

District 1 — Roma Dawson  
District 3 — Barry Del Buono  
District 5 — Ruben Navarro  
District 7 — Victoria Partida  
District 9 — John Sellarole  
Mayor — Vacant

Alex Shoor — District 2  
Linh Vong — District 4  
Andrea Wheeler — District 6  
Huy Tran — District 8  
Roberta Moore — District 10  
(C) Martha O’Connell — CAAC MR  
(VC) Ryan Jasinsky — CAAC ML

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Commissioners are appointed by corresponding Council Members, but do not need to reside in that Council District.

Note that Commissioner appointments are current as of the date of agenda posting, 11/10/2021

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## **SPECIAL MEETING AGENDA**

5:45 PM

January 27, 2022

Virtual [Zoom Link](#)  
Web ID: **940 5398 8541**  
**888-475-4499 (Toll Free)**

**\* COVID-19 NOTICE \***

**Consistent with AB 361 and City of San José Resolution Nos. 79485, 80237, 80266, 80290, and 80323 and 80343, this meeting will not be physically open to the public, and the Housing & Community Development Commissioners will be teleconferencing from remote locations.**

HCDC is meeting via teleconference from remote locations in accordance with State and local orders and measures taken as a result of the COVID-19 pandemic. Members of the public may view and listen to the meeting by following the instructions below. Additional instructions are provided below to those members of the Public who would like to comment on items on the agenda.

### **How to attend the Housing & Community Development Commission Meeting:**

- 1) **Electronic Device Instructions:** For participants who would like to join electronically from a PC, Mac, iPad, iPhone, or Android device, please click this URL: [Zoom Link](#).
  - a. Use a current, up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers including Internet Explorer. Mute all other audio before speaking. Using multiple devices can cause an audio feedback.
  - b. Enter an email address and name. The name will be visible online and will be used to notify you that it is your turn to speak.
  - c. When the Chair calls for the item on which you wish to speak, click on “raise hand.” Speakers will be notified shortly before they are called to speak.
  - d. When called, please limit your remarks to the time limit allotted.
- 2) **Telephone Device Instructions:** For participants who would like to join on their telephones, please dial **888-475-4499 (Toll Free)** and when prompted, enter meeting Webinar ID: **940 5398 8541**. You may also **press \*9 to raise a hand to speak**.
- 3) **Public Comments prior to meeting:** If you would like to submit your comments prior to the meeting, please e-mail [Luisa.Galdamez@sanjoseca.gov](mailto:Luisa.Galdamez@sanjoseca.gov) or call **(408)**

**535-8357 no less than 90 minutes before the start of the meeting.** Comments submitted prior to the meeting will be considered as if you were present in the meeting.

*Commissioners are strongly encouraged to log on by 5:30pm to ensure there are no technical difficulties – thank you!*

**APPROX. TIME                      AGENDA ITEM**

*Note that the times for items shown below are approximate and intended only to notify the Commission of the approximate amount of time staff expects each item might take. Please note that items may be heard before or after the times shown.*

- 5:45                      I.                      Call to Order & Orders of the Day**
  - A. Chair reviews logistics for Zoom meetings
  
- 5:50                      II.                      Introductions**
  
- 6:00                      III.                      Consent Calendar**
  - A. Approve the Minutes for the Meeting of January 13, 2022  
ACTION: Approve the January 13, 2022 action minutes.
  
- 6:05                      IV.                      Reports and Information Only**
  - A. Chair
  - B. Director
  - C. Council Liaison
  
- 6:12                      V.                      Open Forum**

*Members of the Public are invited to speak on any item that does not appear on today’s Agenda and that is within the subject matter jurisdiction of the Commission. Meeting attendees are usually given two (2) minutes to speak during Open Forum; however, the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate due to a large number of speaker requests.*
  
- 6:20                      VI.                      Old Business**
  
- 6:21                      VII.                      New Business**
  - A. Draft AFH Plan and Housing Elements Strategies**  
(K. Clements, Housing Department)  
ACTION: Receive staff’s report on the Assessment of Fair Housing (AFH) Plan, including draft strategies in the AFH plan and draft AFH strategies to incorporate into the Housing Element, and make possible recommendation(s) to staff and/or the City Council.
  
- 7:30                      VIII.                      Open Forum**

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**7:35 IX. Meeting Schedule**

The next Regular Meeting for the Commission is scheduled to be held on **Thursday, February 10, 2022, at 5:45 p.m. online**. Items tentatively expected to be heard are:

- Annual Action Plan FY 2022-23 Funding Priorities
- Better Housing Initiative Update
- HCDC Lived Experience Seat

Please also note that the Commission will need to hold a Special Meeting in late February, between February 23 and 25. Commissioners are requested to check their Commission email regularly and respond within one week of the request with their availability.

**7:45 X. Adjournment**

You may speak to the Commission about any discussion item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the Commission. Please be advised that, by law, the Commission is unable to discuss or take action on issues presented during Open Forum. Pursuant to Government Code Section 54954.2, no matter shall be acted upon by the Commission unless listed on the agenda, which has been posted not less than 72 hours prior to meeting. Agendas, Staff Reports and some associated documents for the Commission items may be viewed on the Internet at <http://www.sanjoseca.gov/hcdc>. Speakers using a translator will be given twice the time allotted to ensure non-English speakers receive the same opportunity to directly address the Commission.

Correspondence to the Housing & Community Development Commission is public record and will become part of the City's electronic records, which are accessible through the City's website. Before posting online, the following may be redacted: addresses, email addresses, social security numbers, phone numbers, and signatures. However, please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the Housing & Community Development Commission, will become part of the public record. If you do not want your contact information included in the public record, please do not include that information in your communication.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk, 200 East Santa Clara Street, 14<sup>th</sup> Floor, San José, California 95113, at the same time that the public records are distributed or made available to the legislative body. Any draft resolutions or other items posted on

the Internet site or distributed in advance of the Commission meeting may not be the final documents approved by the Commission. Contact the Office of the City Clerk for the final document.

On occasion, the Commission may consider agenda items out of order.

