Valley Community Foundation and Council of Community Housing Organizations (CCHO) are supporting knowledge-building, helping to build a local public/nonprofit partnership, and encouraging a Santa Clara County pilot preservation project involving acquisition and rehabilitation.</p>
<p>Related Strategy(ies)</p>	<p><i>COPA is related to Strategy 10. Establish a New Source of Funding for Affordable Housing and Anti-Displacement, as rapid acquisition of buildings and long-term, flexible subsidy sources for affordable rehabilitation/permanent financing require new, flexible sources of funding.</i></p> <p>City of San José Analysis of Impediments to Fair Housing 2016-2020</p> <ul style="list-style-type: none"> • Protect the affordability of rental homes and strengthen tenant protections <p>Community Plan to End Homelessness 2020-2025 Strategies</p> <ul style="list-style-type: none"> • Protect residents from evictions, displacement, and housing discrimination. <p>VTA’s BART Phase II TOD Corridor Strategies and Access Planning Study</p> <ul style="list-style-type: none"> • Ensure extension of affordability for expiring deed restricted projects • Develop acquisition strategy for naturally occurring affordable housing (citywide or in station areas) • Explore a dedicated funding source for housing affordability preservation
<p>Recommendations/ Next Steps</p>	<ol style="list-style-type: none"> a. Research existing programs in comparable cities to assess best practices and processes. b. Engage in co-creation process with specialized stakeholders to determine program parameters. c. Analyze potential sources of long-term funding need and other financing mechanisms to support program. d. Work with community partners to hold series of educational stakeholder forums and incorporate community feedback into policy.

4. Increase Equitable Representation of Historically Underrepresented Communities on City Commissions

- a. Conduct an analysis of appointments to the Housing and Community Development Commission and the Neighborhoods Commission to track the representation of protected classes, historically underrepresented neighborhoods, and those with other relevant characteristics.
- b. Implement a pilot and require an equitable distribution of seats for historically underrepresented populations, including low-income renters and homeless/formerly homeless residents on these two Commissions.

Type of Strategy	Increase Participation in Civic Processes
<p>Summary</p>	<p>City Commissions evaluate and provide recommendations to the City Council on policies and programs that impact San José residents, but commissions have historically not been broadly representative of the City’s diverse communities. In particular, staff has heard there is a lack of representation of renter interests on City boards and commissions. Two of the commissions that are concerned with issues related to displacement that would benefit from diverse leadership include the Housing and Community Development Commission and the Neighborhoods Commission.</p> <p>This recommendation is to increase equitable representation on City boards and commissions by conducting an analysis of the current composition of these two commissions and piloting an equitable distribution of seats to historically underrepresented communities. This would uplift often excluded perspectives to be considered in upcoming housing policies presented to the City Council.</p>
<p>Description</p>	<p>City boards and commissions were established to advise the City Council and provide ongoing input into policies and issues affecting the future of the San José community. However, commissions may miss valuable information in their decision making when members from diverse backgrounds are not represented.</p> <p>For example, several City commissions advise on policies which impact renters, who make up over 40% of all San José residents. Although some commissions have membership requirements, none require representation of renters with dedicated seats.</p> <p>One example is the Housing and Community Development Commission, which is composed of 13 members with the following requirements (SJMC 2.08.2820):</p> <ul style="list-style-type: none"> • 11 members appointed by the Mayor and City Council; • One member shall be a person recommended by an organization of owners of San José mobilehome parks (designated seat); • One member shall be a person recommended by an organization of residents of San José mobilehome parks (designated seat); • One member shall be an owner or manager of a residential rent stabilized property; • One member shall be a tenant of a residential rent stabilized rental unit; • At least five members shall represent low-income households, which for the purposes of this requirement means a person who meets one or more of the following criteria: <ul style="list-style-type: none"> ○ The person is a member of a low- or moderate-income household as defined by HUD as at or below 80% of the area median income (AMI) per 24 CFR 92.2.

	<ul style="list-style-type: none"> ○ The person is an elected member of a neighborhood organization in a low- or moderate-income neighborhood (51% of the neighborhood is at or below 80% AMI as defined by HUD). ○ The person is a resident of a city council designated neighborhood targeted under the place-based neighborhoods initiative to receive federal funding. ○ The person is employed by an organization which has as its primary purpose to serve the interests of low-income residents. <p>The commission should also include members with experience related to development, lending, community development, homeless services, or federal funding.</p> <p>Staff could analyze the current and recent composition of these two City boards and commissions to ensure diverse perspectives can be included when advising on policies presented to the City Council, especially those that impact housing and displacement topics. The analysis would include members’ gender, ethnicity, sexual orientation, disability status, and other relevant demographic qualities such as housing tenure, neighborhood, and level of income.</p> <p>The City could examine a pilot that requires an equitable distribution of seats for underrepresented communities, including renters and homeless/formerly homeless residents, on certain boards and commissions. Staff could assess whether requirements without designated seats can be regularly met, or whether designated seats are advised, and the City’s attorneys would advise how State and federal laws affect this issue.</p> <p>The pilot could also identify barriers to commissioners’ full participation that the City could help to meet to effectively implement this pilot. These may include stipends, assistance with broadband connectivity, or provision of childcare, as examples.</p>
<p>Problem it Addresses</p>	<p>Those most impacted by displacement are not consistently involved in decision making.</p>
<p>Potential Impact</p>	<ul style="list-style-type: none"> ● Increase in representation of protected classes and historically underrepresented neighborhoods in local policymaking
<p>Potential Cost</p>	<p>Time of budgeted staff</p>
<p>Related Strategy(ies)</p>	<p><i>This governance recommendation relates to all others, as it would affect commissions’ recommendations to the City Council on policies and programs.</i></p> <p>Community Plan to End Homelessness 2020-2025 Strategies:</p> <ul style="list-style-type: none"> ● Increase community engagement in supporting affordable and supportive housing development.
<p>Recommendations/ Next Steps</p>	<ol style="list-style-type: none"> a. Conduct a survey to collect demographic information of current and past members of the Housing and Community Development Commission and Neighborhoods Commission. b. Work with the Clerk’s Office to better understand recent history of commissions’ composition and benefits and disadvantages of different structures and sizes. c. Using this information, conduct listening sessions to develop criteria to define underrepresented communities and approaches that would increase equitable representation on commissions.

