

Memorandum

TO: COMMUNITY AND ECONOMIC
DEVELOPMENT COMMITTEE

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: May 9, 2023

Approved



Date

5/15/23

SUBJECT: CITY INITIATIVES ROADMAP: CITYWIDE RESIDENTIAL ANTI-DISPLACEMENT STRATEGY STATUS REPORT

RECOMMENDATION

Accept staff's semi-annual status report on the Citywide Residential Anti-Displacement Strategy.

BACKGROUND

On September 22, 2020, City Council approved the Citywide Residential Anti-Displacement Strategy¹ ([Anti-Displacement Strategy](#)). Through this original approval and as amended by Council on March 30, 2021, City Council directed staff to work on the top four priorities under the Anti-Displacement Strategy:

1. Support COVID-19 Recovery Eviction Relief and Mitigation Measures for Renters and Homeowners.
2. Create a Neighborhood-Based Tenant Preference.
3. Explore a Community Opportunity to Purchase Program.
4. Increase Equitable Representation of Historically Underrepresented Communities on City Commissions.

City Council also directed staff to provide regular updates to City Council. To date, the Housing Department staff has provided 13 updates, as follows:

1. Neighborhood Services and Education (NSE) Committee on March 11, 2021
2. Community and Economic Development (CED) Committee on March 22, 2021
3. City Council on March 30, 2021
4. NSE Committee on August 12, 2021

¹ <https://sanjose.legistar.com/LegislationDetail.aspx?ID=4635014&GUID=843B7A57-FFCE-411F-81C5-49D3378215A5&Options=&Search=>

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5. CED Committee on August 23, 2021
6. NSE Committee on November 4, 2021
7. CED Committee on November 22, 2021
8. NSE Committee on March 10, 2022
9. CED Committee on March 28, 2022
10. NSE Committee on June 9, 2022
11. CED Committee on June 27, 2022
12. NSE Committee on September 8, 2022
13. CED Committee on September 26, 2022²

In the Analysis section of this memorandum, information will be provided on transitioning to annual status reports to the CED Committee moving forward.

ANALYSIS

As described in further detail below, staff made significant progress on work within the Anti-Displacement Strategy. Progress includes completion of three of the top four recommendations and of Recommendation 8, “Develop Yes in God’s Back Yard (YIGBY) Land Use.” This memorandum summarizes these accomplishments.

In addition, this memorandum introduces work on additional and remaining priorities under the Anti-Displacement Strategy, as well as from recently updated City Council [direction](#)³ to explore additional vehicles for anti-displacement and housing preservation.

Recommendation 1: Support COVID-19 Recovery Eviction Relief and Mitigation Measures for Renters and Homeowners

Definition: During the past six months, Housing Department staff continued efforts to keep vulnerable San José residents housed. The number of households facing imminent eviction has not decreased greatly as renters continue to experience the economic effects of the COVID-19 pandemic. The State of California COVID-19 eviction protections phased out during the first half of 2022 and the State’s CA COVID-19 Rent Relief Program closed to new applications on March 31, 2022. With the end of state eviction protections and rent relief funding, the Housing Department shifted its focus to eviction diversion efforts, including sharing tenant rights information and promoting education and resources.

Work Plan: This report provides updates on the following work items:

² <https://sanjose.legistar.com/LegislationDetail.aspx?ID=5475629&GUID=51BC5F2A-791E-4068-A7FF-D85009B1FA6B&Options=&Search=>

³ <https://sanjose.legistar.com/LegislationDetail.aspx?ID=6166660&GUID=1EE46693-9035-4E02-BC01-2D083C69FB97&Options=&Search=>

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- **Emergency Rental Assistance:** Assist residents with accessing federal emergency rental assistance funds through state and local programs to help reduce evictions for non-payment from arrearages due to COVID-19.
- **City Eviction Prevention Help Centers (Eviction Help Centers):** Provide eviction prevention services through City Help Centers to advise residents and property owners of resources.
- **Eviction Diversion and Settlement Program (Diversion Program):** Report on program successes and continued need in Fiscal Year (FY) 2023-2024.
- **Weekly Eviction Prevention Courthouse Clinic:** Staffing of weekly court clinics for tenants and property owners involved in unlawful detainer actions.
- **Right to Counsel and Alternative Models Study:** Study of costs and benefits of a Right to Counsel program and other eviction court models effective for the County of Santa Clara (County).