The Housing & Community Development Commission meets every second Thursday of each month (except for July and sometimes December) at 5:45pm, with special meetings as necessary. If you have any questions, please direct them to the Commission staff. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

**To request translation or interpretation services, accommodation, or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events, or printed materials, please call (408) 535-1260 as soon as possible, but at least three business days before the meeting.**

**Please direct correspondence, requests, and questions to:**

City of San José Housing Department  
Attn: Luisa Galdamez  
200 East Santa Clara Street, 12<sup>th</sup> Floor  
San José, California 95113  
Tel: (408) 535-8357  
Email: [Luisa.Galdamez@sanjoseca.gov](mailto:Luisa.Galdamez@sanjoseca.gov)

**Para residentes que hablan español:** Si desea mas información, favor de llamar a Luisa Galdamez al 408-975-4475.

**Tiếng Việt:** Xin vui lòng liên lạc Viviane Nguyen tại 408-975-4462.

**對於說華語的居民:** 請電 408-975-4450 向 Ann Tu 詢問詳細事宜。

**HOUSING & COMMUNITY DEVELOPMENT COMMISSION  
MEETING ACTION MINUTES**

**January 13, 2022**

<b>MEMBERS PRESENT:</b>	Martha O’Connell Ryan Jasinsky Roma Dawson Alex Shoor Barry Del Buono Linh Vong Ruben Navarro Andrea Wheeler Victoria Partida John Sellarole	Chair (MR) Vice Chair (ML) Commissioner (D1) Commissioner (D2) Commissioner (D3) Commissioner (D4) Commissioner (D5) Commissioner (D6) Commissioner (D7) Commissioner (D9)
<b>MEMBERS ABSENT:</b>	Huy Tran Roberta Moore VACANT	Commissioner (D8) Commissioner (D10) Mayor (CW)
<b>STAFF PRESENT:</b>	Rachel VanderVeen Luisa Galdamez Helen Chapman Kemit Mawakana Darius Brown Elisha St Laurent	Deputy Director, Housing Department HCDC Assistant Secretary, Housing Department Council Office Liaison, District 2 Division Manager, Housing Department Senior Development Officer Analyst II, Housing Department

**(I) Call to Order & Orders of the Day**

A. Review logistics for Zoom meetings

**Chair O’Connell called the meeting to order at 5:45 p.m.**

**(II) Introductions** – Commissioners and staff introduced themselves.

**(III) Consent Calendar**

A. Minutes for the Meeting of December 9, 2021

ACTION: Approve the December 9, 2021 action minutes.

**Commissioner Wheeler made the motion to approve the minutes for the meeting of December 9, 2021, with a second by Commissioner Sellarole. The motion passed 10-0.**

**Yes: O’Connell, Jasinsky, Dawson, Shoor, Del Buono, Vong, Navarro, Wheeler, Partida, Sellarole (10)**

**No: None (0)**

**Absent: Tran, Moore (2)**

**(IV) Reports and Information Only**

**A. Chair:** No Report

**B. Director:** Ms. VanderVeen reported that one of the items for tonight’s meeting was moved to next month’s meeting. Ms. VanderVeen noted that Springtime will be busy with many Housing policies resulting in a possible Special HCDC meeting in the upcoming months.

**C. Council Liaison:** Ms. Chapman reported the redistricting has been finalized by City Council, taking effect on February 13, 2022.

**(V) Open Forum**

**(VI) Old Business**

**(VII) New Business**

**A. Commercial Linkage Fee Ordinance Updates**

**(R. VanderVeen, Housing Development)**

**ACTION:** Receive the staff report on proposed changes to the Commercial Linkage Fee (CLF) Ordinance and Fee Schedule Resolution, including the timing of fee payments, credit for constructing affordable units, and other implementation details, and make possible recommendations.

**Commissioner Shoor made the motion to receive the staff report and amend the recommendation on payment option to 95% of the fee at building permit issuance, with a second by Commissioner Dawson. The motion passed 8-2.**

**Yes: O’Connell, Dawson, Shoor, Del Buono, Vong, Navarro, Wheeler, Partida (8)**

**No: Jasinsky, Sellarole (2)**

**Absent: Tran, Moore (2)**

**Commissioner Wheeler made the motion to support staff recommendation to remove credits for historic preservation and sustainable development and recommend that the credits come from a different source than the commercial linkage fee, which is directed to providing affordable housing, with a second by Commissioner Shoor. The motion passed 10-0.**

**Yes: O’Connell, Jasinsky, Dawson, Shoor, Del Buono, Vong, Navarro, Wheeler, Partida, Sellarole (10)**

**No: (0)**

**Absent: Tran, Moore (2)**

**Housing & Community Development Commission  
Draft Minutes Regular Meeting – January 13, 2022  
Item III-A**

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**Commissioner Wheeler made the motion to recommend that the exemption level be left at 40,000 sq ft., with a second by Commissioner Vong. The motion passed 8-2.**

**Yes: O’Connell, Dawson, Shoor, Del Buono, Vong, Navarro, Wheeler, Partida (8)**

**No: Jasinsky, Sellarole (2)**

**Absent: Tran, Moore (2)**

**(VIII) Open Forum**

*Members of the Public are invited to speak on any item that does not appear on today’s Agenda and that is within the subject matter jurisdiction of the Commission. Meeting attendees are usually given two (2) minutes to speak on any discussion item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Speakers using a translator will be given twice the time allotted to ensure non-English speakers receive the same opportunity to directly address the Commission.*

**(IX) Meeting Schedule**

The next regular Commission meeting is scheduled to be held on **February 10, 2022, at 5:45pm** online. Items expected to be heard are (*corrected version*):

- Annual Action Plan FY 2022-23 Funding Priorities
- Better Housing Initiative Update
- HCDC Live Experience Seat

In addition, a second, Special Meeting is expected to be held in January. At the meeting, Commissioners agreed the date would be **January 27, 2022, at 5:45 p.m. online**. Item expected to be heard is:

- Assessment of Fair Housing Report & Housing Element Strategies Report

**(X) Adjournment**

**Chair O’Connell adjourned the meeting at 7:00 p.m.**



# Memorandum

**TO:** HOUSING & COMMUNITY  
DEVELOPMENT COMMISSION

**FROM:** Jacky Morales-Ferrand

**SUBJECT:** SEE BELOW

**DATE:** January 20, 2022

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Approved

Date

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**SUBJECT: ASSESSMENT OF FAIR HOUSING (AFH) PLAN REPORT**

## RECOMMENDATION

Receive staff's report on the Assessment of Fair Housing (AFH) Plan, including draft strategies in the AFH plan and draft AFH strategies to incorporate into the Housing Element, and make possible recommendation(s) to staff and/or the City Council.