5. Create a Role for Local Government in State Tenant Protections

- a. Explore clean-up legislation for AB 1482 (Chiu 2019) that would allow local education & enforcement of this new Statewide anti-rent spike and just cause eviction law.
- b. Explore legislation to enable the City to receive copies of eviction notices provided to mobilehome owners and mobilehome renters.

Type of Strategy	PROTECT Residents in Rapidly changing Neighborhoods
Summary	<p>AB 1482 (2019) is a new State law that prevents rent spikes and requires just causes for eviction. AB 1482 covers more homes than the City’s Apartment Rent Ordinance, but the only enforcement mechanism is suing under State law. This recommendation is for the City to sponsor State legislation for local education and enforcement to help increase understanding and compliance with AB 1482 and how it interacts with the City’s ordinances.</p> <p>At the same time, mobilehome evictions may be an issue, but the City is unable to study this issue as it lacks data. Amending State law is the legally best way to get this information. The law could also potentially provide local education & enforcement resources.</p>
Description	<p>The City of San José currently provides support for the education of tenants and landlords on their rights under the Apartment Rent Ordinance (ARO), Tenant Protection Ordinance (TPO), and Ellis Act Ordinance through its Rent Stabilization Program (RSP). The City also has passed local enforcement tools so that tenants who have experienced violations to these laws can submit a petition to the RSP for an administrative hearing.</p> <p>On January 1, 2020, AB 1482 the Tenant Protection Act went into effect. AB 1482 limits annual rent increases at 5% plus local CPI (the rate of inflation) on rental housing at least 15 years old. It also requires landlords to show a “just cause” to evict tenants in place for 12 months or more. Owners who share a home with their tenants, non-REIT owners of single-family home rentals, and owner-occupied duplexes are exempt from the AB 1482. The City’s RSP Team estimates AB 1482 now covers over 31,100 apartments, condos, single family homes, and duplexes that were not previously protected under the City’s ARO or TPO.</p> <p>When AB 1482 passed, the City’s RSP Team started to receive inquiries and complaints of illegal rent increases and no-cause evictions by tenants who would be protected under AB 1482. However, the City does not have jurisdiction or resources to ensure compliance with the new law. The City has also received questions from local owners and renters who would like a local point of contact to help them understand how the State law interacts with the City’s programs. The only way currently to enforce the new State law is for tenants to sue, which is a drastic and ineffective approach. Oppositely, both property owners and renters have supported the City’s gradual enforcement approach for its own ordinances, which begin with administratively issued notices of infractions and periods to correct behavior. The City could take a similar gradual approach on AB 1482 to educate and then take reasonable administrative steps before any legal actions are taken – but only if State law is changed.</p>

	<p>San José also has a Mobilehome Rent Ordinance. However, mobilehomes and mobilehome parks are generally governed by State law. Unlike under the City’s Apartment Rent Ordinance and Tenant Protection Ordinance, the City does not receive copies of eviction notices from mobilehome parks. If the City could receive copies of mobilehome eviction notices, staff would be able to better track the impact of evictions on mobilehome park residents.</p> <p>This recommendation is for the City to sponsor State legislation for local education and enforcement of AB 1482 and to receive copies of mobilehome eviction notices.</p>
<p>Problem it Addresses</p>	<p>Enforcement of existing tenant protections is constrained by State law, limited resources, and lack of knowledge of rental rights.</p>
<p>Potential Impact</p>	<ul style="list-style-type: none"> • Over 31,100 apartments, rented condos, single family homes, and duplexes in San José are now covered by AB 1482 • Residents of nearly 11,000 mobilehomes in San José are covered by State law.
<p>Potential Cost</p>	<p>Time of budgeted staff which could not be paid for by ARO collected fees</p>
<p>Related Strategy(ies)</p>	<p><i>This recommendation is related to 1. COVID Response, as local enforcement of just cause eviction protections would be used if evictions increase due to COVID, and mobilehome evictions could also increase due to COVID.</i></p> <p>City of San José Analysis of Impediments to Fair Housing 2016-2020:</p> <ul style="list-style-type: none"> • Protect the affordability of rental homes and strengthen tenant protections <p>Community Plan to End Homelessness 2020-2025 Strategies:</p> <ul style="list-style-type: none"> • Protect residents from evictions, displacement, and housing discrimination. • Expedite the implementation of new state policies on rent control and discrimination in state and federal housing voucher programs.
<p>Recommendations/ Next Steps</p>	<ol style="list-style-type: none"> a. Initiate discussions with stakeholders to research their interests and suggestions in local education & enforcement of new Statewide anti-rent gouging and just cause eviction law. b. Place these legislative ideas on the list of 2021 City of San José Legislative Priorities.

6. Increase Housing Quality and Prevent Code Enforcement-related Displacement

- a. Seek funding sources to assist landlords with low-cost loans and grants for property improvements to address blight, substandard housing, or other health and safety issues.
- b. Explore expanding proactive rental inspections and requirements for rental units not covered by the City’s existing proactive Multiple Housing Program – rented single family homes, duplexes, condominiums, and other rentals in San José.
- c. Explore if receivership may be appropriate for properties that have become serious health and safety dangers to residents.
- d. Target Preservation funding to help community and nonprofit partners to acquire and maintain properties that have ongoing rehabilitation needs, particularly in areas experiencing displacement.
- e. Conduct a review of the City’s relocation policies, including relocation due to condemnation or “red tagging”, to ensure they result in sufficient compensation, they are consistent under similar circumstances, and that relocation is required to be paid in all situations that result in displacement.

