



# Memorandum

**TO:** COMMUNITY AND ECONOMIC  
DEVELOPMENT COMMITTEE

**FROM:** Jacky Morales-Ferrand

**SUBJECT:** SEE BELOW

**DATE:** October 10, 2017

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Approved	/s/	Date
	<b>Kim Walesh</b>	<b>10/13/17</b>

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**SUBJECT: WORKLOAD ASSESSMENT ON PRIORITIZATION FOR TENANTS OF AFFORDABLE HOUSING**

## **RECOMMENDATION**

Accept an overview of the types of residential preferences (including those for residents who work/live in San José, are in particular neighborhoods, become displaced, those in need of emergency housing, and those at particular risk such as artists or emancipated youth) and give direction on Tenant Preferences to explore, which may be used to establish priorities for making affordable apartments available to eligible applicants.

## **OUTCOME**

Direction from the Committee on Community and Economic Development (“CEDC”) will finalize which preferences that staff will formally study, develop draft policies, and conduct stakeholder outreach. Staff will then return to the City Council with draft policies for consideration in 2018.

## **BACKGROUND**

Many municipalities have some priorities for the selection of eligible applicants of restricted affordable housing (“Tenant Preferences”). These Tenant Preferences are policy statements as to what populations they deem it most important to serve in specific types of affordable housing developments, or on a geographic or other basis. Implementation of Tenant Preferences may have the effect of advantaging certain eligible applicants’ chances of obtaining housing, while disadvantaging others, and so such policies must be selected and applied carefully.

In March 2017, the City Council voted on Council priorities for staff work in FY 2017-18. One of the City Council's priorities was for staff to "Explore the development of policy that will allow a set-aside in affordable housing developments that prioritizes residents who are being displaced that live in low-income neighborhoods undergoing displacement and/or gentrification."

In August and September 2017, staff conducted initial research on Tenant Preferences and has gathered information on other jurisdictions' Tenant Preferences. In addition, on September 15, 2017, Housing staff sought initial feedback on this topic at a City-convened meeting of representatives from six property management companies. These companies together manage several thousand restricted affordable apartments in San José, as well as thousands of market-rate apartments. Representatives at the meeting noted their companies' experience with a range of types of Tenant Preferences, the various vehicles through which they are required, and considerations regarding the implementation of Tenant Preferences. Some of these entities manage Tenant Preferences by maintaining more than one tenant waiting list, or by designating a portion of their units to be filled by tenants with a preference.

There are ways other than establishing Tenant Preferences to target particular populations to be served. A public lender could create a funding program specifically for a particular population, such as teachers, subject to funding source restrictions. The lender would have to determine there was a public purpose rationale for spending public funds to help a narrow segment of the population. Homes funded with that source would be set aside for that population, and the target population would apply only to those funded developments. Or, developers could "target market" to a particular group, while being careful to uphold federal Fair Housing obligations at the same time. Target marketing involves no housing set-asides or formal screening criteria for applicants.

However, this Memorandum's focus is on the establishment of Tenant Preferences. Establishing Tenant Preferences on project-based, geographic, or Citywide basis would provide policy direction to allow the Housing Department to create a formal framework for new projects, and provide priorities and specific criteria to be used for newly-funded developments and programs.

Tenant Preferences are used to establish a hierarchy among applicants, or a rotation between waitlists, during a property's initial or subsequent leasing process. Cities that administer multiple Tenant Preferences often create a point system for the stacking of preferences. Applicants are awarded points for each type of Preference that applies to a particular property for which they qualify. A certain percentage of apartments in a given development are usually set-aside for the defined populations.

At the City's meeting with property owners, the City and County of San Francisco and its software vendor attended to demonstrate how its on-line renter portal allows Tenant Preferences to be defined for each property. The system assigns points for each type of preference per San Francisco's defined policies. Some buildings have several preferences that apply. Applicants are rated and ranked by their point totals in a single list of applicants that the system creates. Although the City does not currently have such software, such a system is being considered for

Santa Clara County. Alternatively, property managers can use Excel spreadsheets to calculate applicants' scores for various preferences and to rank applicants.

One example of creating a Tenant Preference was the Housing Department's creation of the Transition in Place ("TIP") program. As part of its many recent City Council-directed strategies to address homelessness, the Housing Department created TIP in 2015 so that formerly homeless recipients of City-funded rental vouchers could find apartments to accept them. With the City's tight rental market, voucher recipients found them very difficult to use in market-rate apartments. The vast majority of San José's landlords prefer to not accept voucher holders to the extent that they have alternative tenants to whom they could rent. The Department's TIP Program creates negotiated set-asides of a certain number and type of restricted affordable apartments that agree to accept referrals of TIP voucher-holders. Thus far, staff has negotiated a set-aside of these 80 TIP apartments as requirements of new funding awards, and as consideration for owners requesting City approval of actions on existing affordable rental properties. The TIP requirements are defined in the City's loan documents.