## OUTCOME

The City's work to create an Assessment of Fair Housing (AFH) has been integrated into the process to develop the sixth cycle Housing Element to comport with State law. Commission members will get an update on the development of AFH and the Housing Element and their approval paths, and will have the opportunity to give feedback on areas of interest for draft strategies.

## BACKGROUND

In 2019, the City started work on its first AFH. In addition to needing this work to support the City's next Housing Element cycle as required by Assembly Bill 686 (2018), the City also needed to use the AFH findings to assess barriers to fair housing access as part of the development of its new five-year Consolidated Plan for the use of funds from the U.S. Department of Housing and Urban Development.

On October 10, 2019,<sup>1</sup> staff presented an update on the Assessment of Fair Housing timeline and the draft community engagement plan to the Neighborhood Services and Education Committee. The Housing Department successfully used the initial AFH data, findings, and comments received during community engagement in fall 2019 and early 2020 to inform federal funding

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<sup>1</sup> <https://sanjose.legistar.com/MeetingDetail.aspx?ID=711317&GUID=281916F6-FE55-455A-8F9B-C9B4D40C6C60&Options=info|&Search=>



priorities for the City's *2020-25 Consolidated Plan*, which the City Council approved in August 2020.<sup>2</sup>

On May 13, 2020, the Department of Planning, Building and Code Enforcement issued an Information Memo on the State Regional Housing Needs Allocation and Housing Element Reforms for the Sixth Cycle.<sup>3</sup>

On November 10, 2020, the City Council accepted a report from the Department of Planning, Building and Code Enforcement on the State Regional Housing Needs Allocation and Housing Element Reforms for the Sixth Cycle.<sup>4</sup>

In May and June 2021, Housing Department staff presented initial findings of San José's fair housing needs at the following public meetings:

- Housing and Community Development Commission, May 13, 2021
- Neighborhood Services and Education Committee, May 20, 2021
- City Council, June 8, 2021.

When Housing Department staff presented to the Neighborhood Services and Education Committee in May 2021, Committee members expressed support for community education on fair housing, interest in homeownership and asset building strategies, and interest in strategies to overcome racial discrimination in access to housing.

## **ANALYSIS**

### **Assessment of Fair Housing and the Housing Element are Intertwined**

State and federal Fair Housing laws were initially designed to prohibit racial discrimination and/or promote racial integration in housing. The newer mandate to "affirmatively further fair housing" (AFFH) now goes beyond prohibiting housing discrimination. AFFH is a requirement that federal agencies, federal grantees, and public agencies actively address and work to eliminate housing discrimination and segregation. This requires they start with taking meaningful actions to combat discrimination, and then go beyond to remedy existing patterns of segregation. Governments are obligated to foster inclusive communities free from barriers – intentional and unintentional – that restrict residents' access to opportunity.

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<sup>2</sup> *2025-20 Consolidated Plan and FY 2020-21 Annual Action Plan*, <https://www.sanJoseca.gov/your-government/departments-offices/housing/resource-library/hud-reports/consolidated-annual-action-plans/2020-25-consolidated-annual-action-plans>

<sup>3</sup> <https://storage.googleapis.com/proudcity/santaclaracountycities/uploads/2020/05/RHNA-CC-Memo.pdf>

<sup>4</sup> File 20-1417, <https://sanjose.legistar.com/LegislationDetail.aspx?ID=4679550&GUID=BB07E381-308F-4EB2-87BE-688C4387C613&Options=&Search=>

Fair housing law focuses on people in "protected classes," as discrimination toward people with these characteristics regularly cause barriers for their access to housing and employment. **Table 1** lists the protected classes that the City’s AFH work focuses on.

**Table 1: Classes of People Protected under Federal and California Law**

<b>Federal Protected Classes</b>	<b>California Protected Classes</b>
Race, ethnicity, color, national origin	All federally protected classes
Religion	Gender identity and gender expression
Sex	Marital status
Familial status	Medical conditions
Disability	Military and veteran status
	Age (for people over 40)
	Genetic information
	Ancestry

The AFH in the Housing Element must analyze patterns and develop solutions related to:

- Enforcement of Fair Housing laws and associated outreach
- Integration and segregation at the neighborhood and regional levels
- Racially or ethnically concentrated areas of poverty
- Disparities in access to opportunity, and
- Disproportionate housing needs, including displacement risk.

The AFH must consider factors that cause, increase, contribute to, maintain, or perpetuate these patterns and incorporate local data and knowledge. Public outreach is an important part of the process. The State’s expectation is that communities work on two levels to improve housing choices:

1. Increasing the ability for protected-class residents to access high-quality housing in good neighborhoods, and
2. Improving neighborhood conditions in areas that have concentrations of residents with lower incomes and racial /ethnicity

The Housing Element, a required element of a jurisdiction’s General Plan, must include specific components per State law. For the first time, the sixth cycle Housing Element (covering 2023 to 2031) must include an assessment of fair housing, a site inventory that helps dismantle housing segregation, and programs that "affirmatively further fair housing." The following are required components of a Housing Element:

1. *Housing Needs Assessment*: Examine demographic, employment, and housing trends and conditions that affect the housing needs of the community.

2. *Evaluation of Past Performance*: Review the prior Housing Element to measure final progress in implementing policies and programs.
3. *Housing Sites Inventory*: Identify locations of available sites for housing development or redevelopment to ensure that there is adequate capacity to address the Regional Housing Needs Allocation (RHNA).
4. *Community Outreach and Engagement*: Implement a robust community outreach and engagement program, with a particular focus on outreach to traditionally underrepresented groups.
5. *Constraints Analysis*: Analyze and recommend remedies for existing and potential governmental and nongovernmental barriers to housing development.
6. *Policies and Programs*: Establish policies and programs to fulfill the identified housing needs.