Type of Strategy	PRESERVE Existing Affordable Housing
Summary	<p>Maintaining the City’s buildings in sound physical condition is a core element of any Preservation strategy. This recommendation recognizes that effective Code Enforcement is a critically important way to keep residents in place by lowering the risk of evictions through proactive inspections. Landlords with long-time residents may lack resources to do expensive rehabilitation without financial assistance. Public agency loans or grants for multifamily rehabilitation could help property owners, and could contain conditions that existing tenants remain in place and that short-term rental affordability or other community benefit be given.</p> <p>Some property owners may avoid making critical health and safety repairs to their buildings, despite risks to their tenants. Receivership was a useful tool during the foreclosure crisis and its use may be appropriate in these situations. If owners wanted to sell their buildings, affordable housing developers could make offers to purchase them. This could be a win-win-win for sellers, buyers, and tenants in that renters’ homes would be preserved, and they could remain in place as their buildings are sold to mission-oriented affordable housing developers and rehabilitated.</p> <p>Finally, this recommendation involves staff’s review of City’s relocation policies to ensure they do not unintentionally result in residents’ displacement.</p>
Description	<p>For long-term tenants of unregulated low-rent apartments, the prospect of a dramatic rent increase or general housing instability can create incentives to leave the City or region. As more than half of the City’s renters already pay more than 30% of their gross salary on housing costs, rent increases can be quite destabilizing. At the same time, for some landlords, the need to raise revenue to improve their properties or the incentive of market prices can run counter to their desire to keep their long-term tenants in place or to stay in the rental business altogether.</p> <p>Retaliatory evictions can sometimes occur in response to complaint-driven code enforcement. Proactive rental inspections help spur necessary maintenance of rental</p>

properties and remove some of the risk of retaliatory evictions. Unlike most cities, San José has a proactive Multiple Housing rental inspection program with a three-tier service delivery model which requires more frequent inspections and higher fees for properties with more health, safety, or other code violations. Expansion of proactive inspections would take additional resources, but would likely help to improve housing quality without the risk of retaliatory evictions.

The three-tier inspection system provides incentives for property owners to make efforts to move to a less-expensive tier through responsible property management, as demonstrated by no violations or few minor violations promptly corrected. Code Enforcement has recently reassessed enrolled rental properties to move tiers as appropriate at the end of their tier cycles. Despite this innovative model, there are still many rental properties that carry chronic health and safety issues year after year. Code Enforcement staff has begun to explore the most accurate data indicators to determine buildings that would qualify as more serious, habitual violators worthy of additional attention and resources. This promising work would take time to complete.

Many property owners do not want to evict long-term tenants or to sell their properties to owners who will demolish or “reposition” their property. The City could reward that behavior of keeping tenants in place and help owners’ financial needs by seeking State or federal funds to create a low-cost grant or loan program for multifamily rehabilitation. The funds would carry conditions that existing tenants remain in place, and that short-term rental affordability or other community benefit be given. The City could also create fee waivers or use existing funding sources to help create incentives for property owners of a small number of older buildings who have demonstrated good faith efforts to improve their properties. The goal would be for an owner to invest to increase housing quality without displacing residents. The City also could help these owners by providing special technical assistance on City compliance issues. These improvements could help property owners, help tenants, and increase the useful life of existing naturally affordable housing.

If the City Council agrees that Preservation is an important policy objective, it could allocate eligible funds (such as Measure E, or other funds) towards establishing a Preservation Fund. Many cities in the Bay Area active in preservation started funds with small initial amounts. Staff could issue a Notice of Funding Availability for award of the funds and prioritize properties that are in disrepair, particularly in areas experiencing displacement. In this way, some of those areas’ existing apartments could be repaired and turned into long-term restricted affordable housing. This would give residents the chance to stay in those changing neighborhoods and benefit from potential opportunities while paying reasonable rents.

The City could further strengthen the use of receivership for those properties that are health and safety dangers and are owned by chronic repeat code violators. While the City is just starting to utilize the receivership process, there may be many properties in the City with multiple code violations and/or tenant harassment incidents in which this type of action could be considered appropriate.

Finally, this recommendation includes reviewing the City’s relocation policies to ensure they are sufficient to enable residents to stay in San José and find new housing in all appropriate situations that would result in displacement, including ‘red tagging’ of unsafe buildings.

	<p>Successful programs in San Francisco and Salinas have demonstrated that small incentives and investments can lead to outsized impacts in housing stability. By reducing property ownership costs, proactively enforcing code violations, and providing opportunity for nonprofit partners to acquire substandard housing to preserve as affordable housing, San José can help to protect some households from displacement.</p>
<p>Problem it Addresses</p>	<p>The City loss of existing deed-restricted and naturally affordable housing stock.</p>
<p>Potential Impact</p>	<ul style="list-style-type: none"> • Single family home, condo, and duplex rentals not currently in the multi-housing inspection program • Turns previously neglected and hazardous properties into newly rehabilitated and restricted-affordable housing while keeping tenants in place • Could help 1,540 residents displaced from apartment fires from 2018 – June 2020
<p>Potential Cost</p>	<p>Time of budgeted staff for receivership and relocation policy reviews; To be determined for landlord financial assistance, proactive inspections, and targeted preservation funding</p>
<p>Related Strategy(ies)</p>	<p><i>This recommendation is linked to recommendation 3. Community Opportunity to Purchase (COPA), as owners choosing to sell properties would give notice to qualified “community” organizations, who would have the right to make a first offer to purchase.</i></p> <p><i>This recommendation is also linked to 10. Establish New Source of Funding for Affordable Housing and Anti-Displacement, as new funding would be needed for rehabilitation loans and grants, acquisition/rehabilitation/permanent financing for existing buildings, and for additional proactive Code Enforcement inspections.</i></p> <p>VTA’s BART Phase II TOD Corridor Strategies and Access Planning Study</p> <ul style="list-style-type: none"> • Develop acquisition strategy for naturally-occurring affordable housing (citywide or in station areas) <p>City of San José Analysis of Impediments to Fair Housing 2016-2020:</p> <ul style="list-style-type: none"> • Explore and establish other preservation policies, programs, funding, or tools as appropriate including acquisition <p>Community Plan to End Homelessness 2020-2025 Strategies:</p> <ul style="list-style-type: none"> • Preserve existing deeply affordable housing stock by investing resources to ensure deed restrictions are extended and naturally occurring affordable housing is protected.
<p>Recommendations/ Next Steps</p>	<ol style="list-style-type: none"> a. Identify funding sources and research the interest of landlords in a program to provide low-cost loans and grants for property improvements to address blight or health and safety issues. b. Work with Code Enforcement to explore the level of effort, cost, and potential time horizon involved in expanding proactive rental inspections/ requirements for those rental units not covered by the City’s existing Multiple Housing Program. Consider potential impact of these fee-based services, requiring registration and payment by property owners, on rents charged to tenants. c. Work with Code Enforcement to review criteria for cases where receivership may be appropriate for properties which have become serious health and safety dangers to residents. d. Research the City’s current relocation policies and best practices from other cities.

