

San José Charter Review Commission

Recommendation Memo Template

Drafted April 19th, 2021; Revised July 2nd, 2021

Instructions

1. Complete sections 1-3 below.
2. Rename document. Replace everything after the "-" in the document name with the proposal name.
 - a. Example: "SJ CRC Recommendations Memo - **Ranked Choice Voting**"
3. When ready, email to the Commission Secretary (CharterReview@sanjoseca.gov) for posting to the appropriate subcommittee or full Commission. Final deadline for submitting subcommittee recommendations is 12 noon on the following dates:
 - a. Friday, July 26 for Voting & Elections Subcommittee
 - b. Friday, August 23rd for Governance Structure Subcommittee
 - c. Friday, September 3rd for Policing & Municipal Law, Accountability & Inclusion Subcommittee

1) Proposal Name

Proposal Name:	EQUITY AND INCLUSION IN CITY PROGRAMMING AND BUDGETING (Reference to draft ARTICLE XX. EQUITY)
Submitted by:	Commissioner Maria Fuentes
Date submitted:	Oct. 18, 2021

2) Proposal Details

1) What problem(s) are you trying to address? <i>Before suggesting a</i>	San Jose is impacted daily by the ever-growing disparities among residents. The 2021 Silicon Valley Poll, produced by the Joint Ventures Silicon Valley (JVSJ) was released last week. The document introduced by Russell Hancock, the President and Chief Executive Officer of JVCV. Mr. Hancock states, "The 2021 Silicon Valley poll—our first—finds us in a darker mood. We've long been a high-stress region. Staggering housing prices, rising homelessness, a stark income divide and a host of sustainability challenges have had us
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solution, it is important to be clear about the problem you aim to solve.

on edge for some time. But when you toss a highly infectious disease into the mix you get a smothering amount of anxiety: 60 percent of respondents say their lives have become more stressful since the pandemic set in; 52 percent feel more isolated and alone, and 66 percent are genuinely worried about the future.....Since 1995 our organization has been carefully publishing baseline metrics in the Silicon Valley Index. To this we now add the Silicon Valley Poll as part of annual rhythm—the Index reports the facts and the Poll reports how we’re feeling”

“Altogether, the impact on work and employment appear to have hit hardest among those who were already in precarious positions: renters, non-white respondents, low-income families, and service-sector workers who are struck hardest by high cost of living and housing.”

Some key findings pertaining to inequities are quoted here:

Financial Insecurity

- 40% of the overall respondents feel financially insecure. Higher percentages of Hispanic or Latino/a and Black or African Americans respondents self-identify as insecure.

Work from home vs. unable to work from home

- The picture is bleaker for residents *unable to work from home* of these 22% say they have taken a pay cut since the beginning of the outbreak, 19% were temporarily laid off, and 10% were laid off permanently or lost a job.”
- ...of those working from home, only 27% have worried about paying for housing or food, compared to 44% of those who must leave home to work.

Racism and Hate Crimes

- A large majority (78%) see racism as at least a somewhat serious problem in their area, including 92% of Black respondents, (49% of whom say it is an extremely serious problem), 74% of Hispanic or Latino/a respondents, and 82% of Asian or Pacific Islander respondents, compared to 77% of white respondents.
- Women (85%) are more concerned about racism than men (69%)
- A similar number of respondents rank hate crimes as at least a somewhat serious problem for the region. By ethnicity Asian and Pacific Islanders are most concerned about hate crimes...

Financial Situation

- Lower income respondents are more likely than higher-income respondents to have been laid-off and more likely to have taken a cut in pay.
- ...a majority of those in households making less than \$50,000 saying (financial) situation is worse as compared to a majority of those making more than \$250,000 who say it is better.

Housing, food and financial insecurity

- respondents under age 35 are most likely to express short-term concerns about food and housing. By race, 28% of white respondents are worried about housing or food as compared to 44% of minority groups.
- Since the beginning of the outbreak, a significant share of respondents (40%) worried have worried about not having enough money to retire, and 29% have worried about paying of debts...these worries effect larger proportions of low-income households than high-income households, and they affect renters more than home owners.

The data to evaluate to what degree the City has the goal and purpose to use its financial resources to ensure equity and inclusion is not readily available in order to verify if the City Charter needs to address equity and inclusion for the common good of San Jose residents.

