



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Nora Frimann
City Attorney

**SUBJECT: PROPOSED BALLOT MEASURE
ON CITY CHARTER
AMENDMENT FOR NOVEMBER
8, 2022 GENERAL ELECTION**

DATE: 6/3/2022

SUPPLEMENTAL

REASON FOR SUPPLEMENTAL

This supplemental memorandum provides additional explanation of the ballot measure and options presented to the City Council.

BACKGROUND

In their memorandum to Council, Staff presents two options for including a racial and social equity framework into the Charter. One option takes an approach similar to the Code of Ethics under Section 607 of the Charter. The other is the Charter Review Commission's recommended language.

ANALYSIS

Since two options for a racial and social equity framework have been presented to Council, we have prepared two ballot measures, an Option 1 and Option 2, for Council consideration. Option 1 includes the language proposed by Staff for the racial and social equity framework, which if adopted by the voters, would add a new Section 608 to the Charter to require the Mayor and City Council to adopt and maintain a statement of values regarding racial and social equity, inclusion, and racial and social justice to provide guidance to City officers and employees in their conduct while discharging their public responsibilities, including development and implementation of decisions, policies, budgets, programs, standards, assessments, and practices of the City of San José. The City Attorney's Office further recommends that this provision be qualified by "as permitted by law" to ensure that the proposed provision facially complies with the requirements of Proposition 209, which amended the California constitution to prohibit

June 3, 2022

Subject: Proposed Charter Measure for November 8, 2022 Election

Page 2

state governmental institutions from considering race, sex, or ethnicity, specifically in the areas of public employment, public contracting, and public education.

Option 2 includes the language recommended by the Charter Review Commission, and would add a new section 610, 611, 612, and 613 to the Charter and specify, in greater detail, what is required of the racial and social equity framework. It would also amend Sections 411.1, 502, and 701 to incorporate the framework into the Council Statement of Policy for each City Department and the budgeting process as outlined in the Charter.

All other provisions proposed for amendment (e.g., removing gender-neutral language, removing citizenship/elector requirements from Charter Commissions, and removing gender-specific language) are the same in Option 1 and Option 2.

NORA FRIMANN
City Attorney

By: /s/ Mark J. Vanni
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Sr. Deputy City Attorney

cc: Jennifer Maguire

For questions, please contact Mark J. Vanni, Senior Deputy City Attorney,
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