7. Create a Preservation Report and Policy

- a. Create an annual Housing Balance Report that tracks the net gain and loss of all types of affordable housing to determine the City's progress toward increasing the availability of housing opportunities for its residents.
- b. Bring to the City Council for its consideration a Preservation Policy that establishes a goal of preserving existing affordable housing and helping to prevent displacement, to inform programs, resources, and development policy decisions.

Type of Strategy	PRESERVE Existing Affordable Housing
Summary	<p>An annual Housing Balance Report could monitor the City's net gain or loss of affordable housing. The Report would capture information on all housing that is reasonably priced, including deed-restricted affordable housing, rent-stabilized apartments, and naturally affordable market-rate (low-rent) housing. It could also reflect homes that are becoming investor-owned and rented.</p> <p>The Housing Balance Report data could be paired with a Preservation Policy that the City should preserve its total amount of all types of affordable housing. This integrated, data-led strategy would allow the City to make better decisions about the allocation of its resources and the need for specific strategies.</p>
Description	<p>San José is regularly losing different types of reasonably-priced housing due to a range of causes: demolition; expired deed restrictions; tax-exempt bond payoffs; vacancy decontrol; redevelopment; withdrawals from the rental market; and/or condo conversions. At the same time, a significant amount of San José's homeownership housing is reportedly being purchased as investments and is, or has already been, converted into rental properties. Concern for the preservation of affordable housing, particularly rent-stabilized buildings that may be demolished under the Ellis Act, was one of the most commonly cited concerns from community members at recent community forums.</p> <p>The City has not yet set up an integrated report to quantify the gain and loss of all types of affordable housing so that it can track progress toward increasing the availability of affordable housing and homeownership opportunities for residents. While new State law (SB 330) requires the maintenance of a city's total housing stock, that law does not require the preservation of the total affordable housing stock.</p> <p>Other public entities report regularly on their affordable housing stock so that data-informed decisions can be made. The San Francisco Board of Supervisors adopted an ordinance on April 25, 2015, requiring its Planning Department to prepare a Housing Balance Report twice per year. The report documents how much affordable, naturally affordable, and rent-stabilized housing has been gained and lost. In 2018, this report revealed that from 2008 to 2018, San Francisco lost two units of existing affordable housing for each one being built. This report proves objective information that is useful for a city's preservation programs.</p> <p>This recommendation is for staff to build upon its current affordable housing Production and Preservation Report and Annual Rent Stabilization Report. The Housing Balance Report could pull together preservation data from the City's different sources, use market</p>

	<p>data to identify naturally affordable apartment buildings built after 1979 that sell and raise rents, and include information on the homeownership housing stock to calculate the net gain or loss of affordable housing. The analysis could also be spatially presented, so that the supply and changes could be seen in different neighborhoods.</p> <p>The results of the Report may suggest strategies on certain types of housing, or in certain areas of the City. It also could indicate the severity of any issues identified so as to better guide resource allocation decisions.</p> <p>When this data is coupled with a City Council policy that states preservation of existing affordable housing is a City objective across the City, it would help staff and the City Council make better decisions.</p>
<p>Problem it Addresses</p>	<p>The City’s loss of existing affordable housing, and the lack of knowledge about the need for different types or locations of Preservation strategies.</p>
<p>Potential Impact</p>	<p>The number of naturally occurring affordable housing units (defined as those built after 1979 with rents serving those at or below 80% AMI using a 30% payment standard): approximately 800</p> <p>San José has approximately 92 known City-restricted apartments that are at-risk of expiring affordability restrictions in the next five years, and 16 rent-stabilized apartments that may be at risk of Ellis Act demolition currently known.</p>
<p>Potential Cost</p>	<p>Time of budgeted staff</p>
<p>Related Strategy(ies)</p>	<p>Community Plan to End Homelessness 2020-2025 Strategies:</p> <ul style="list-style-type: none"> • Preserve existing deeply affordable housing stock by investing resources to ensure deed restrictions are extended and naturally occurring affordable housing is protected.
<p>Recommendations/ Next Steps</p>	<ol style="list-style-type: none"> a. Develop the format and data collection systems for the Housing Balance Report. b. Develop a Preservation Policy that would establish a goal of preserving existing affordable housing and helping to prevent displacement, to inform programs, resources, and development policy decisions.

8. Develop YIGBY Land Use – Yes in God’s Backyard

- a. Amend the City’s General Plan and zoning code to allow 100% deed-restricted affordable housing under the Public Quasi Public (PQP) General Plan land use designation and zoning district, when such residential uses are developed as a secondary use in conjunction with the primary use of the property for assembly uses.

Type of Strategy	PRODUCE New Affordable Housing
Summary	<p>Mission-oriented nonprofit organizations that control 100% restricted affordable housing tend to maintain affordability for the long-term. This prevents displacement that occurs when profit-motivated owners allow affordability restrictions to expire and raise rents. To encourage such organizations to develop affordable housing on their properties, the City could amend its General Plan and the zoning code to allow 100% affordable housing developments to proceed under the Public Quasi Public (PQP) General Plan land use designation and zoning district when such residential uses are developed as a secondary use in conjunction with the primary use of the property for assembly uses.</p>
Description	<p>Properties allowing private assembly uses are typically designated in the General Plan with a Public/Quasi Public land use designation. This land use designation supports schools, colleges, corporation yards, homeless shelters, libraries, fire stations, auditoriums, museums, government offices and airports, and private assembly uses, such as religious assembly. While permanent supportive housing for formally homeless people is also allowed within the PQP land use designation, other housing types – including affordable housing for very low- and low-income households – are not allowed.</p> <p>Provision of affordable housing is consistent with many faith organizations’ missions, and the City recently has received inquiries from several faith organizations about how to get affordable apartments developed on their sites. Faith organizations are already important partners helping address the City’s homelessness crisis by operating temporary shelters and safe parking programs. This recommendation is designed to permit development on additional sites for affordable housing and promote site control by mission-oriented organizations likely to preserve affordability in the long-term. If houses of worship use this development path, this recommendation also would be property tax-neutral, as neither they nor affordable apartments restricted to low-income residents that are materially controlled by nonprofits pay property tax under State law.</p> <p>San José has many faiths that worship in churches, temples, mosques, and other places of religious assembly throughout the City. Many of these properties are larger than needed to meet the current needs of their congregations. Underutilized portions of these larger properties present an opportunity for the development of deed-restricted affordable housing. Affordable housing developed on land controlled by mission-oriented organizations would provide new opportunities for individuals and families who might otherwise get displaced by rising rents in the City.</p> <p>This recommendation proposes a General Plan text amendment be made to the PQP land use designation to allow affordable housing for very-low and low-income households in conjunction with assembly uses. To make the zoning code consistent with this text amendment, the PQP zoning district would also need to be amended to allow affordable housing in conjunction with existing assembly uses. This recommendation is not advocating for the wholesale conversion of properties from their assembly uses, in order to preserve these types of properties sought after by many faith-based organizations.</p>