## **ANALYSIS**

Establishing one or more Tenant Preferences would involve the following tasks:

- A policy decision on which types of Preferences are most important to pursue, and why
- Scoping of the preference (e.g., city-wide, specific projects)
- Staff's analysis of feasibility based on number, scope and type of Preferences, based on stakeholder input
- City Attorney review for fair housing, funding restrictions, and other issues
- Outreach to stakeholders and the public to solicit feedback
- City Council consideration of proposed Tenant Preferences
- Staff's implementation of the Tenant Preferences, together with affordable housing property owners and managers
- Broader education to the public on approved Preferences.

Following is more information on potential types of Tenant Preferences and the analysis that would be involved.

### **Types of Tenant Preferences**

To get HCDC's input on the possible types of Tenant Preferences, Housing Department staff has assembled a list of potential types of Tenant Preferences. This list reflects staff's research on types of Preferences that other cities have established, including those directed for study by City Council priority setting. Staff had previously identified some Preferences, such as for tenants who live and/or work in San José, as an intended future focus for City Council consideration.

Some ideas, such as those for victims of natural disasters, were precipitated by recent events. Others were noted by staff reflecting input from members of the public at various meetings.

The list of potential types of Preferences with notes about their feasibility is located in **Attachment A** to this Memorandum.

### Legal Issues

In addition to practical concerns, there are legal issues that must be considered in adopting and implementing Tenant Preferences. Certain preferences or combinations of Tenant Preferences may raise Fair Housing law issues, and other issues under State and federal law. Fair housing law applies to all residential developments. In addition, the greater the number of Tenant Preferences, the greater the need for analysis of how they interrelate.

Additionally, funding sources may prohibit or limit the ability to implement certain preferences. Tax credit properties, which constitute approximately 85% of the City's restricted affordable portfolio of apartments, have specific rules about lease-up and waitlist maintenance. These are governed both by Internal Revenue Service guidance as well as by fair housing law. State Health and Safety Code continues to govern and limit the reuse of loan repayments from redevelopment funding. State funding sources recognize some Preferences but prohibit others. Federal HOME funds have limiting requirements as well. Therefore, even if the City establishes Tenant Preferences, a particular development's funding sources could limit which Tenant Preferences could be evaluated.

### Draft Workplan

The following is an outline of work that is anticipated to be involved in establishing **up to three** Tenant Preferences. If fewer or more Preferences were desired, the timeframe would alter accordingly.

These are rough estimates of the work involved; some Tenant Preferences will involve more analysis than others, and some may require sign-off from the U.S. Department of Housing and Urban Development ("HUD").

#	Task	Potential Timing	Level of Effort	Notes
1	Conduct additional research on Preferences	10/2017-12/2017	Med	Types of Preferences, vehicles, legal approvals needed, implementation issues.
2	Prepare for and present to CEDC	10/2017	Med	Obtain direction for CAO analysis and conducting additional stakeholder outreach to develop supporting findings and appropriate scope for CAO analysis, and return to City Council with draft policies and/or ordinances.

#	Task	Potential Timing	Level of Effort	Notes
3	Create draft structure, definitions and rationales	11/2017-1/2018	High	Staff and City Attorney's Office
4	Refine definitions and analyze legal issues	1/2018 - 4/2018	High	Staff and City Attorney's Office together refine definitions and analyze legality
5	Obtain HUD's guidance	01/2018 - 03/2018	Med	Depends on selected Preferences; analysis may require consultation with and guidance from HUD.
6	Conduct initial public outreach	10/2017 - 01/2018	Med	Inform public of the upcoming actions and get feedback on content and implementation.
7	Prepare draft policies/ordinances	3/2018-6/2018	High	Drafting by City Attorney's Office.
8	Hold stakeholder feedback meetings on drafts	Summer 2018	Med	Includes a follow-up HCDC meeting.
9	Edit draft policies/ordinances	Fall 2018	Low	Drafting by City Attorney's Office.
10	Request City Council approval for draft policies/ordinances	Late 2018	Med	
11	Implement and educate stakeholders and the public	2019 and ongoing	Med	

## **EVALUATION AND FOLLOW-UP**

As directed by CEDC, staff will conduct the work outlined above for preferences identified by CEDC and will return to the City Council for its consideration of draft policies and/or ordinances by late 2018.

## **PUBLIC OUTREACH**

On September 15, 2017, Housing staff sought initial feedback on this topic at a City-convened meeting of representatives from six property management companies that oversee tens of thousands of apartments. On October 12, 2017, HCDC is holding a public meeting and Tenant Preferences is one item on the agenda. If CEDC gives direction to pursue tenant preferences, staff will hold public outreach meetings and stakeholder meetings to get feedback. This Memorandum will be posted on the City's website for the Community and Economic Development Committee Agenda for October 23, 2017.