Accomplishments: Of the five components in Recommendation #1, Staff completed all work related to supporting COVID-19 recovery eviction relief and mitigation measures for renters and homeowners. The core of the work plan in **Attachment A** focuses on listening to the community's needs and responding by providing rental assistance.

The following is a final report that effectively closes out Recommendation 1 as it was originally scoped regarding emergency rental assistance.

- **Emergency Rental Assistance (ERA):** Eviction Help Center efforts supported the distribution of \$160,820,846 in federal COVID-19 emergency relief funds on behalf of 13,697 San José households through the state and local rent relief programs. These figures are as of April 2023 as the state continues to process applications filed before March 31, 2022. Since August 2021, staff helped tenants and property owners get access to these funds at Eviction Help Centers (three different locations), pop-up events throughout the community, in court during the unlawful detainer calendar, and by phone.

Table 1: Distribution of ERA1 and ERA2 funds to San José Residents by the CA COVID-19 Rent Relief Program as of May 7, 2023.

State and Local Programs	No. of San José Households Assisted	Average Amount of Assistance	Total Funds Distributed
CA COVID-19 Rent Relief Program (March 2021 – March 2022)	10,928	\$12,019	\$131,338,432

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Santa Clara County Homelessness Prevention System COVID-19 Response (May 2021 – September 2022)	2,769	\$10,647	\$29,482,414
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For the other four areas of focus under Recommendation #1, the following are updates on progress over the last six months.

- Eviction Help Centers:** Since the Eviction Help Centers launched in August 2021, program staff assisted 2,337 tenant households and their landlords obtain access to emergency rent relief funds paid out through the state and local rent relief programs. During the past six months, Eviction Help Center staff has had over 5,000 interactions with residents by phone, email, and in-person, providing information, resources, and referrals in response to residents' eviction concerns. Additionally, during the past six months, at least 250 tenant households received legal consultations regarding their eviction concerns through walk-in and remote services provided by the Law Foundation of Silicon Valley and Bay Area Legal Aid.⁴
- Eviction Diversion Program:** During the past six months, the Diversion Program has kept 107 households stably housed and paid property owners of those households owed back rent. The program expects to serve 33 more households by the end of FY 2022-2023. Of the households served, 59% included minor children and 53% were extremely low-income earning at or below 30% of the area median income for the County. In the past six months, staff identified \$250,000 of additional funding⁵ to continue the Diversion Program. Moreover, staff has applied for state and federal earmark requests of \$2.6 million to continue the program and completed an FY 2023-2024 budget proposal request for additional funding with the target of serving an additional 250 households and their property owners.
- Weekly Eviction Prevention Courthouse Clinic:** During the past six months, 126 households have been assisted by the Eviction Prevention Courthouse Clinic. This is in addition to the 204 litigants that Housing Department Staff has assisted during the unlawful detainer (eviction) calendars two to three mornings a week and also during the past six months.
- Right to Counsel and Alternative Models Study:** In the last six months, staff met several times with the Bay Area Housing Finance Authority staff to discuss potential regional approaches to a Right to Counsel program and other alternatives, and the need for resources. Staff is collaborating on planning a regional tenant protections policy event

⁴ Further details and demographics were provided in the City Initiatives Roadmap: Housing Stabilization- Eviction Prevention & Housing Stability Status Update to the Committee on February 27, 2023:

<https://sanjose.legistar.com/View.ashx?M=F&ID=11690436&GUID=860E36F6-66E3-4E70-978F-E6ECF79B838F>

⁵ Housing Department staff is recommending City Council approve at its meeting on May 23, 2023, a Seventh Substantial Amendment to the Fiscal Year 2019-2020 Annual Action Plan to reallocate \$250,000 of unused Community Development Block Grant Coronavirus Aid, Relief, and Economic Security (CARES) Act funding from the Law Foundation of Silicon Valley to Sacred Heart Community Services for the Eviction Diversion and Settlement Program.