In fall 2021, Housing and Planning staff attended several trainings on the upcoming sixth cycle Housing Element requirements. It became clear that the State's guidance on required Housing Element analysis, which was issued over several months at a pace appropriate for use to produce the Housing Element, must drive the methodology and content of the City's AFH Plan. Given the importance and timing of the State's guidance, and the integral nature of the AFH to the Housing Element, staff joined these two initiatives together and synched up their timelines.

Staff has also attended recent presentations on early lessons learned from the State's review of submitted Housing Elements from Southern California communities. One clear lesson is that the State requires a clear, direct connection between housing and community needs identified by the public and thorough analysis of local data directly to strategies to remedy those fair housing barriers.

### **Community Outreach and Engagement Continues**

A description of staff's engagement efforts and lists of meetings held to-date that educate development of both the AFH and the Housing Element is included as **Attachment A**.

When Housing Department staff presented to the Neighborhood Services and Education Committee in May 2021, Committee members expressed support for staff spending time to educate the public about fair housing. Accordingly, staff has undertaken these activities over the last few months:

- Hosted a virtual panel discussion on the history of segregation in San José at San José State's University's Racial Justice Symposium on November 3, 2021
- Screened the documentary *A Reckoning in Boston*, a film about a black woman's struggles with institutional racism in Boston, and held an interactive public discussion with the producers on November 18, 2021
- Held a well-attended virtual community meeting focused on fair housing and segregation on December 13, 2021

- Posted a podcast on the housing element and fair housing in January 2022.

### **New State Law Has Reduced Time for Early 2022 Engagement**

Assembly Bill 215 (2021) was chaptered into law on September 28, 2021, and took effect on January 1, 2022 – well into the current development period of the next Housing Element. The new law requires jurisdictions to post their draft Housing Elements to the public for at least 30 days, respond to public comments and make edits for at least 10 days, and then submit to the State for an initial review period of up to 90 days. This initial review period is additive to the existing State approval process. The effect of the new law is to reduce the time that staff has to produce the lengthy plan by at least 70 days. The law’s effect is somewhat contrary to its intent, as it reduces the upfront time available for stakeholders and the public to give substantive input on their needs, and to help create and prioritize draft housing strategies they find important.

San José’s approval path for the final Housing Element draft is also lengthy. It requires multiple hearings and approvals by the Housing and Community Development Commission, the Airport Land Use Commission, the Planning Commission, and the City Council. Several months will be spent in public meetings before approval of the final draft for submission to the State. To submit the Housing Element by the State’s deadline in January 2023, this long process would have required the State’s initial review period begin in June 2022. This schedule would have virtually stopped community engagement activities in December, and would have required staff and consultants to produce a 90% final version of the 800- to 900-page analysis and plan for Council’s consideration in approximately 10 weeks. This schedule is not possible to achieve, especially as San José’s large size complicates its sites inventory analysis and results in more strategies than smaller cities. Staff is inquiring as to any latitude on submission date given the new law, and is assessing possible ramifications to submitting within 12 weeks after the State’s January 2023 deadline. Other Northern California communities are in the same situation, and staff is communicating with other cities and the Intergovernmental Relations Office about possible next steps and administrative requests the City could make to the State to help.

At this time, staff anticipates these major milestones for production of the Housing Element over the next months:

**Table 2: Housing Element**

<b>Milestone</b>	<b>Timing</b>
Protected class focus groups, strategy working groups & development barriers interviews	Jan – Mar 2022
Present to two commissions	Jan – Feb 2022
Present to two Council committees	Feb 2022
Survey & broad community meeting(s) on priorities	Spring 2022
City Council overview of key elements	Jun 2022
Public review period and responses	Jul – Aug 2022
First submission to State	Sep 2022
Additional commission hearing(s)	summer - fall 2022
Airport Land Use Commission hearing	Feb 2023

<b>Milestone</b>	<b>Timing</b>
Planning Commission	Mar 2023
City Council approval of final Housing Element draft for submission to State	Apr 2023
City Council approval of final AFH Plan	Apr 2023
Final submission to State	Apr 2023

Currently, staff from Housing, Planning, and the Office of Economic Development are focused on planning and obtaining public input through three activities in January to March:

- Holding eight final focus groups with members of protected classes
- Holding 8 to 10 working group sessions to develop and prioritize strategies
- Holding individual interviews with housing developers on barriers to development.

Staff currently is also holding individual stakeholder meetings, planning future public outreach, doing data analysis, editing sections of the draft AFH report, and overseeing consultant work to develop a draft site inventory.

The City Council will consider two documents at the end of this work: a final draft Housing Element for submission to the State, and a standalone final draft AFH Plan that will include final findings and recommended strategies. While most housing strategies will appear both in the AFH and the Housing Element, maintaining a separate AFH Plan has two advantages. First, a separate AFH Plan can continue to be separately referenced and updated every five years to provide required justification for the City's Consolidated Plans, which are spending plans for federal housing and community development funds from the U.S. Department of Housing and Urban Development. Second, the City may choose to put additional strategies in the AFH Plan that for technical reasons (such as Environmental Impact Review scope, or uncertainty on staffing capacity) could not be included in the Housing Element.

### **Ideas for Draft Strategies**

Strategies for both AFH and the Housing Element will attempt to address fair housing issues comprehensively. Housing Element strategies must have metrics and milestone dates denoting progress, and the City can be held responsible for achieving identified progress. The main issue areas for strategies will likely be:

- A. Improving access to rental housing
- B. Increasing homeownership opportunities for protected classes that have been historically marginalized and redlined from housing opportunities in San José (including African American, Native American, and Latino/a/x communities)
- C. Improving access to Racially Concentrated Areas of Affluence (RCAA)
- D. Coordinating and increasing investments to improve quality of life in lower-income neighborhoods that are racially or ethnically concentrated.

To clarify, increasing access to housing encompasses all “3Ps” – producing more housing at all price points, preserving low-cost and affordable housing, and ensuring tenants have protections and knowledge that support their access to housing. Therefore, interviews with developers on barriers to housing production and ways to support more production will also be brought into both the rental and homeownership strategy areas.