## **COORDINATION**

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

### **COMMISSION RECOMMENDATION**

This item will be heard by the Housing and Community Development Commission (“HCDC”) on October 12, 2017. A Supplemental Memorandum will be submitted reflecting HCDC’s comments.

### **FISCAL/POLICY ALIGNMENT**

Depending on the populations selected for study, the preferences may be consistent with the City's *Analysis of Impediments to Fair Housing 2016-2020* in that they could make available affordable apartments for certain very low- and extremely low-income populations such as those displaced by gentrification, LGBT, homeless, and those having other special needs; and, the *Community Plan to End Homelessness* approved by the City Council in February 2015 in that they could provide affordable housing opportunities for residents experiencing homelessness.

/s/  
JACKY MORALES-FERRAND  
Director, Housing Department

For questions, please contact Kristen Clements at (408) 535-8236.

Attachment A: Possible Types of Tenant Preferences Chart

## ATTACHMENT A: Possible Types of Tenant Preferences

#	Type	Definition of Population	Example	Notes	Potential Challenges
1	<b>Neighborhood</b>	Existing residents of a neighborhood that is accommodating housing growth	San Francisco has a preference for existing neighborhood residents to occupy newly-leasing or for-sale affordable housing developments of 5 or more units that it subsidizes. The preference is limited to 40% of units in the new developments at the time of lease-up or sale. Neighborhood is defined as same Supervisorial District or 0.5-mile radius from the new development. New York City reserves 50% of subsidized affordable apartments for neighborhood residents.	Generates neighborhood stability. Applicant has to prove residency in a location currently undergoing development, as defined by City. Neighborhood eligible for preference would change over time. Would have to define neighborhood boundaries or proximity. Would likely limit the number of units set aside to minimize possible racial concentration issues.	HUD may need to approve as under Fair Housing law, program cannot concentrate race or poverty.
2	<b>Anti-displacement</b>	Residents living in defined low-income neighborhoods that are undergoing extreme displacement pressure	San Francisco's Anti-Displacement Housing Preference would allow up to 40% of new certain new affordable housing units to be occupied by residents with this preference. Location defined by census tracts.	Based on defined neighborhood boundaries and residents at a given time. Neighborhoods that are targeted could change over time.	Housing staff's analysis of neighborhoods determines eligibility; need an appeal process; need to define frequency of redefinition of affected neighborhoods and data that is used. Need HUD's approval. Would illegal units be covered?
3	<b>Live or Work</b>	Those who live or work in San José	Many jurisdictions have this preference, including San Francisco, Emeryville, Boston. Housing authorities also establish this preference for housing vouchers.	Resident needs to show evidence of working in and/or residing in a jurisdiction. Would also include those who have received a job offer. Definition of "working in" would require a	Standard preference in many jurisdictions. Legal rationale is established and is recognized by State HCD.

#	Type	Definition of Population	Example	Notes	Potential Challenges
				standard, such as more than 75% of the time, and physical location vs. company headquarters.	
4	<b>Disaster victims</b>	Residents displaced due to natural disaster (flood, fire, etc.)	San Francisco's preference for displaced fire victims requires a tenant to have been ordered by a fire official to vacate and be displaced for at least 6 months. San Francisco includes this preference in its "Displaced" preference. Many housing authorities give preferences for housing vouchers for disaster victims.	Definition of 'disaster' could be a state of emergency declaration, date that a City official mandated evacuation of the unit, or another standard. Would have to define period of time that the unit was vacated.	Would need to create a substitute for the evidence of occupancy paperwork if it is ruined in the disaster. Illegal units may not have had an official mandated evacuation order.
5	<b>Displaced</b>	Residents displaced due to Ellis Act evictions or other programs	San Francisco gives a preference to residents displaced by an Ellis Act eviction. This preference also includes those displaced by "Owner Move-in" evictions and those displaced by fire. It defines a set-aside of 20% of most newly-funded affordable housing developments for this purpose. Boston has an Urban Renewal Displacee program for those displaced during a defined time period due to urban renewal programs.	City would need to track displaced households. Residents would show proof of eviction and proof of residency. Ellis Act displacements may be too narrow of a definition. This preference could also cover low-income residents displaced from apartments with expiring affordability restrictions.	City will now be notified of Ellis Act evictions and landlords' notices of intent to withdraw the units, and can validate the information.
6	<b>Rent-burdened</b>	Existing City residents who pay more than a certain	San Francisco has a Rent-burdened Preference for City residents who pay over 50% of gross income towards housing	Have to verify income and current housing payments – relatively simple processing.	Would have to decide whether to include current residents of restricted affordable homes. Only