	<p>While other properties allowing assembly uses would also be eligible for this land use process, it is most likely that faith-based organizations would be willing to enter into long-term ground leases of periods such as 99 years that pay only a nominal amount, and record affordability covenants on the site. This has been the City’s experience with its overnight parking ordinance. While it is not expected that this recommendation would lead to a large number of new affordable housing projects being built, it could result in the development of some affordable homes that would help alleviate displacement in certain communities.</p> <p>State Senate Bill 899 (2020) addresses this issue as well, but broadens the scope of this proposal. If this bill passes, staff will also need to make General Plan and zoning code amendments to conform to this State law.</p> <p>Issues for staff to develop further if this strategy is pursued include:</p> <ul style="list-style-type: none"> • defining minimum restricted affordability criteria to qualify for this rule; • defining terms such as ‘primary use’ and ‘secondary use’ of the property; • defining minimum and maximum densities for PQP; • tailoring this rule for properties with multiple uses (for instance, childcare spaces as part of religious space or standalone); • ensuring on-site parking requirements are adequate to discourage excessive street parking and preserve an adequate community supply of parking if housing is developed on surface parking lots; • defining a minimum period of time for an organization to own its property, to discourage abuse by developers that could purchase properties and either ‘convey’ in name only to faith organizations, or that could purchase properties and then file for some religious designation to take advantage of the rule; • researching alternatives the City could pursue if the sponsoring owner ceases operations during the period of affordability; and, • whether land use entitlements could legally dictate that the site would need to be transferred to another nonprofit organization.
<p>Problem it Addresses</p>	<p>Need for sites to build affordable housing.</p>
<p>Potential Impact</p>	<p>There are approximately 435 acres of assembly use properties owned by nonprofit faith organizations with a PQP land use designation, which could be utilized to produce a conservative estimate of 300-500 affordable apartments.</p>
<p>Potential Cost</p>	<p>Time of existing staff</p>
<p>Related Strategy(ies)</p>	<p>Community Plan to End Homelessness 2020-2025 Strategies:</p> <ul style="list-style-type: none"> • Build 18,000 units of housing affordable to extremely low-income (with income from 0 to 30 percent of Area Median Income) and very low-income households (with income from 30 to 50 percent of Area Median Income)
<p>Recommendations/ Next Steps</p>	<ol style="list-style-type: none"> a. Amend the General Plan and zoning ordinance to allow deed-restricted affordable housing under the Public Quasi Public (PQP) General Plan land use designation and zoning district, when such residential uses are developed as a secondary use in conjunction with the primary use of the property as an assembly use. b. Determine if tracking this item is best done with other production-oriented strategies led by Planning, Building and Code Enforcement in the Housing Crisis Workplan.

9. Optimize Urban Villages for Affordable Housing Development and Anti-Displacement

- a. To encourage 100% restricted affordable housing development in Urban Villages before market-rate housing proceeds (per General Plan Policy IP-5.12) and help keep residents in place, analyze unplanned Urban Villages for areas that score well for competitive affordable housing funding sources, and make results available to developers.
- b. Identify the displacement risk for all Urban Villages using a methodology such as the Urban Displacement Project’s framework to better inform Citywide efforts to address displacement.
- c. Strategically target the City’s affordable housing development subsidies to certain Urban Villages to help maximize their ability to mitigate residents’ displacement.
- d. Include analysis from (a) and (b) above into Existing Conditions analysis in Urban Village Plans, along with a statement of the City’s anti-displacement principles and any neighborhood concerns regarding displacement. As part of the Urban Village planning process, consider strategies that support affordable housing on sites identified as optimal for funding sources in (a) above.
- e. Track and report on affordable housing production progress and displacement status of all Urban Villages as a whole within staff’s General Plan Annual Performance Review report to the City Council.

Type of Strategy	PRODUCE New Affordable Housing
Summary	<p>Urban Villages are one of four growth areas in the City’s General Plan. They have a goal of producing 25% restricted affordable housing, but have no way to require that much be built on individual sites, as 25% exceeds the 15% Inclusionary Housing site-specific requirement.</p> <p>This strategy proposes staff conduct advance analysis to inform affordable housing developers of early opportunities in areas that score well for competitive funding sources in Urban Villages, with a focus on unplanned Urban Villages. The analysis would help to increase near-term production volume under General Plan Policy IP-5.12, which allows 100% restricted affordable housing to be built before market-rate housing in Urban Villages that do not yet have Plans. This policy keeps public subsidy levels low and helps mitigate displacement of low-income residents.</p> <p>Staff analysis could also inform the City’s prioritization of its public subsidies to Villages that have higher displacement potential, so that affordable housing can be built before or alongside market-rate housing, giving residents a way to stay in San José as it develops. Analysis of affordable production levels in each Urban Village could also induce the City to geographically focus its resources to achieve more balanced outcomes.</p> <p>Urban Village Plans could increase their focus on affordable housing and displacement, and the City’s policies and goals, by incorporating chapters or sections on these topics. Plans could capture the identified optimal areas for affordable housing production and ensure that forms and densities in those areas are consistent with typical affordable housing developments. Plans also could identify risk of displacement in the area using a methodology such as the Urban Displacement Project’s framework and available map layers. Finally, Plans could identify community feedback on support for certain types of anti-displacement strategies, augmented by the inclusion of strategies appropriate for the local development context.</p> <p>Finally, regular reporting on progress towards Urban Villages’ affordable goals and areas’ displacement risk levels could also help policy makers to make better decisions regarding resources and the mitigation of potential displacement.</p>