In order to study if inequities exist within the City of San Jose Budget, Civic Makers, the consultants to the Charter Review Commission, was invited to study: **How can a city measure equitable financial distribution of public services across the city? With these metrics in mind, how equitable is the distribution of public services across the City of San Jose's? And how do they compare to two other cities?**

Civic Makers involved the City of San Jose Office of Racial Equity. Civic Makers state, "...Since its creation in 2020, ORE has started to collect data on questions of equitable policies and distribution of resources. They are working with departments to collect equity data and assess existing policies. Currently, ORE is developing trainings for city departments to better collect and report on equity data. While ORE is working towards building a shared understanding across departments, there is no set definition of what equity means within the City. ORE is in start-up mode and ramping up capacity to take on this work in the coming years. ORE is eager to learn from the CRC's research and inquiries and has provided information, guidance, and resources to support the effort."

Civic Makers recommend the following process quoted here:

Recommendation

Based on the limitations around equity data for service areas, it is recommended that a geographic analysis be conducted based on community indicators (ie: race, income,

	<p><i>language, education, etc) and allocation of city funds (capital projects, such as new facilities, street improvements, park development, or resource allocations to police and fire stations, schools, parks, etc.).</i></p> <p><i>Through a geospatial analysis, we would identify the districts that receive the most amount of funding (given budget allocation data that is available geographically) and cross reference these findings with the districts with a high density of people with specific socioeconomic characteristics. This analysis would shed some initial light on whether certain funding allocation is evenly distributed across the city and how a district's socioeconomic makeup correlates with the amount of funding received. This type of analysis would also provide insight into the distribution of certain funds across districts and how that distribution correlates to the population of San Jose.</i></p> <p><i>Next steps would be to collect census data on these three indicators and map capital and operational financial data (for expenditures that are geographic by nature, ie: physical projects, location of services and resources).</i></p> <p>The distribution of City of San Jose resources equitably among all residents, throughout all areas of San Jose is not required per the City Charter. Policies that guarantee residents of San Jose shall receive equal access to City Resources do not exist.</p>
<p>2) How has this problem possibly benefited or burdened people, especially BIPOC, low-income, undocumented and immigrant, those experiencing</p>	<p>The purpose of this recommendation is to guarantee San Jose residents are included in the benefits of City services and have the benefit of equal access to City services. We recognize historical patterns of redlining, and what today appear to be overt and covert practices which disfavor the poor, persons of color who are often geographically segregated in certain neighborhoods, although home communities have been aggressively gentrified and taken away over the years. With this condition, the City has at time neglected to provide the services the same throughout San Jose.</p> <p>The Mayor, City Council, the City Manager and City Attorney need to take affirmative actions to promote equity and inclusion among all residents and further to determine if there are violations of the Civil Rights Act of 1964 that occur and must be remedied. The data that documents the historical impact of City policies and practice on the most disadvantaged neighborhoods is long overdue and would provide the data that the community's life experience already know, and the eye can tell what is undeniable injustice.</p>

**houselessness
, etc.?**

*Is there data
that speaks to
the impact of
this problem?
What does the
disaggregated
data tell us?*

The absence of this requirement in the Charter has and may continue to cause inequities. Thus the Charter does not prevent inequities by ensuring equity for ALL City residents. The goal of this recommendation is to create Equity and Inclusion.

Residents of all ages who live in crowded homes due to the high cost of housing need access to equitable City parks, libraries and community centers as do other residents. For poorer San Joseans these City resources represent significant health, wellbeing and educational opportunities – in these areas where they experience many disparities, illustrating these individuals may have a greater need to these City resources. City resources that are engaging, easily available and completely assessable to all persons regardless of physical or mental ability is vital to the lives of children, teens, adult and older adults.

**3) What
change are
you
proposing?**

*Describe the
revision to [San
José's Charter](#)
that you are
proposing.
Include relevant
Charter section
numbers.*

ARTICLE XX EQUITY if recommended by the City Charter Commission will includes these Sections:

- Statement of Values
- Definitions
- Equity Standards
- Equity Assessment Standards.

Currently, the City Charter ARTICLE IV THE COUNCIL, ARTICLE V THE MAYOR, and ARTICLE VI CITY MANAGER do not address Equity.

Therefore, to initiate equity these Articles should be amended as indicated by the added language illustrated in italics, after the existing language.