#	Type	Definition of Population	Example	Notes	Potential Challenges
		percentage of their income towards housing costs	costs. Effectuated only in affordable housing produced via Development and Disposition Agreements of former RDA.		applies to negotiated land transfers for San Francisco; would have to determine if there is a legal reason it is so limited.
7	<b>Artists</b>	Those engaging in defined artistic pursuits, including visual arts, music, dance, and other media	Boston has a certified artist preference program for housing, some of it affordable. A Glendale, CA, affordable artist development by Meta Housing used tenant preference points. A development in LA County had artist housing set-asides established through funding agreements with an arts organization. Some artist housing programs use targeted marketing as a tool rather than preferences.	Rationale is that artists are underpaid relative to housing prices, part of the City's policy priorities for placemaking, and at high risk of displacement. Boston program requires peer review of artist's work. Other artist housing programs do not require peer review and allow artists to self-identify.	Definition of artist needs to be clear (paid, unpaid, track record, media, etc). Needs legal rationale as to why artists are disadvantaged relative to other populations. Formal artist tenant preferences are not common.
8	<b>Teachers</b>	School teachers, typically in public system K-12	There are many examples of funded programs for teacher housing, most focused on making it more affordable for teachers to buy homes – New Orleans, Memphis, Detroit, San Francisco. School districts have built their own rental developments on school-owned property – Santa Clara USD, San Francisco USD, San Mateo Community College, Los Angeles USD.	Could also include administrators or private school teachers. City used to have programs for teachers (THP Homebuyer) that broadened to preschool teachers and low-paid support staff. CA state law specifically permits public school teacher housing on school district land.	Unfunded teacher housing programs are difficult to find. Teachers' disinterest in living in rental properties with other teachers was reportedly why San José's previous two teacher housing rental developments, using targeted marketing, were unsuccessful 10 years ago.

#	Type	Definition of Population	Example	Notes	Potential Challenges
9	<b>Homeless</b>	Gives preference to homeless households	HUD permits homeless preference in all federally-funded properties. Housing authorities prioritize homeless.	Rationale is that need for permanent homes for homeless residents is overwhelming and immediate. Consistent with City policies.	Use the federal definition of homeless. Exclude chronic homeless because they need intensive services on-site and different physical configurations for services space, front desk staffing, and entrance security. Market may desire project-based services delivery even to non-chronically homeless households.
10	<b>Unaccompanied youth</b>	Youth aged 18-24 exiting foster care system	Many housing authorities have preferences for housing vouchers for youth exiting foster care.	Rationale is that TAY are underserved in the market, part of City's policy priorities for addressing homelessness, and at high risk of displacement.	Use HUD's TAY definition or is there a broader definition. CA state also has a definition of 'homeless youth.' Property should be able to accommodate on-site service delivery and potentially house mentors at higher incomes as well.
11	<b>Veterans</b>	U.S. military veterans	Many housing authorities have preferences for award of housing vouchers to veterans.	Rationale is that veterans are more likely to be physically and financially vulnerable and to need affordable housing more than the general population. VASH rental vouchers from the VA are either portable or project-based. Preference could be for VASH holders.	Potential overlap with other categories such as homeless; not every veteran experiences difficulty so perhaps too broad. VASH vouchers do not cover every low-income veteran so may be too narrowly tailored to focus on.
12	<b>LGBTQ</b>	Residents identifying as LGBTQ	Not available	Rationale is that LGBTQ residents are more likely to have experienced discrimination and	Definition must be self-identification. Could cover risk of homelessness in a

#	Type	Definition of Population	Example	Notes	Potential Challenges
				are more at risk of homelessness.	homeless preference. LGBTQ is a protected class in CA.
13	<b>Domestic Violence Survivors</b>	Residents reporting domestic violence	Many housing authority voucher programs give priority to the Violence Against Women Act population.	This population is considered by HUD to be qualitatively similar to the homeless.	May not be wise to integrate into non-special needs developments if services needed on site. Confidentiality concerns with this population may be difficult to manage if integrating into developments with addresses made available to the public. DV properties also often have secured gates for additional safety, which is not typical of housing developments.



# Memorandum

**TO:** COMMUNITY AND ECONOMIC  
DEVELOPMENT COMMITTEE

**FROM:** Jacky Morales-Ferrand

**SUBJECT:** SEE BELOW

**DATE:** October 20, 2017

Approved

Date

10/23/17

## SUPPLEMENTAL

**SUBJECT: WORKLOAD ASSESSMENT ON PRIORITIZATION FOR TENANTS OF  
AFFORDABLE HOUSING**

## REASON FOR SUPPLEMENTAL

This Supplemental Memorandum provides additional information, including voting results from the Housing and Community Development Commission ("HCDC") on October 12, 2017, and information on needs of each listed subpopulation.