<p>Description</p>	<p>The General Plan supports affordable housing creation in Urban Villages in several ways. Doing advance staff analysis to determine optimal areas for affordable housing development could strengthen the public’s use of General Plan Policy IP-5.12, which would result in more 100% affordable housing developments in Urban Villages. Analysis of such optimal areas could be to:</p> <ul style="list-style-type: none"> • Map and analyze existing building stock for affordability (market-rate, naturally affordable, rent-stabilized, mobilehome, and affordable) and areas at-risk of redevelopment. • Estimate income levels of existing residents in at-risk areas to inform the type of affordable housing that could directly offset local displacement following redevelopment. <p>Comparing housing stock to the potential housing need by resident income level would indicate the extent of the mismatch and need to target the City’s resources and attention.</p> <p>To identify areas within Urban Villages appropriate for affordable housing development, analysis could be to:</p> <ul style="list-style-type: none"> • Map publicly owned sites, which can have a priority for affordable housing under State law if declared surplus property. • Map parcels where 100% affordable housing developments could be located to maximize competitiveness for federal, state, and regional subsidy sources. The GIS- based Opportunity Sites map developed by Tolemi that is currently being tested for release may be able to be used for this analysis. <p>This advance access to Urban Villages for affordable housing maximizes affordable developers’ access to sites, minimizes the amount of public subsidy needed for a development, and helps to prevent displacement of local residents. If affordable housing is built before an area gets popular and market-rate housing is developed, residents from the area in danger of displacement due to rising rents and other neighborhood changes might have somewhere local and affordable to move if the affordable housing is built first.</p> <p>Finally, staff should include in the General Plan Annual Performance Review how many of the City’s affordable homes were produced in Urban Villages, and where they were produced. It could also report on how many Urban Villages are classified at different displacement risk levels. Using the Urban Displacement Project analysis framework by UC Berkeley and other universities would be a simple way to do this analysis.</p>
<p>Problem it Addresses</p>	<p>Underproduction of affordable housing in Urban Villages, prime areas close to transit and amenities throughout the City; work spent by developers to identify and assess sites appropriate for affordable housing development</p>
<p>Potential Impact</p>	<ul style="list-style-type: none"> • Improves proactive planning to produce affordable housing and to mitigate local displacement before new investment occurs.
<p>Potential Cost</p>	<p>Additional staff work would be incurred, which could be done with budgeted staff</p>
<p>Related Strategy(ies)</p>	<p>Community Plan to End Homelessness 2020-2025 Strategies:</p> <ul style="list-style-type: none"> • Increase community engagement in supporting affordable and supportive housing development. <p>City of San José Analysis of Impediments to Fair Housing 2016-2020:</p> <ul style="list-style-type: none"> • Strategies to locate affordable housing within growth areas that are experiencing or expect to experience displacement, such as urban villages.

	<ul style="list-style-type: none">• Continue to explore efforts to locate affordable housing within reach of jobs, transit and Urban Village Areas.
Recommendations/ Next Steps	<ol style="list-style-type: none">a. Identify sites in Urban Villages well-positioned to develop with affordable housing prior to adoption of Urban Village plans using General Plan Policy IP-5.1 to facilitate housing for residents who may be displaced.b. Integrate updates on affordable housing and displacement status into Urban Village annual reports.

10. Establish New Sources of Funding for Affordable Housing and Anti-Displacement

a. Continue to explore and pursue ways to collect more funding for affordable housing and anti-displacement strategies.

Type of Strategy	<p>PRODUCE New Affordable Housing PRESERVE Existing Affordable Housing PROTECT Tenants</p>
Summary	<p>Pursue a combination of public, private, and philanthropic funding sources to create the financial tools necessary to fund affordable housing and anti-displacement strategies - the production of new affordable housing, preservation of existing affordable housing, and protection of the City’s tenants. The need for involvement of all sectors is particularly evident given the COVID-19 crisis, the City’s current production goals, and its forthcoming much higher RHNA goals.</p>
Description	<p>Following the dissolution of California’s redevelopment agencies in 2012, San José lost its largest and most stable source of affordable housing funding. Since that time, the City’s affordable housing production dropped sharply while rents increased dramatically. While some sources (Affordable Housing Impact Fee, Inclusionary Housing Ordinance, Santa Clara County’s 2016 Measure A, San José’s 2020 Measure E) have helped provide a portion of the funding needed in recent years, San José still has a significant affordable housing funding gap to meet its goals.</p> <p>In 2018, the Mayor and City Council adopted an ambitious 25,000-unit, five-year housing goal, with 10,000 of the homes to be affordable. As of September 2019, the City had met only 11% percent of its 10,000-affordable homes goal, with another 22% in the prospective pipeline. Further, within the current Regional Housing Needs Allocation cycle 2014-2023, the City is responsible for producing 20,849 affordable housing units, with 14,661 at or below 80% AMI. This averages out to 2,317 affordable units per year needed, with 1,629 at or below 80% AMI. However, in the past three years, the City has permitted an average of only 925 affordable homes per year. While this is an increase from preceding years, it is still well below both the Mayoral goal and the City’s RHNA obligation.</p> <p>In March 2020, the City passed Measure E, a parcel transfer fee to be used for a range of affordable housing uses. The City expects to receive its first revenues from Measure E in fall 2020. While this new funding source will help the City’s affordable housing production, it remains insufficient to meet the City Council’s housing goal, or its RHNA goal. Additional resources and incentives are needed to reach higher.</p> <p>In the past six months, the City has also faced several challenges related to the COVID-19 crisis. From lower revenues to vastly increased resident needs, the COVID-19 crisis has resulted in a perfect storm of fiscal headwinds. In addition, a far larger RHNA goal for the next Housing Element cycle is anticipated, potentially doubling the City’s affordable housing production goals. And, preservation and protection strategies need their own resources.</p> <p>To address the multiple needs and crisis that the City is currently facing, new and more creative forms of funding will be required. Research into how anti-displacement programs and affordable housing is funded in other cities confirms that the most effective anti-displacement programs are supported by dedicated, recurring, flexible sources of revenue.</p>