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in mid-2023 to discuss needs and alternatives to help tenants avoid evictions. Staff deferred issuance of the City's Request for Proposals (focused on the County) pending the forthcoming regional discussions.

Next steps: In the next six months, staff plans to accomplish the following:

- **Eviction Help Centers:** Request continued funding in the proposed FY 2023-2024 budget for a revised staffing plan since the COVID-19 rent relief deployment has ended. The program will transition to a mobile model where staff and legal aid walk-in services will be offered at rotating locations in east San José. Staff will conduct outreach to educate community organizations, promotoras/es groups, and residents on the eviction process, rights, and protections as well as available resources.
- **Eviction Diversion Program:** Eviction data collected by the Housing Department through the Rent Stabilization Program, as shown in **Attachment B**, indicates that a significant number of households continue to be at risk of eviction. Staff will continue to seek other sources of rental assistance funds, and if staff's budget proposal is approved, will onboard more staff to continue the program in FY 2023-2024 with the target of serving 250 households and their property owners.
- **Weekly Eviction Prevention Courthouse Clinic:** Continue the collaboration with Sacred Heart Community Center, Santa Clara County, Project Sentinel Court Mediation Program, and the County Superior Court Help Center by staffing the weekly courthouse clinic for tenants and property owners involved in, or considering unlawful detainer actions.
- **Right to Counsel and Alternative Models Study:** Issue a Request for Proposals to study the costs and benefits of a Right to Counsel program and other alternatives that would be effective in the County such as a housing collaborative court strategy. Staff plans for Request for Proposals to be issued during the third quarter of 2023 for a study to be completed by early 2024. Under the Housing Department's ongoing work to prevent displacement that is no longer part of a COVID-19 emergency response, the study would be designed to complement the Bay Area Eviction and Housing Legal Services Study commissioned by the Bay Area Housing Finance Authority about regional approaches to address this challenge.

Moving forward, the response strategies developed during the pandemic will continue and evolve to become part of the Housing Department's ongoing operations for the Rent Stabilization Program. The Anti-Displacement Strategy contains mostly discrete initiatives with start and end dates. Therefore, staff proposes to close out Recommendation #1 in the Anti-Displacement Strategy, and transition reports on the Rent Stabilization Program work items listed above to two vehicles:

1. Annual presentations on eviction prevention and mitigation work early each calendar year to the CED Committee.
2. Annual reports for the Rent Stabilization Program presented to the Housing and Community Development Commission (HCD) and published on the City's website typically during the fall season.⁶

Recommendation 2: Create Tenant Preferences to Prevent Displacement

Definition: Tenant preferences set aside a percentage of restricted affordable apartments that would otherwise be available to the public for potential tenants who meet certain criteria including income eligibility. Those people would apply for the affordable apartments and would meet all other application requirements as usual, but because of their preference, would have a better chance of being accepted in a set-aside portion of apartments. The two preferences being designed are:

- **Anti-Displacement Tenant Preference:** Sets aside a portion of affordable apartments for low-income applicants who live in certain identified areas that have a high likelihood of displacement. The advantage of an anti-displacement tenant preference is that it increases the likelihood that low-income renters, at the highest risk of displacement, can access affordable homes and stay in the City, either in their neighborhoods or wherever they choose.
- **Neighborhood Tenant Preference:** Sets aside a portion of newly available affordable apartments for low-income applicants who already live in the vicinity of the newly available affordable homes. While neighborhood tenant preferences can be popular with area residents and local leaders, because they operate at a more localized scale, they can create a higher likelihood of keeping people with similar protected class characteristics in a neighborhood, which can create issues under Fair Housing laws. Careful analysis is required.

Work Plan: The work plan for this item consists of several components:

- **Legislation:** Advancing state legislation to reliably use these preferences on bond and tax-credit-financed developments.
- **State Housing and Community Development (HCD) approval:** Obtaining the state HCD's approval of the City's proposed preferences.
- **Program:** Designing the City's program, working with stakeholders, and obtaining the City Council's approval.
- **Implementation:** Creating user guidance and tools, conducting outreach to users, and ensuring the programs are properly implemented.