## BACKGROUND

On October 12, 2017, HCDC held its regular monthly public meeting. Prioritization for tenants of affordable housing ("Tenant Preferences") was one item on its agenda. Staff gave a brief overview of the definition of tenant preferences and reviewed 13 possible Tenant Preference types. These are the Tenant Preferences noted in Attachment A to the main Community and Economic Development Committee ("CEDC") memo. Staff then asked the Commissioners to use five votes to indicate which preferences they believed were important and wanted staff to research further, if directed by CEDC. Commissioners were able to allocate between one and five votes to each choice, and could write in "Other" alternatives that were not listed.

**Attachment B** to this Memorandum reflects the HCDC Commissioner votes. The possible Tenant Preferences receiving the top five most votes were, in order:

1. Live or work in San José
2. Unaccompanied youth
3. Displaced residents
4. Domestic violence survivors
5. (tie) Homeless residents
5. (tie) Families with member who lives or works in San José.

## **ANALYSIS**

Cities are encouraged by State and federal law to assist the most vulnerable populations by funding affordable housing. Cities rely on the market to provide for the rest of the population, however in the current fiscal environment, many residents have a need for affordable housing. Given the City's limited funding stream, the City is now exploring what preferences it might be able to implement for unfunded projects, and how it might do so in accordance with law. The direction has been to identify specific preferences as the first step and this Memorandum explores them at a very general level.

The following provides additional information based on feedback from HCDC that will help to better understand the definition of Tenant Preferences and housing needs for listed subpopulations.

### **Project versus area-wide policies**

Staff research revealed that certain Tenant Preferences are almost always priorities put in place by a public agency when funding a *specific* affordable housing development. In contrast, other Tenant Preferences are more likely to be effectuated by city- or area-wide *policies*. The focus of this effort is to investigate potential area-wide *policies* for affordable housing rather than development-specific preferences usually associated with specific funding sources.

Tenant Preferences that are applied on specific affordable housing developments identified in this Memorandum include: artists; teachers; unaccompanied youth; veterans; seniors; and domestic violence survivors. Tenant Preferences sometimes are imposed at initial funding for residents that are most vulnerable and require on-site services provision, such as people experiencing chronic homelessness. This is because those developments' financial structures require different underwriting, than does a development for a more general population.

Area-wide policies for Tenant Preferences could result in prioritized populations residing in a portion of apartment buildings in several locations. This mixing of prioritized populations together with general populations is more appropriate for types of residents that need limited or no specially underwritten services. For this reason, staff research indicates that policies, especially those implemented in connection with entitlements, are most often associated with the following types of Tenant Preferences identified in this memorandum: anti-displacement; live or work; disaster victims; displaced; and rent-burdened.

### Seniors

Staff intentionally omitted Seniors as a choice for a potential Tenant Preference, as there are ways other than through Tenant Preferences to create affordable seniors' apartments, and there are many of them. Affordable housing for seniors is usually funded by public subsidies. All of San José's more than 4,500 restricted affordable seniors' apartments<sup>1</sup> received some type of public subsidy. Developers typically consider seniors' developments easier to site and easier to gain community acceptance than other types of developments. Evidence corroborating this observation is the existence of a State law that limited the amount of redevelopment funds that localities could use for seniors' affordable developments. The law was needed as many communities *only* wanted to develop affordable seniors' deals, rather than working on those harder to site, such as those for large families and special needs populations. The City and County will continue to fund and to construct affordable seniors housing in San José.

### Needs of Subpopulations

In order to decide which potential Tenant Preferences that staff should study, HCDC Commissioners recommended that staff give more background information on the 13 populations presented in this action. Therefore, following is a brief description and some information on needs for each group.

Note that any recipient of a Tenant Preference also would have to meet household income maximums in addition to the defined Preferences criteria. Restricted affordable apartments usually are limited to low-income residents who make at or below 60% of Area Median Income ("AMI"). Lower income limits often apply. Other application requirements, such as background and credit checks and minimum monthly income, would also apply.

Further, staff and attorney research would have to be done to determine if preferences are legally warranted and feasible.

### **Potential City-wide Preferences**

<b>Neighborhood Preference</b>	
<b>Potential Definition</b>	Gives a preference to existing residents of a neighborhood that has new affordable housing development, so that local residents who endure construction can potentially benefit and stay in their neighborhoods if they move to affordable housing.
<b>Needs</b>	Not applicable. Neighbors to an affordable housing development who would meet income requirements are similar to any other income-qualifying applicant for an affordable apartment. Argument to prioritize neighbors is focused on fairness and the importance of local networks, rather than need.