ARTICLE IV THE COUNCIL

SECTION 411.1 Department heads; Policy Objectives; Consent to Hire

The Council shall adopt a written Statement of Policy for each City Department which is under the administration of the City Manager. Said Statement of Policy shall set forth the board goals, objectives and aspirations to be accomplished by that Department. *The Statement of Policy shall adhere and follow specific criteria as set forth in Article XX Equity.*

ARTICLE V THE MAYOR

SECTION 502. The Mayor; Powers and Duties

The Mayor shall have the following duties:

(d) If the Mayor recommends any increases in the City budget The Mayor shall recommend the method of financing such expenditures *and ensure these recommendations adhere to Title XX, and in particular Section 2003. Equity Assessment.* If the Mayor proposed the curtailment of any services, the Mayor shall provide specific recommendations and the reasons for the proposal. *If the Mayor, upon receiving an Equity Assessment, as set forth in Article XX, Section 2003 Equity Assessment, which results in portions of the Budget do not adhere to Article XX, the Mayor shall recommend remedial action.*

ARTICLE VII CITY MANAGER

SECTION 701. City Manager; Power and Duties

(e) The City Manager shall prepare and submit the annual budget to the Council in accordance with the provisions in Section 1204. *Each section of the Budget will be evaluated in accordance with Title XX Section 2003 Equity Assessment and adjusted to adhere with Article XX Section 2002 Equity Standards.*

(f) The City Manager shall submit a complete report on the finances and administrative activities of the City as of the end of the preceding fiscal year....*The annual report will address in detail the provisions in Article XX.*

This change is feasible per these conditions:

- It appears not to contradict existing Charter language or policies.
- It will require extra work on the part of the Mayor, City Council and the City Manager, however this work maybe in conjunction with the work of the Office of Equity and Inclusion.
- Legal research will be required to ensure there are no legal barriers to implementing this.

REFERENCE

The following is Article XX which the Charter Review Commission may recommend.

ARTICLE XX EQUITY

Section 2000. Statement of Values.

To the extent permitted by law, the people of the City of San José affirm that the decisions, policies, budgets, programs, and practices of the City of San José shall be guided by the principles of racial and social equity, inclusion, and racial and social justice.

Section 2001. Definitions.

For the purposes of this Article, the following definitions shall apply:

- (a) "Racial and social equity" shall mean the condition that would be achieved if one's group identity – based on categorizations that have experienced discrimination including race, aspects of neurodiversity, and sexual orientation - no longer predicted, in a statistical sense, how one fared.
- (b) "Inclusion" shall mean bringing traditionally excluded individuals and/or groups into processes, activities, and decision/policy making in a way that shares power.
- (c) "Racial and Social Justice" shall mean the systematic and proactive fair treatment of people of all races and all group categorizations that have experienced discrimination, resulting in equitable opportunities and outcomes for all

Section 2002. Equity Standards.

To advance the values in Section 2000, and to the extent permitted by law, the City will endeavor to meet all the following objectives for the residents of the City of San José:

- (a) Safety: Every resident shall be as entitled to live free from harm or threat of harm from other persons, private institutions, or city agencies as every other resident.
- (b) Environmental Health: Every resident is as entitled to live in an environment with clean air, soil, and water as every other resident.
- (c) Water and Sanitation: Every resident is as entitled to have access to clean water supplies for personal and domestic use and adequate sanitation services as every other resident.
- (d) Parks and Recreation: Every resident shall be as entitled to access to parks, recreational opportunities, community centers, and urban green spaces as every other resident.
- (e) Mobility and Transportation: Every resident is as entitled to well-maintained and lighted streets and roadways, signage, and other mechanisms to assure pedestrian and vehicle safety, and the opportunity for walking and biking as every other resident.
- (f) Economic Development: Residents of every part of the city are as entitled to the benefits of public economic development investments as residents of every other part of the city.

- (g) Housing Standards: Every resident is as entitled to the protections provided by city enforcement of housing codes as every other resident.
- (h) Workforce Protection: Every person who is employed within the city is as entitled to protection against injury, discrimination, and wage theft as every other employee.
- (i) Neighborhood Amenities: Residents of every neighborhood are as entitled to amenities provided by the city such as cultural presentations or library services as residents of every other neighborhood. Nothing in this Section is intended to nor shall be construed to create a binding funding obligation for the City or cause of action against the City.

Section 2003. Equity Assessment.