⁶ <https://www.sanjoseca.gov/your-government/departments-offices/housing/tenants/learn-about-rent-stabilization>

- **Reapprovals:** Collect improved data for required analysis and seek annual program-level reapproval from HCD.

Accomplishments: Since the previous update, the Housing Department hired a FUSE Fellow in October 2022 to focus on completing the tenant preferences work. FUSE Corps is a national nonprofit working to expand social and economic opportunities, particularly for communities that have been limited by a history of systemic and institutionalized racism. FUSE collaborates with local governments and communities by partnering to address pressing challenges more effectively by placing experienced professionals within city and county agencies. The Housing Department's FUSE fellow has been an instrumental staff member in advancing this area of work.

Progress towards each of the work plan items listed above is as follows:

- **Legislation:** The City's co-sponsored bill, Senate Bill 649 (Cortese), was signed into law by the Governor on September 28, 2022, and took effect on January 1, 2023. This new law ensures that affordable housing developments using state and federal tax credits and federal private activity bonds can reliably administer tenant preferences that help prevent displacement by creating a state policy supporting housing for households at risk of displacement. This work item is now completed.
- **State Housing and Community Development (HCD) Approval:** At a meeting with HCD on March 9, 2022, HCD staff clarified that its review of the City's tenant preferences will focus on its role as a lender. If HCD approves the City's tenant preferences, it would allow the preferences to be used on state-funded developments. Staff did not contact HCD in the last period, as it plans to request HCD review again after completing the City's revised draft analysis and program design.
- **Program Design:** Staff engaged with key stakeholders to discuss and determine program design. Staff worked closely with SOMOS Mayfair, a local neighborhood-based nonprofit organization, to review the disparate impact analysis of the program design and make recommendations on the parameters for the anti-displacement and neighborhood preferences. Staff also planned outreach to affordable housing owners and managers for additional input.
- **Implementation:** Staff met multiple times with Exygy, the consultant designing the online tenant portal for affordable housing (Doorway) in San José and regionally in the Bay Area. Staff reviewed and scoped with Exygy and other cities new features of the portal needed to effectively describe and help resident applicants and property managers determine who qualifies for either or both preferences.

Next steps: In the next six months, staff plans to accomplish the following:

- Continue to conduct the required analysis and design the program's implementation details for the two tenant preference programs.
- Meet with affordable housing property owners and managers, community representatives, Exygy, and other cities regarding program implementation.
- Submit program information to HCD for approval.
- Present draft programs for approval to the Housing and Community Development Commission (HCDC), Community and Economic Development (CED) Committee, and City Council.

Recommendation 3: Explore a Community Opportunity to Purchase Program

Definition: A Community Opportunity to Purchase (COPA) program would give a qualified nonprofit buyer the right to make the first and final offer on a residential property covered by COPA that is up for sale. The purpose of COPA is to enable more properties to become income-restricted affordable, to the extent that City subsidies were available, and be owned by mission-oriented nonprofit organizations that would cooperate with the City to keep them affordable in perpetuity.

Work Plan: The work plan for COPA focused on:

- **Community and Stakeholder Outreach:** Engage community and stakeholders in the design and development of COPA.
- **Program Revisions:** Incorporate public feedback into staff's COPA program proposal.
- **Public Review:** Based on public feedback and staff's research and analysis, develop and present a COPA program proposal for review to HCDC and the City Council.

Accomplishments: Staff completed all work on the COPA proposal as follows:

- **Community and Stakeholder Outreach:** In the last two quarters, staff presented the draft COPA program at five public meetings, two of which were held in person and three held over Zoom. Staff also held 13 one-on-one meetings and one roundtable event with a group of affordable housing developers. In addition, staff continued to meet weekly or biweekly with SOMOS Mayfair, the City's community partner funded by the Partnership for the Bay's Future through the San Francisco Foundation to work on a COPA proposal in San José.
- **Program Revisions:** Based upon community and stakeholder feedback and staff's research and analysis, staff released two updated versions of a draft program framework, the first in [November 2022](#) and the second in [February 2023](#).
- **Public Review:** On March 16, 2023, staff presented a draft COPA program framework to HCDC. HCDC voted 7-1 with one abstention to recommend the draft framework. On March 27, 2023, staff presented the draft framework to the CED Committee. The CED

Committee voted 9-2 to reject the staff report. On April 25, 2023, staff presented the COPA proposal to the City Council. The City Council voted 7-4 to reject the proposal and directed staff to stop work on this program.