Staff is starting with strategy ideas that tie to the analysis of needs in San José. Sources include stakeholder and public suggestions, current work identified through existing City plans and Council direction, other cities, and industry best practices. Staff is in the process of convening 8 to 10 small stakeholder working group sessions on the areas listed above. composed of subject matter experts, to develop draft strategies and actions. In addition, staff will continue to coordinate development of strategies across City Departments (Housing, Planning, Building Code Enforcement, Office of Economic Development, Department of Transportation, Parks Recreation and Neighborhood Services, Environmental Services, Public Works) and other government entities (e.g., the Valley Transportation Authority, the County Office of Education, and the County Office of Supportive Housing).

See **Attachment B** for ideas of potential strategies that could be included in the Housing Element and/or the AFH Plan. Also, see the Fiscal/Policy Alignment section below that has examples of strategies from the current Housing Element.

## **CONCLUSION**

Staff from Housing, Planning, and the Office of Economic Development as well as consultants are actively engaged in public outreach, identification of needs and potential strategies, and analysis required for the Housing Element. Councilmembers will consider an initial draft Housing Element by the end of this fiscal year, several months before it considers the final draft Housing Element and AFH Plan in early 2023. Commission members will also have the chance to weigh in on draft strategies as they are developed.

## **PUBLIC OUTREACH**

Please see **Attachment A** for a summary of Public Outreach conducted thus far for AFH and the Housing Element. This memorandum will be posted on the City’s website for the Neighborhood Services and Education Committee meeting on February 10, 2022.

## **FISCAL/POLICY ALIGNMENT**

The Assessment of Fair Housing is consistent with State law, as it required to be integrated into the Housing Element under California law, Assembly Bill 686 (2018). It also aligns with the goals of the Analysis of Impediments to Fair Housing Choice (2016-2020).

The following current General Plan Housing Element strategies are relevant to fair housing issues, and provide context for potential strategies for the forthcoming Housing Element cycle:

- **H-1.1:** Through the development of new housing and the rehabilitation of existing housing, facilitate the creation of economically, culturally, and demographically diverse and integrated communities.
- **H-1.2:** Facilitate the provision of housing sites and structures across location, type, price and status as rental or ownership that respond to the needs of all economic and demographic segments of the community including seniors, families, the homeless and individuals with special needs.
- **H-1.3:** Create housing opportunities and accessible living environments that allow seniors to age in place, either in the same home, assisted living facilities, continuing care facilities, or other housing types within the same community.
- **H-1.4:** Encourage the location of housing designed for seniors in neighborhoods where health and community facilities and services are within a reasonable walking distance and are accessible by public transportation.
- **H-1.5:** Facilitate the development of multi-generational housing in compact form that meets the needs of families living together.
- **H-1.7:** Comply with State and Federal laws prohibiting discrimination in housing and that support fair and equal access to housing.
- **H-1.12:** Continue to partner with local agencies, non-profits, and businesses to provide fair housing information, legal services, foreclosure prevention assistance, and anti-predatory lending assistance.
- **H-1.13:** Continue to monitor and participate in anti-predatory lending practices by partnering with local agencies.
- **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.

- **H-3.7:** Coordinate across multiple City departments to achieve the City’s vision for creating complete, safe, high-quality living environments.
- **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, increasing local housing choices for safe, high-quality housing will help more long-time and low-income San José residents to stay and receive the benefits of these investments.

### **COMMISSION RECOMMENDATION/INPUT**

The Commission may choose to give input to staff, as well as to two City Council committees that will hear this item: Neighborhood Services and Education on February 10, 2022, and Community and Economic Development on February 28, 2022. In addition, this item is scheduled to be heard by the Neighborhoods Commission on the evening of February 9, 2022. Staff will again engage commissions over the next months as draft strategies are developed and the draft Housing Element and AFH are posted for review and public comment.

/s/

JACKY MORALES-FERRAND  
Director, Department of Housing

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#### **Attachments:**

Attachment A – Community Engagement for the Assessment of Fair Housing and the Housing Element

Attachment B – Draft Strategy Ideas for the Assessment of Fair Housing and the Housing Element



## ATTACHMENT A

### **Community Engagement for the Assessment of Fair Housing and the Housing Element**

Since 2019, the City has conducted several phases of public outreach and engagement to share information and gather feedback to inform the Assessment of Fair Housing (AFH) and the Housing Element.

#### **Assessment of Fair Housing, Phase 1 Outreach**

The first phase of outreach focused on establishing existing conditions for the Assessment of Fair Housing. It occurred from October 2019 to January 2020. During this time, the Lawyers' Committee for Civil Rights (the City's consultant) and Housing Department staff conducted a community engagement process through print and social media engagement, community meetings, focus groups, surveys, and the establishment of a County-wide Santa Clara AFH Advisory Committee.

From April to May 2021, staff and the Lawyers' Committee also conducted a second phase of community engagement with government agency partners to share initial findings from the AFH analysis.

Public outreach in Phase 1 Engagement completed specifically for the AFH between October 2019 and June 2021 involved included a total of 48 meetings, including 2 public hearings, 2 Advisory group meetings, 12 focus groups, 27 stakeholder meetings, and 5 intergovernmental agency meetings.

Staff officially kicked off outreach on the Housing Element in September 2021 and has conducted joint AFH and Housing Element engagement activities since that time. As of January 19, 2022, this has included two large virtual community meetings, an online survey, a focus group, a strategy working group meeting, 4 stakeholder meetings, and tabling at 6 community events. It has also involved a panel discussion on the history of segregation in San José at San Jose State University's Racial Justice Symposium, and a special screening of the documentary *A Reckoning* in Boston followed by a discussion with the producers. The online survey ran from September 17, 2021 to January 12, 2022. It was advertised at City events and on the City's website, and received 335 responses in English, 155 in Spanish, and 150 in Vietnamese (640 total). The Santa Clara County Collaborative (Let's Talk Housing), and the County-wide equity collaborative partners SV@Home and the Law Foundation of Silicon Valley have supported the City's outreach during this phase. Staff is planning additional activities through 2022.