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<sup>1</sup> San José Housing Department, List of All Restricted-Affordable Apartments in San José, June 2017, <http://www.sanjoseca.gov/index.aspx?nid=1352>.

<b>Anti-displacement Preference</b>	
<b>Potential Definition</b>	Gives a preference to existing residents living in defined low-income neighborhoods that are undergoing extreme displacement pressure.
<b>Needs</b>	UC Berkeley has assessed 18 low-income census tracts in San José as having ‘advanced gentrification,’ 9 low-income tracts as ‘undergoing displacement,’ and 27 low-income tracts ‘at risk of gentrification or displacement.’ <sup>2</sup> The California Housing Partnership Corporation and Reconnecting America selected San José for a 2013 study on the need to preserve affordable housing opportunities near transit. This study identified residents in many San José neighborhoods at moderate to high risk of displacement, especially in Downtown, west to Diridon Station, south to Tully Road, and east to Alum Rock and Berryessa. <sup>3</sup>

<b>Live or Work in San José Preference</b>	
<b>Potential Definition</b>	Gives a preference to people who live or work in San José.
<b>Needs</b>	Not applicable. Argument to prioritize those who live or work in San José is focused on fairness in using the City’s resources, rather than need.

<b>Disaster Victims Preference</b>	
<b>Potential Definition</b>	Gives a preference to people displaced due to natural disasters, such as fire, flood, earthquake, etc.
<b>Needs</b>	Individual disasters vary in terms of size and the number of people affected each year. The 2017 flood resulted in the displacement of approximately 700 people, almost all of whom were low-, very low- and extremely low-income. In 2017, at least 100 San José residents were displaced for a period of time from their homes by fire.

<b>Displaced Preference</b>	
<b>Potential Definition</b>	Gives a preference to low-income residents displaced due to Ellis Act evictions (buildings subject to the Apartment Rent Ordinance (“ARO”) with four or more units) or due to expiration of affordability restrictions.
<b>Needs</b>	The City just started tracking Ellis Act evictions under its 2017 Ordinance, and none have yet been officially reported as of late September 2017. However, demolition and redevelopment of The Reserve is currently displacing residents in 216 ARO apartments. Further, residents of a four-plex subject to ARO will

<sup>2</sup> UC Berkeley Urban Displacement Project, <http://www.urbandisplacement.org/map/sf#>.

<sup>3</sup> Reconnecting America and California Housing Partnership Corporation, “San José Summary and Recommendations on Affordable Housing Preservation Need Near Transit,” Nov. 27, 2013.

	<p>be displaced under the Ellis Act presuming a Conditional Use Permit awarded in September 2017 results in the approved demolition and new construction.</p> <p>Staff's partial survey of older City-issued multifamily housing revenue bond deals indicates that at least 245 apartments affordable to very low- and low-income residents were lost to expiring regulatory agreements in the past 10 years. This is a subset of all expired and expiring affordability restrictions; staff is continuing this research. To provide context, San José has an estimated 17,500 restricted affordable apartments.<sup>4</sup></p>
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<b>Rent-burdened Preference</b>	
<b>Potential Definition</b>	Gives a preference to existing San José renters who pay more than a certain percentage (for instance, more than 50%) of their gross income on rent.
<b>Needs</b>	As of 2014, 33,800 San José renter households were considered to be 'severely cost burdened,' paying more than 50% of their gross income towards rent. <sup>5</sup> These severely cost-burdened households constituted approximately one-quarter of all renter households. <sup>6</sup> The number of cost-burdened renters is presumed to be undercounted as Census data typically undercounts low-income households; and, the figure has likely increased since 2014 given continued rising rents, which have outpaced rises in lower-income salaries.

<b>Homeless Preference</b>	
<b>Potential Definition</b>	Gives a preference to those experiencing homelessness who do not meet the federal definition of 'chronically homeless.' (As chronically homeless residents require on-site supportive services to be stably housed in permanent housing, they are excluded from this discussion of broad area-wide preference policies that would integrate priority residents into larger properties without appropriate support services.)
<b>Needs</b>	San José's 2017 homeless census indicated that 4,350 of our residents are experiencing homelessness, 3,145 of whom were not considered to be chronically homeless. Of those surveyed, 83% had lived in Santa Clara County prior to becoming homeless and 74% are living unsheltered. Two-thirds (67%) reported that a top obstacle to getting permanent housing is that they cannot afford rent. However, 40% did <u>not</u> report being underemployed or unemployed as a top barrier; therefore, these are employed local residents who are suffering from our expensive housing market. <sup>7</sup> Additionally, 43% of respondents were

<sup>4</sup> San José Housing Department, List of All Restricted-Affordable Apartments in San José, June 2017.