Next steps: None; work is completed on COPA.

Recommendation 4: Increase Equitable Representation of Historically Underrepresented Communities on City Commissions

Definition: Recommendation 4 of the Citywide Anti-Displacement Strategy involves an analysis of the membership composition of HCDC and the Neighborhoods Commission. The purpose of Recommendation 4 is to determine whether membership is representative of the full range of San José residents and to identify any barriers to participation. The near-term focus of this work is to create a designated lived experience with homelessness (lived experience) member seat on HCDC under City Council direction on January 12, 2021.

Work Plan: Staff's immediate work plan for equitable commissions focuses on:

- **Process and Program Development:** Researching and developing new guidelines and resources for onboarding the Lived Experience commissioner and alternate.
- **Compensation:** Establishing a stipend for the Lived Experience commissioner seat.
- **Implementation:** Recruiting and onboarding the Lived Experience commissioner and alternate, providing them with needed support.
- **Evaluation:** Assessing any further support needed for the Lived Experience commissioner and alternate based on feedback.

Accomplishments: Staff has substantially completed all work related to the HCDC Lived Experience seat. The Housing Department assigned an additional staff person at the Development Officer level to support this work. Accomplishments last period are as follows:

- **Process and Program Development:** This work is now completed. Staff coordinated with the Finance Department on procedures for check cutting and pickup for Lived Experience commissioners, and arranged for a mobile tablet computer device, Wi-Fi connection, and City Hall space access. Staff coordinated with other commission staff to ensure procedures were consistent and shared knowledge on logistics.
- **Compensation:** This work is now completed. The Housing Department is regularly compensating the new Lived Experience commissioner and alternate for meetings attended.

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- **Implementation:** Initial implementation is now completed, and support will be ongoing. Staff coordinated with the City Clerk's Office to amend the HCDC application, worked with Destination: Home and the Mayor's office to advertise the recruitment including holding an Open House event, and evaluated candidates for Council's consideration. A new Lived Experience commissioner and an alternate were appointed in December 2022 and joined HCDC meetings on January 12, 2023. Staff held an orientation for the new Lived Experience commissioners on January 18, 2023, and created and rolled out a New Commissioners Orientation Guide for all new commissioners. Staff also held support meetings to answer questions as Lived Experience commissioners started to attend HCDC meetings. The Lived Experience commissioners and other new commissioners were also paired with existing commissioner 'buddies' to assist with onboarding and provide mentoring.
- **Evaluation:** The confidential evaluation of Lived Experience commissioners' needs and lessons learned is planned to start in late 2023.

Next Steps: In the next six months, staff plans to accomplish the following:

- Continue ongoing support to the Lived Experience commissioner and alternate, including authorizing stipend payments, scheduling regular check-ins with them, and supporting commissioner buddies as needed.
- Sharing lessons learned with the City Manager's Office and City Clerk's Office to be incorporated into other boards and commissions.
- Conduct confidential interviews of the Lived Experience commissioner and alternate, assign commissioner 'buddies' and other interested commissioners to assess any further support as needed.

Recommendation 8: Develop Yes in God's Backyard (YIGBY) Land Use

Definition: Recommendation 8 is to amend the General Plan and the zoning ordinance to allow deed-restricted affordable housing under the Public/Quasi-Public (PQP) General Plan land use designation and zoning district. This recommendation would permit owners of sites with assembly uses, such as houses of worship, to more easily build deed-restricted affordable housing on their land.

Accomplishments: At the [November 2, 2022](#), Joint Meeting of the Rules and Open Government Committee and Committee of the Whole, staff was directed to amend the General Plan to reflect the PQP Land Use Designation – Defining Permanent Supportive Housing. Planning staff will shift to this work as soon as the Housing Element Update is finalized.