	<p>Public funding sources used for affordable housing in other cities come from consumption (sales and excise tax), employment (head tax, gross receipts tax), and/or development (commercial linkage fee, incentive-based development fees). In this current environment, the City could consider the effectiveness of these potential sources to support the production and preservation of affordable housing. The City may also consider how to restructure its current tax structure to best fit current conditions.</p> <p>It is also clear that the City will need investment and partnerships with private and philanthropic allies to address this historic crisis. Local foundations have shown interest in funding preservation pilots involving community-based acquisition and rehabilitation projects. Large local and regional employers have also pledged sizable commitments to affordable housing. Only by blending public, private, and philanthropic funds can the City’s affordable housing and anti-displacement challenges have a chance of being addressed.</p> <p>The City could take the lead in creating a low-return investment vehicle that could provide the required up-front capital for property acquisitions. Other cities such as Denver and San Francisco have created, or helped to create, acquisition and rehabilitation loan funds that have blended a variety of funding sources. Philanthropic partners have used both PRIs as well as investment capital to fund affordable real estate projects in different cities. Partnerships with private and philanthropic partners may spur creative new models for housing production and preservation.</p>
<p>Problem it Addresses</p>	<p>Insufficient amount of subsidy available to meet the City’s affordable housing and anti-displacement needs</p>
<p>Potential Impact</p>	<p>Increase in the available resources to fund the affordable housing gap and address Production, Preservation, and Protection needs</p>
<p>Potential Cost</p>	<p>Yes, to be determined</p>
<p>Related Strategy(ies)</p>	<p><i>This recommendation is related to all others in the Strategy, as it would create additional resources for Production, Preservation, and Protection programs.</i></p> <p>VTA’s BART Phase II TOD Corridor Strategies and Access Planning Study</p> <ul style="list-style-type: none"> • Explore a dedicated funding source for housing affordability preservation City of San José Analysis of Impediments to Fair Housing 2016-2020: • Explore and establish other preservation policies, programs, funding, or tools as appropriate including acquisition <p>City of San José Commercial Linkage Fee Study (being heard by the City Council in September 2020), which could fund Production and Preservation of market-rate residences</p>
<p>Recommendations/ Next Steps</p>	<ol style="list-style-type: none"> a. Identify appropriate public funding sources for additional Production, Preservation and Protection strategies b. Evaluate funding source and structures used by other cities and the amounts needed c. Discuss with local companies and foundations the potential uses of public funds together with private and philanthropic funds to consider new ways of funding capital and programs

San José Citywide Residential Anti-Displacement Strategy

AUGUST 2020

BACKGROUND

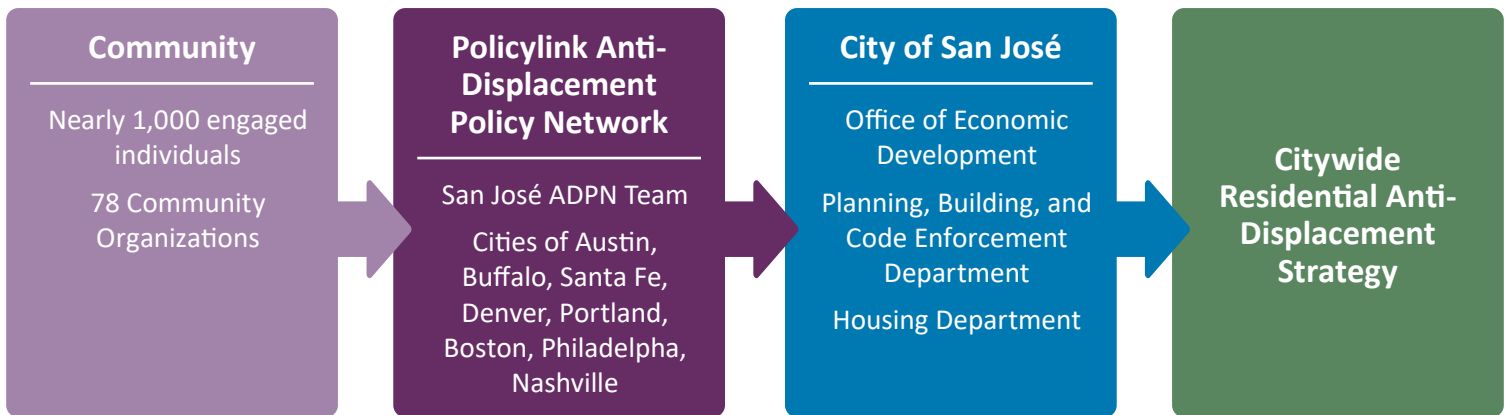
On June 12, 2018, the City Council prioritized the issue of displacement within the Housing Crisis Response Workplan in Item #9: Develop Anti-Displacement Strategies.

This Citywide Residential Anti-Displacement Strategy provides 10 recommendations to **prevent, mitigate, and decrease** displacement in San José.

OUR VISION

As San José grows and secures planned investments, we should maximize the positive opportunities and minimize the negative impacts for our vulnerable residents, so they can succeed in our changing City.

THANK YOU TO OUR PLANNING PARTNERS



HOW TO PREVENT, MITIGATE, AND DECREASE DISPLACEMENT

1

Produce enough housing for residents at all income levels.

2

Preserve the affordable housing that already exists.

3

Protect current residents from displacement where neighborhoods are changing rapidly.