<sup>5</sup> U.S. Census Bureau, American Community Survey CHAS data for San José, 2010-14.

<sup>6</sup> Ibid.

<sup>7</sup> Applied Survey Research, "City of San José 2017 Homeless Census & Survey," Executive Summary, <http://www.sanjoseca.gov/DocumentCenter/View/70076>.



	experiencing homelessness for the first time, so they had a track record of being housed prior to this episode. <sup>8</sup>
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<b>Unaccompanied Youth Preference</b>	
<b>Potential Definition</b>	Gives a preference to unaccompanied youth ages 18-24; may target those exiting the foster care system as they are at greater risk of homelessness.
<b>Needs</b>	San José's 2017 homeless census identified 1,436 unaccompanied transition-age youth (18-24 years old) who were homeless, with 95% of them living unsheltered. <sup>9</sup> Of that group, 44% reported they had been in the foster care system, while 3% reported that aging out of foster care was the primary cause of their homelessness. <sup>10</sup> Yet, only an estimated 0.6% of the California's children under 18 were in foster care as of July 2009; <sup>11</sup> therefore, those exiting foster care are disproportionately vulnerable as compared to the overall youth population.

### Project-Specific Preferences

<b>Artists Preference</b>	
<b>Potential Definition</b>	Gives a preference to artists, including those in the visual arts, music, dance, and other media.
<b>Needs</b>	Artists are underpaid relative to housing prices, are therefore at high risk of displacement, and are part of the City's policy priorities for placemaking, economic development and for small business support. Maintaining affordable homes for artists may support the downtown cultural arts district. Local income and needs data is not available.

<b>Teachers Preference</b>	
<b>Potential Definition</b>	Gives a preference to TK-12 public school teachers; could include public school support staff.
<b>Needs</b>	School districts are struggling to retain teachers. Housing has been identified as one of the primary challenges. In September 2016, the average public teacher salary in Santa Clara County was \$75,400. <sup>12</sup> The maximum home sales price based on that salary at that time was approximately \$310,000; however, there were no homes offered at or below that price on MLS listings. <sup>13</sup> In 2014, the

<sup>8</sup> Ibid, p.18.

<sup>9</sup> Ibid,

<sup>10</sup> Ibid.

<sup>11</sup> Danielson, C. and Lee, H., "Foster Care in California: Achievements and Challenges," Public Policy Institute of California (2010), p.8, [http://www.ppic.org/content/pubs/report/R\\_510CDR.pdf](http://www.ppic.org/content/pubs/report/R_510CDR.pdf).

<sup>12</sup> Marino, Jeffrey, "California Fails the Affordability Test for Teachers," Sept. 2016, <https://www.redfin.com/blog/2016/09/california-housing-affordability-for-teachers.html>.

<sup>13</sup> Ibid.

	same study calculated that there were 1,656 homes available in our County for a teacher's average salary. <sup>14</sup> In 2016, a salary of \$75,400 and an assumed household size of one was equal to 100% AMI; that income for a household size of two was equal to 88% AMI; and, that income for a household size of three was equal to 78% AMI. <sup>15</sup>
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<b>Veterans Preference</b>	
<b>Potential Definition</b>	Gives a preference to veterans of the U.S. military.
<b>Needs</b>	A national study indicates that 1.5 million veteran households were severely cost burdened in 2011, spending more than half of their gross income on housing costs. <sup>16</sup> Seven out of ten extremely low-income ("ELI") veterans from all wars, and almost nine out of ten ELI veterans from post 9/11 wars, experienced severe cost burdens. <sup>17</sup> Veterans are also well represented in San José's population: 468 veterans are homeless (11% of the City's homeless population), with 59% living unsheltered. <sup>18</sup> There are an estimated almost 50,000 veterans living in Santa Clara County. <sup>19</sup>

<b>LGBTQ Preference</b>	
<b>Potential Definition</b>	Gives a preference to adults identifying as lesbian, gay, bisexual, transgender, and queer/questioning. [Generally, assistance to this population is provided by making a space more welcoming to LGTBQ individuals, rather than as a preference.]
<b>Needs</b>	Data indicates that LGBTQ individuals are far more likely to be homeless than the overall population, especially those under the age of 25. In San José's 2017 Homeless Census, 34% of survey respondents identified as LGBTQ. <sup>20</sup> In contrast, 2015 estimates were that LGBTQ adults comprised 6.2% of the population of the San Francisco metropolitan area, while nationally, 3.6% of adults are estimated to be LGBTQ. <sup>21</sup> Sexual orientation is a protected class under fair housing law in California, as it has been a basis of discrimination in the housing market.