These efforts specific to the AFH and Housing Element are in addition to the public outreach and engagement completed during the same period for other housing-related plans and policies, such as the *Citywide Residential Anti-Displacement Strategy*, the City's *2020-2025 Consolidated Plan*, the General Plan Four-Year Review Task Force, the Community Opportunity to Purchase Program, and the Affordable Housing Siting Policy.

For example, community engagement for the AFH and the Consolidated Plan focused on their individual topics, but input from both outreach processes were intended to inform both plans. Consolidated Plan outreach included additional activities, including three public hearings, 21 stakeholder interviews, a paper and online survey, and two pop-up tabling events. From fall 2019 to mid-2021, the AFH and Consolidated Plan public outreach process together engaged a total of 476 people in-person through public community meetings events and collected 648 written and online surveys. The surveys were available in English, Spanish, Vietnamese, and Chinese. Stakeholders have urged City staff to integrate public feedback from all recent outreach related to housing to identify housing needs and potential strategies for AFH and the Housing Element.

Below is the summary of community engagement efforts to-date, conducted by staff and consultants, specifically for these two initiatives.

**Summary of Community Engagement Events for AFH and Housing Element  
as of January 19, 2022**

**Public Community Meetings**

1. San José Evening Community Meeting at Hillview Library, November 13, 2019
2. San José Daytime Community Meeting at Southside Community Center, November 16, 2019
3. San José virtual Community Meeting, September 2, 2021
4. San José virtual Community Meeting, December 13, 2021

**AFH Advisory Committee Meetings**

1. Advisory Committee Meeting, December 11, 2019
2. Advisory Committee Meeting, January 14, 2019

**Focus Groups on Housing Needs**

1. Formerly Incarcerated Individuals, December 12, 2019
2. Homeless Individuals and Families, December 12, 2019
3. Nonprofit Affordable Housing Developers, December 13, 2019
4. Women and Domestic Violence Survivors, December 13, 2019
5. Central County, January 13, 2020
6. Health Trust for HIV/AIDS, January 14, 2020
7. Vietnamese Community, January 15, 2020
8. South County, January 15, 2020
9. Filipino Community, January 26, 2020
10. Schools/Educators, January 27, 2020
11. Seniors, January 29, 2020
12. Latinx Community, January 29, 2020
13. Disability Community, January 19, 2022

### **Stakeholder Meetings**

1. Project Sentinel, October 1, 2019
2. San José NAACP, October 1, 2019
3. Asian Law Alliance, October 2, 2019
4. Law Foundation of Silicon Valley, October 2, 2019
5. Latinos United for a New America, October 21, 2019
6. California Apartment Association, October 21, 2019
7. The Silicon Valley Organization, October 21, 2019
8. Catalyze SV, October 21, 2019
9. Santa Clara County Housing Authority, October 21, 2019
10. International Children Assistance Network, October 21, 2019
11. Bay Area Legal Aid, October 22, 2019
12. Housing Trust Silicon Valley, October 22, 2019
13. Gilroy Compassion Center, October 22, 2019
14. City of Gilroy, October 22, 2019
15. Senior Adults Legal Assistance, October 22, 2019
16. Day Worker Center of Mountain View, October 22, 2019
17. Santa Clara County Association of Realtors, October 23, 2019
18. City of Santa Clara, October 23, 2019
19. City of Sunnyvale, October 23, 2019
20. SV@Home, October 23, 2019
21. Bay Area Homeowners Network, October 23, 2019
22. Sunnyvale Community Services, November 12, 2019
23. SOMOS Mayfair, November 14, 2019
24. Amigos de Guadalupe, November 15, 2019
25. West Valley Community Services, November 15, 2019
26. Habitat for Humanity, December 10, 2019
27. Working Partnerships USA, December 11, 2019
28. SV@Home and Law Foundation of Silicon Valley, July 9, 2021
29. Silicon Valley Council of Nonprofits, August 3, 2021
30. County of Santa Clara, August 3, 2021
31. REAL: August 19, 2021
32. SV@Home and Law Foundation of Silicon Valley, September 10, 2021
33. SV@Home and Law Foundation of Silicon Valley, October 6, 2021
34. Developer Roundtable: October 13, 2021
35. SV@Home and Law Foundation of Silicon Valley, October 20, 2021
36. SV@Home and Law Foundation of Silicon Valley, November 4, 2021
37. League of Women Voters, November 17, 2021
38. Chamber of Commerce Public Policy Committee (Housing and Land Use): November 18, 2021
39. Silicon Valley Leadership Group, January 18, 2022

### **Strategy Working Groups**

1. Access to Rental Housing, January 14, 2022

### **Intergovernmental Agency Meetings**

*With staff from multiple City Departments, Santa Clara County Office of Education, and Valley Transportation Authority, on fair housing and equity-focused strategies from each organization*

1. March 30, 2021
2. April 6, 2021
3. April 13, 2021
4. April 20, 2021
5. April 27, 2021
6. May 4, 2021

### **Public meetings**

*Initial public meetings on AFH workplan and outreach plan*

1. Community and Economic Development Committee, August 26, 2019
2. Neighborhood Services and Education Committee, October 10, 2019
3. Housing and Community Development Commission, October 10, 2019

*Public meetings on AFH initial findings*

1. Housing and Community Development Commission, May 13, 2021
2. Neighborhood Services and Education Committee, May 20, 2021
3. City Council, June 8, 2021

### **Tabling at Community Events**

1. Viva Calle: September 19, 2021
2. Mosaic Festival: October 2, 2021
3. Fall Family Festival (Council District 8 event): October 24, 2021
4. Dia De Los Muertos at Mexican Heritage Plaza: October 30, 2021
5. Viva Calle 2: November 7, 2021
6. Downtown Farmer's Market: December 10, 2021

### **Special Events**

1. Presentation on AFH, SV@Home Housing Action Coalition meeting, July 23, 2021
2. Hosted panel discussion on the history of segregation in San José, San José State's University's Racial Justice Symposium, November 3, 2021
3. Screening of the documentary *A Reckoning in Boston* and discussion with the producer and star, November 18, 2021
4. Podcast posted about housing elements and fair housing, January 2022

## **ATTACHMENT B**

### **Draft Strategy Ideas for the Assessment of Fair Housing and the Housing Element**

#### **Major Strategy Issue Areas**

Strategy ideas are organized around the following main topics, which correspond to Housing Department staff's proposed strategy working groups:

- A. Improving access to rental housing
- B. Increasing homeownership opportunities for members of protected classes that have been historically marginalized and redlined from housing opportunities in San José (including African American, Native American, and Latino/a/x communities and people with disabilities)
- C. Improving access to Racially Concentrated Areas of Affluence (RCAA)
- D. Coordinating and increasing investments to improve quality of life in lower-income neighborhoods that are racially/ethnically concentrated.