STRATEGY SELECTION — Selection of the recommended solutions was based on the following criteria:

Responsiveness to needs surfaced through community engagement process

Effort required based on current staffing levels and capacity of potential service providers

Examples of **other jurisdictions** employing the strategies

Creating a foundation to build community capacity or to involve other sectors

Potential impact to help identified needs and change current conditions

Reasonableness of resources needed for staffing, outreach, capacity building, capital projects

Appropriateness of City's role in each type of strategy

IN PROGRESS STRATEGIES

- | | |
|--|--|
| Conduct a public land survey and partner with the State. | Increase and expand homelessness prevention. |
| Establish anti-displacement and displaced tenant preferences for affordable housing. | Implement “no net loss” of naturally affordable housing per SB 330 (2019). |
| Conduct a feasibility study of innovative housing solutions, including community land trusts and co-ops. | Create an on-line housing opportunity sites tool for developers (Tolemi). |
| Hire a staff position to work with landlords and tenants to resolve problems in troubled buildings. | Study a commercial linkage fee for affordable housing. |

NEW RECOMMENDATIONS

1

Support Equitable COVID-19 Recovery and Impact Mitigation Measures for Renters and Homeowners

- A) **Support new federal and State stimulus funding and other legislation** focused on eviction and foreclosure prevention and housing recovery from COVID-19.
- B) Explore ways to **remove barriers for immigrant families and excluded workers** to access COVID-19 relief funding and housing programs.
- C) Increase funding of legal services for tenants being evicted to **negotiate rent repayment plans** and avoid evictions.
- D) Coordinate with Santa Clara County Courts, the State, and local nonprofits to **support the establishment of a Housing Collaborative Court** to respond to evictions related to COVID-19.
- E) **Track success of actions** in preventing eviction of renters from their current housing and displacement from San José.
- F) Identify new funding for **community emergency preparedness plans** to increase residents’ ability to access resources during an emergency and to develop long-term disaster resiliency for vulnerable neighborhoods.

2

Establish a Neighborhood Tenant Preference for Affordable Housing

- A) Develop a **Neighborhood Tenant Preference** that is broadly applicable to new restricted affordable apartments and is consistent with Fair Housing laws.
- B) Work with the **State and/or federal elected representatives to support** Neighborhood Tenant Preferences to maximize their ability to be used.

NEW RECOMMENDATIONS CONT.

3

Explore a Community Opportunity to Purchase Program (Right of First Offer to Purchase)

- A) Explore a Community Opportunity to Purchase Program (COPA) that would require **advance notice and a right of first offer on the sale of multifamily residential properties** to nonprofits, tenant organizations & public agencies to help keep properties affordable in perpetuity.
- B) Gauge interest of local philanthropy and other funders to **develop a Preservation Investment Fund** for San José.
- C) **Target the use of subsidy on existing apartment buildings** of a defined minimum size in neighborhoods at high risk of displacement.
- D) **Determine new affordable housing development partners** to work on small building acquisition and rehabilitation projects in San José, and assess the capacity and needs for existing San José community organizations to learn to undertake preservation work and/or **form local Community Development Corporations**.

4

Increase Equitable Representation of Historically Underrepresented Communities on City Commissions

- A) **Conduct an analysis of appointments** to the Housing and Community Development Commission and the Neighborhoods Commission to track the representation of protected classes, historically underrepresented neighborhoods, and those with other relevant characteristics.
- B) **Implement a pilot and require an equitable distribution of seats for historically underrepresented populations**, including low-income renters and homeless/formerly-homeless residents on these two Commissions.

5

Create Role for Local Government in State Tenant Protections

- A) Explore clean-up legislation for AB 1482 (Chiu 2019) that **would allow local education & enforcement of this new Statewide anti-rent spike and just cause eviction law**.
- B) Explore legislation to enable the City to receive copies of eviction notices provided to **mobilehome owners and mobilehome renters**.

6

Code Enforcement-related Displacement

- A) Seek funding sources to **assist landlords with low-cost loans and grants for property improvements** to address blight or health and safety issues.
- B) Explore **expanding proactive rental inspections/requirements for rental units** not covered by the City's existing inspections – rented single family homes, duplexes, condominiums, and other rentals in San José.
- C) **Explore if receivership may be appropriate** for properties that have become serious health and safety dangers to residents.
- D) **Target Preservation funding** to help community and nonprofit partners to acquire and maintain properties that have ongoing rehabilitation needs, particularly in areas experiencing displacement.
- E) **Conduct a review of the City's relocation policies**, including relocation due to red tagging, to ensure they result in sufficient compensation, they are consistent under similar circumstances, and that relocation is required to be paid in all situations that result in displacement.

NEW RECOMMENDATIONS CONT.

7

Preservation Report and Policy

- A) Create an **annual Housing Balance Report** that tracks the net gain and loss of all types of affordable housing to determine the City's progress toward increasing the availability of housing opportunities for its residents.
- B) Bring to the City Council for its consideration a Preservation Policy that **establishes a goal of preserving existing affordable housing** and helping to prevent displacement, to inform programs, resources, and development policy decisions.

8

Develop YIGBY Land Use – Yes in God's Backyard

- A) Amend the City's General Plan and zoning code to **allow 100% deed-restricted affordable housing under the Public Quasi Public (PQP) General Plan land use designation and zoning district**, when such residential uses are developed as a secondary use in conjunction with the primary use of the property for assembly uses.

9

Optimize Urban Villages for Affordable Housing Development and Anti-Displacement

- A) To encourage 100% restricted affordable housing development in Urban Villages before market-rate housing proceeds (per General Plan Policy IP-5.12) and help keep residents in place, **analyze unplanned Urban Villages for areas that score well for competitive affordable housing funding sources**, and make results available to developers.
- B) **Identify the displacement risk for all Urban Villages** using a methodology such as the Urban Displacement Project's framework to better inform Citywide efforts to address displacement.
- C) Strategically **target the City's affordable housing development subsidies** to certain Urban Villages to help maximize their ability to mitigate residents' displacement.
- D) Include analysis from (a) and (b) above into Existing Conditions analysis in Urban Village Plans, along with a **statement of the City's anti-displacement principles and any neighborhood concerns** regarding displacement. As part of the Urban Village planning process, **consider strategies that support affordable housing** on sites identified as optimal for funding sources in (a) above.
- E) Track and **report on affordable housing production progress and displacement status** of all Urban Villages as a whole within staff's Urban Village implementation annual report to the City Council.

10

Establish a New Source of Funding for Affordable Housing and Anti-Displacement

- A) Continue to **explore and pursue ways to collect more funding for affordable housing and anti-displacement strategies**.

FUTURE ITEMS

Create a Plan to Establish a Housing Resource Center, Develop Strategies to Increase Fair Access to Housing for High-barrier Subpopulations, Expand ARO Disclosure in Marketing Materials

If you have any questions, please contact Jacklyn Joanino in the City's Housing Department at jacklyn.joanino@sanjoseca.gov or (408) 780-5690.