<sup>14</sup> Ibid.<sup>15</sup> California Department of Housing and Community Development, 2016 Income Limits for Santa Clara County.<sup>16</sup> National Low Income Housing Coalition, Housing Instability Among Our Nation's Veterans, Nov. 2013,<sup>17</sup> Ibid.<sup>18</sup> City of San José 2017 Homeless Census & Survey, Executive Summary.<sup>19</sup> California Department of Veterans Affairs, Population estimates,<https://www.calvet.ca.gov/VetServices/PublishingImages/Pages/Veteran-Demographics-/California%20Veteran%20Population%20by%20County.pdf>.<sup>20</sup> City of San José 2017 Homeless Census & Survey, p.14.<sup>21</sup> Bajakal, Naina, "The 10 Cities with the Highest LGBT Percentage in the U.S.," *Time Magazine*, March 20, 2015, <http://time.com/3752220/lgbt-san-francisco/>.

	<p>The need for affordable, stable housing is prevalent in the LGBTQ community, particularly among older adults. Due to historically lower access to benefits and favorable tax treatment relative to heterosexuals, many LGBTQ adults have lower savings for retirement and everyday expenses relative to their heterosexual peers. This leaves them more vulnerable to increases in rents and other housing expenses.<sup>22</sup> In a 2011 study of nearly 500 LGBT older adults in San Diego, 45% of respondents reported varying levels of difficulty paying their monthly mortgage and rent, 37% reported having difficulty affording their monthly utility bills, and 41% reported difficulty affording monthly food and household expenses.<sup>23</sup> Older LGBTQ adults are also at much greater risk for social isolation than their heterosexual peers, as they are far less likely to have children to care for them; therefore, their maintaining strong social networks is extremely important as they age. The San Diego study participants' preference for being housed with other similar adults was strong: over 90% of respondents indicated a preference to live in LGBT-specific housing, and 94% reported a preference to live alongside other LGBT adults.<sup>24</sup></p>
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<b>Domestic Violence Survivors Preference</b>	
<b>Potential Definition</b>	Gives a preference to survivors of domestic violence.
<b>Needs</b>	<p>"Domestic violence is consistently identified as a significant factor in homelessness. A staggering 92% of homeless women report having experienced severe physical or sexual violence at some point in their lives, and upwards of 50% of all homeless women report that domestic violence was the immediate cause of their homelessness. Domestic violence is often life-threatening; in the U.S., three women are killed each day by a former or current intimate partner. Advocates and survivors identify housing as a primary need of victims and a critical component in survivors' long-term safety and stability."<sup>25</sup> Federally-funded programs for this population serve more than 1 million survivors each year.<sup>26</sup></p> <p>In Santa Clara County, the known population experiencing domestic violence is measured by services data from nonprofits serving this population. In 2014-15, the nonprofits received over 20,000 hotline calls, served over 6,600 clients, provided 18,916 bed-nights, and housed 737 people in shelters. However, a</p>

<sup>22</sup> Zians, Jim, "LGBT San Diego's Trailblazing Generation: Housing and Related Needs of LGBT Seniors," The San Diego Lesbian, Gay, Bisexual and Transgender Community Center, Feb. 2011, <http://www.thecentersd.org/pdf/programs/senior-needs-report.pdf>.

<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> McLaughlin, Monica, "Housing Needs of Victims of Domestic Violence, Sexual Assault, Dating Violence, and Stalking," National Low Income Housing Coalition Issue Brief, 2017, [http://nlihc.org/sites/default/files/AG-2017/2017AG\\_Ch06-S01\\_Housing-Needs-of-Victims-of-Domestic-Violence.pdf](http://nlihc.org/sites/default/files/AG-2017/2017AG_Ch06-S01_Housing-Needs-of-Victims-of-Domestic-Violence.pdf)

<sup>26</sup> Ibid.

	reported 2,210 households experiencing domestic violence were unable to access needed shelter. <sup>27</sup> Further, in 2015-16, only 14% of domestic violence survivors left shelters for permanent housing destinations. The other people exiting went to stay at other DV shelters (30%) or homeless shelters (2%), doubled up with friends or family (22%), stayed in hotels or motels (5%), went to transitional housing (2%), or returned home to their batterers (2%). <sup>28</sup>
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## **COORDINATION**

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

/s/  
JACKY MORALES-FERRAND  
Director, Housing Department

For questions, please contact Kristen Clements at (408) 535-8236.

Attachment B: HCDC Votes on Prioritization for Tenants of Affordable Housing

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<sup>27</sup> Santa Clara County Office of Women's Policy data, as reported to City Housing staff, Fall 2016.

<sup>28</sup> Ibid. (Figures do not add to 100% as they represent a percentage of the entire population, not just respondents.)

## Attachment B

**Prioritization for Tenants of Affordable Housing**  
**Housing and Community Development Commission Vote on October 12, 2017**

[illegible]