This amendment would allow housing development proposals that are 100% affordable, including at least 25% permanent supportive housing, to proceed on land-designated PQP. This would enable those developments to use state housing streamlining laws including AB 2162 and

SB 35. These laws allow developers to build much-needed affordable and permanent supportive housing more quickly, and reduces developments' costs and risks. This General Plan amendment would effectively fulfill the intended purpose of Anti-Displacement Strategy Recommendation 8. This amendment also would apply to housing development proposals on other PQP land, including sites owned by school districts. With the direction to return to City Council with the General Plan PQP changes described above, Rules Committee directed staff to discontinue work on Recommendation 8 and on a separate effort to allow housing on school properties. Therefore, this work item has been substantially completed and is being closed out.

Next Priority Work Items from the Anti-Displacement Strategy

With the substantial completion of Recommendations 1, 3, 4, and 8, staff will begin working on the remaining recommendations under the Anti-Displacement Strategy. The numbers below correspond to the numbering of recommendations in the original document:

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.
9. Optimize Urban Villages for Affordable Housing and Anti-Displacement.
10. Establish New Sources of Funding for Affordable Housing and Anti-Displacement.

More full descriptions of these items are contained in the original Anti-Displacement Strategy.⁷ Recommendation 5 is a legislative item that is best planned at the start of a legislative session. Recommendation 10 is a longer-term effort that staff will start researching. Recommendation 7 is a preservation work item; see below for additional information on preservation work items.

Therefore, staff proposes to prioritize existing Recommendations 6 and 9 as the next areas of focus and to create individual work plans for these items to be incorporated as **Attachment A** of future updates to the CED Committee.

Additional Focus on Preservation Work to be Integrated into the Anti-Displacement Strategy

City Council voted against the proposed draft COPA program on April 25, 2023. As part of its motion, City Council also directed the following:

- “Direct staff to explore vehicles for acquiring, rehabilitating, and/or building rental property to prevent displacements in impacted communities, such as Community Development Corporations (CDCs), Economic Development Corporations (EDCs), and other similar entities that can act as a vehicle for investing in preserving naturally occurring affordable housing in impacted communities or otherwise preventing

⁷ See Attachment A, <https://www.sanjoseca.gov/home/showpublisheddocument/88627/637959126672100000>.

displacement of said impacted communities; and return to the Community and Economic Development Committee with a status update by the end of calendar 2023.

Direct Housing staff to study and develop a work plan centered around housing preservation and return to CED Committee and Council regarding opportunities to further preservation efforts.”

- “After the housing preservation work plan is created, Housing staff must annually return to City Council to discuss the progress and efficacy of all housing preservation strategies.”

As part of the discussion on the City Council COPA item, the Director of Housing agreed that a preservation work plan should be integrated into the existing Anti-Displacement Strategy to respond to City Council’s direction.

There are several types of preservation activities that staff could pursue, several of which were already included in the Anti-Displacement Strategy. Note that existing Recommendation 7, *Create a Preservation Report and Policy*, pertains to housing preservation. The rest of Recommendation 3 (items B-D) includes the following three other items that would support the development of housing preservation in San José:

- B. Gauge the 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.

Therefore, the next steps for creating a preservation work plan and reporting on it are the following:

1. Staff will research and analyze these and other preservation strategies that could meet City Council’s objectives and those that are considered to be best practices in the industry.
2. Staff will integrate recommended preservation work items into its Anti-Displacement Strategy update to the CED Committee in late 2023, and report on their progress annually thereafter.
3. Staff will integrate its near-term preservation work plan into the Housing Catalyst Work Plan. Staff provides annual updates on Housing Catalyst Work Plan to the CED Committee and full City Council.

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COORDINATION

This memorandum has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

/s/

JACKY MORALES-FERRAND
Director, Department of Housing

The principal authors of this memorandum are Josh Ishimatsu, Acting Division Manager, and Emily Hislop, Division Manager. For questions, please contact Kristen Clements, Acting Deputy Director, at Kristen.clements@sanjoseca.gov or (408) 535-8236.

ATTACHMENTS

Attachment A – Updated Work Plans for Top Three Highest Priority Anti-Displacement Recommendations

Attachment B – Unlawful Detainers and Notices of Nonpayment