In addition, issues related to production and preservation of rental and for-sale housing will be discussed with developer stakeholders, with resulting strategies falling under topic areas A and B above.

Below, each of the above issue areas is outlined under their respective headings. Strategies selected for the Housing Element and/or AFH Plan must be driven by needs identified in San José.

#### **A. Improving Access to Rental Housing**

*Broad Goals:* Strategies in this issue area will focus on policies and programs that will improve access to rental housing for members of protected classes. These policies and programs include traditional fair housing strategies such as enforcement of fair housing laws, but can also include strengthening tenant protections such that access means a meaningful, secure, sustained housing situation. It is also about policies which incentivize production of rental housing, especially specific types of housing (e.g., large family housing) which may be needed by specific protected classes but is in short supply.

*Ideas for Possible Policies/Programs:*

- Increase availability of fair housing related services including legal representation, enforcement, education, outreach/education, testing, etc.

- Provide training for developers and property owners on how to create building written descriptions with accessibility information (eg. Wheelchair accessible entrance location, wheelchair accessible bathrooms, amenities.)
- New funding source for increased support of tenant outreach, education, and legal representation on housing issues, including fair housing issues
- Engage legal services and tenant advocates around establishing programmatic and funding priorities around testing, outreach/education, legal representation
- Create a hotline for tenants' questions on issues (information/referral, not legal advice)
- Create basic know your rights and responsibilities materials for landlords and tenants; make available in multiple languages; language should be accessible, not technical, use pictures, infographics, etc.
- Make more mediation available for landlord/tenant and tenant/tenant issues
- Funding for more extensive testing (e.g., source of income) that would not require certificate of income (i.e., not CDBG funding)
- Establish Memorandums of Understanding with organizations serving people with disabilities, including Silicon Valley Independent Living Center (SVILC), Deaf Counseling and Referral Agency (DCARA) and Vista Center for Blind and Low Vision to identify barriers and mitigation strategies.
- Increase access for members of protected classes where legal services providers receive multiple complaints
  - Disability
    - Provide reasonable accommodation education for landlords and require accessible means for people with disabilities to make accommodation requests
    - Create low-interest rate fund for private owners and tenants to do ADA/accessibility upgrades
    - Incent creation of accessible units in forthcoming Preservation NOFAs
    - Fund mobile, additional supportive services for renters with mental health related disabilities for early intervention and mediation before housing-related problems with neighbors and property managers develop
  - Large families
    - Incent the creation of larger affordable apartments through City funding priorities
- Improve language access for renters
  - Expand the number of languages available in new online rent portal
  - Expand requirements for affirmative marketing on affordable units to expand the number of languages for marketing materials, regardless of funding source used
- Explore expanding tenant protections
  - Establish a right to counsel for tenants undergoing eviction actions
  - Expand ARO to include duplexes

- Expand TPO (e.g., cover covenanted affordable housing, at least for just cause eviction)
- Establish mechanisms (including the legal right) for local enforcement of state tenant protections (e.g., AB 1482, anti-rent spiking and just cause protection law)
- Increase best practices within the City's affordable housing portfolio
  - Incorporate universal design standards for accessibility and inclusion and a process for stakeholders with disabilities to prioritize desired elements into Notice of Funding Availability
  - Increase affirmative marketing baseline requirements, and enforce non-performance
  - Require all property management companies advertise acceptance of alternative documentation for non-citizens
  - Add to City compliance reviews that forms used to make reasonable accommodation requests are fully accessible to residents with disabilities
  - Analyze populations in individual affordable housing properties, identify outlier properties with unusual concentrations of certain types of residents, and proactively hold meetings to review affirmative marketing and lease-up practices to solve potential fair housing problems
  - Promote practices that maximize access to accessible units for renters with disabilities.
- Create more affordable opportunities for moderate-income housing
  - Create a moderate-income housing strategy
  - Promote creation of missing middle housing types
  - Explore ADU financing programs to expand ADUs affordable to low- and moderate-income households
  - Promote ADUs that use universal design to promote aging in place
  - Work with BAHFA or other Bay Area JPA to create bond product to fund moderate-income apartments
- Encourage transit-oriented development
  - Acquire land near transit for affordable housing development
  - Support production of affordable housing in the Diridon Station Area
- Streamline entitlement process for affordable housing
  - Create City streamlined entitlements program for 100% affordable developments in target areas (i.e., NSJ)
- Zoning/land use tools to incentivize affordable housing
  - Create a housing overlay program for 100% affordable housing developments (Cambridge, MA)
  - Create a City affordable housing density bonus program, either citywide (San Diego), or for undersupplied housing types (e.g., large families) or in targeted neighborhoods (e.g., NSJ, RCAA neighborhoods – see below)

- Create construction and building tax fee reductions for affordable housing developments of undersupplied housing types (e.g., large families, universal design) or in targeted neighborhoods (e.g., NSJ, RCAA neighborhoods – see below)
- Remove ground floor commercial requirements for 100% affordable housing citywide

## **B. Increasing Homeownership**

*Broad Goals:* In the 1950s and 1960s, San José became a bedroom community for White people fleeing the older, denser, more traditionally urban cities of San Francisco and Oakland. San José remains a city defined by single family homes. Of the largest cities in the US, San José has the highest percentage of residential land dedicated to single family uses and homeownership rates for people of color remain substantially lower than for White households. Because homeownership is the single largest source of wealth/net assets for the average American, the fact that so many people of color were systematically locked out during the time when houses were relatively affordable in San José is a longstanding major contributing factor to ongoing racial inequity in our city. To redress this inequity, the City could focus work on implementing policies and programs with the objective of increasing homeownership rates for members of protected classes that had suffered from past exclusion from homeownership, including African American, Native American, and the Latino/a/x population.

*Ideas for Possible Policies/Programs:*

- Update the City's homeownership program(s)
  - Determine a homeownership program structure that allows for some wealth creation for buyers but maintains ongoing affordability of the home and requires a reasonable subsidy amount per household
- Expand housing counseling/first-time homeowner counseling services in SJ
  - Identify a funding source for this activity
  - Fund capacity building for potential nonprofit partners working in targeted communities
  - Reestablish a Neighborhood Housing Services organization in SJ
- Alternative models of ownership
  - Support formation of multiple community land trusts in SJ
  - Support formation of cooperative ownership structures, including limited equity co-ops
  - Create asset building and financial capabilities programming
  - Build programs to build nontraditional homeownership opportunities through COPA, ADUs and SB 9; target lower-income homeowners (in protected classes disproportionately represented in homeownership) to add units to their properties and possibly offer for sale



- Increase Black and Latino/a/x participation in City homeownership programs
  - Make findings to be able to target Black and Latino/a/x prospective homeowners for reserved funding and other support
  - Increase affirmative marketing around homeownership programs
  - Examine appropriate underwriting criteria to reach the target populations
- Explore new funding sources for larger scale homeownership assistance programs, including larger scale downpayment assistance

### **C. Improving Access in Racially Concentrated Areas of Affluence**

*Broad Goals:* Protected classes – especially on the basis of race – have historically been excluded from the neighborhoods with the most resources available, the schools with the highest test scores, etc. To address this history, members of protected classes should have increased access to live in places of the city that have historically been exclusionary and have been beneficiaries of high levels of public and private investment.

*Ideas for Possible Policies/Programs:*

- Affordable Housing Siting Policy
  - Incentives in NOFA for points in competitive application and for per dwelling unit subsidies (higher in high resource areas)
  - Target rezoning/general plan amendments to create more sites appropriate for tax credit-funded affordable housing development in RCAA areas
- Increase fair housing monitoring, enforcement, and education (especially regarding source of income discrimination) in RCAA neighborhoods
- Explore increasing inclusionary housing requirements in high resource/RCAA areas
- Explore new funding sources for increasing affordable housing (both rental and homeownership) in high resource/RCAA areas
  - Create special assessment zones in exclusionary single-family neighborhoods
- Prevent displacement of lower-income people currently living in RCAAs
  - Implement a Community Opportunity to Purchase program (COPA) that protects existing residents
  - Create Anti-displacement tenant preferences so current residents have more housing options in these areas
  - Incorporate displacement impact prevention measures and displacement mitigation plans for areas experiencing growth in the General Plan or area plans
- Create programs/incentives for more people in R/ECAP/other priority areas to access high resource/RCAA area
  - Educate the public about the process to request school inter-district transfers, and work with stakeholders to make this option regularly available

- Work with VTA to establish and maintain transit routes that would give greater access between R/ECAP and RCAA areas

#### **D. Coordinating and increasing investments to improve quality of life in lower-income neighborhoods that are racially/ethnically concentrated**

*Broad Goals:* From the days of redlining (and before) through urban renewal to now, racially/ethnically concentrated areas of poverty (R/ECAP areas) have been purposely neglected, actively targeted for negative investments (polluting/hazardous uses like freeways, industrial uses, etc.), and have not received equitable levels of public investment, resources, and attention. These policies and programs focus on improving the quality of life of the existing residents of R/ECAP areas, and perhaps other similar areas, through increasing investments in communities in ways that do not encourage displacement of existing residents.

*Ideas for Possible Policies/Programs:*

- Create new funding source that would target R/ECAP areas
  - Defined list of eligible capital projects (e.g., preservation of affordable housing, nonprofit community-based facilities (clinics, cultural spaces, community centers, etc.))
  - Defined list of eligible service programs (e.g., social services for lower-income residents, community outreach and education around fair housing and other equity issues, housing and financial counseling, afterschool/educational support, job training, neighborhood small business assistance, etc.)
- Prevent displacement of residents who wish to stay
  - Implement a Community Opportunity to Purchase program (COPA) that protects existing residents
  - Create and implement Anti-displacement tenant preferences
  - Create housing preservation funding program and staff, and issue regular Preservation NOFAs
  - Create Diridon Preservation Pilot Program
  - Implement soft story grant program & create requirements for seismic upgrades for soft story/tuck-under buildings
  - Inventory at-risk housing in high displacement areas/areas at-risk of displacement, and prioritize funding for these properties
  - Incorporate displacement impact prevention measures and displacement mitigation plans for areas experiencing growth in the General Plan or area plans
- Improve housing in R/ECAP areas
  - Provide low-interest loans to small property owners to improve habitability (without resident displacement)
  - Fund more proactive code enforcement in R/ECAP and other priority areas

- Priority for R/ECAP areas for programs like building electrification, ADA upgrades, etc.
- Invest in and build capacity of nonprofit organizations based in R/ECAPs to engage in community development activities and to do equity advocacy
- Prioritize investments across City programs and departments to prioritize lower-income, racially segregated areas
  - Create a citywide working group to coordinate and prioritize investments across all departments to improve quality of life for geographic areas of focus(R/ECAP and lower-income communities of color more broadly)
  - Identify areas of geographic focus, in addition to R/ECAP areas
  - Prioritize City funding and investments (infrastructure, services, etc.) to fund first in priority areas
  - Establish an equity impact assessment framework and requirement for evaluation of all new City projects and programs
  - Explore mechanisms for people most affected to have more say in resource allocation decisions that affect them, including more representation of people of lived experiences on boards and commissions
- Environmental justice
  - Target funds for environmental remediation to low-income communities of color, particularly those near major highways or polluting facilities.
  - Across a variety of different activities, from increasing tree canopy to housing electrification, target subsidies and pilot programs to priority neighborhoods when building and implementing greening and sustainability programs