- (a) An equity assessment shall be conducted for the annual operating and capital budgets as contained in the Recommended Budgets generated by the City Manager each fiscal year and for major policies and programs to be decided upon by the City Council. The determination as to whether a policy or program is "major" and will require an assessment shall be made by a majority vote of the City Council or by the submission of petitions with at least 2,500 signatures from residents of the city. The process for determining when a policy or program is major, including the process for the submission of petitions, will be established by the City Council.
- (b) The Assessment shall include the following elements:
 - i. Does the proposed change have any disproportionate impact on racial or ethnic minorities and/or people of low-income and/or other group categorizations that have experienced discrimination?
 - ii. Does the proposed change increase or decrease the level of representation of racial or ethnic minorities and/or people of low-income and/or other group categorizations that have experienced discrimination in city decision-making?
 - iii. Does the proposed change increase or decrease the extent to which city officials and staff are accountable to racial or ethnic minorities and/or low-income people and/or other group categorizations that have experienced discrimination?
 - iv. Does the proposed change increase or decrease the access of ethnic or racial minorities and/or low-income people and/or other

group categorizations that have experienced discrimination to city decision-making?

- v. Does the proposed change increase or decrease the extent to which ethnic or racial minorities and/or low-income people and/or other group categorizations that have experienced discrimination receive a fair share of city services and benefits?
- vi. Does the proposed change increase or decrease the safety and security of ethnic or racial minorities and/or low-income people and/or other group categorizations that have experienced discrimination? Does the proposed change increase or decrease the ability of the city to meet significant needs of ethnic or racial minorities and/or low-income people and/or other group categorizations that have experienced discrimination?

(c) Equity Assessments shall be presented at a public hearing. The final draft of the Assessment must be published a minimum of two weeks before the date of that hearing.

(d) For the purposes of this Section:

i. "Access" shall mean the ability to secure information about decision-making and participate in the decision-making process to the extent permitted or authorized by law.

ii. "Accountability" shall mean the ability to lawfully impose positive or negative consequences on decision-makers.

iii, "Preparation of Equity Assessments" must include outreach to, and communication with, constituencies likely to be affected by the proposal being assessed.

iv. "Representation" shall mean the ability to affect who will be making decisions that impact a constituency and what the outcome of a decision-making process will be.

	<p>This change is feasible per these conditions:</p> <ul style="list-style-type: none"> • It appears not to contradict existing Charter language or policies. • It will require extra work on the part of the Mayor, City Council and the City Manager, however this work maybe in conjunction with the work of the Office of Equity and Inclusion. • Legal research will be required to ensure there are no legal barriers to implementing this.
<p>5) Who might benefit from or be burdened by this change? <i>Is there data that speaks to the potential impact of this change? What are the potential unintended</i></p>	<p>All residents of San Jose will benefit. Living in a city that respects and treats all of its residents creates a safer and more prosperous community. This helps business and creates more opportunities for those in need.</p> <p>The consequences may be that those who have received unfair advantages may need to receive less services.</p>

*consequences of
this change?*

6) What are the arguments against this proposal?

Summarize the arguments you expect or data you have found in opposition to this recommendation.

The status quo is the current process of budgeting and expenditures which does not have formal way of addressing equity and inclusion. The current and recent Mayors, City Council Members and City Managers appear to collaborate well so equity and inclusion are considered and promoted in preparing the City's budget and allocating resources. For this reason, some will argue that this good work occurs without the recommended City Charter language. However, all success in this area of equity and inclusion is the very reason to add this language. The goal should be to maintain equity and to guarantee it will always be the way the City of San Jose conducts its business.

7) Must this be a Charter revision?

Can this problem be addressed without changing the charter (e.g., Council action, cultural

Yes because the Charter gives the Mayor, City Manager certain duties and responsibilities with respect to the City finances. However, equity is not addressed. This will required the Mayor, City Manager and City Council to address equity within the context of their existing responsibilities.

change)? If not, should this be a policy recommendation to be included in the Commission's report?

8) Are there other examples of this change?

If you have found other examples of this change, please share them and any outcomes that have been observed.

Research to determine if other cities have adopted similar charter amendments is necessary.

3) Proposal Research & Citations

List below the results of any research conducted to inform this memo.

Questions	Recommending Person Response to Questions	Subcommittee Notes (i.e. Agreements, questions, additions, concerns, next step, etc.)
List of citations <i>All data must be cited so that Commissioners</i>		

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<p><i>who are not part of the Subcommittee in question may locate the source of information as needed.</i></p>		
<p>Any speakers who presented to the subcommittee must be listed.</p> <p><i>Include name, title, affiliations, etc., along with a brief summary of the information presented by them.</i></p>	<p><i>Add name of speakers from Sept. 9, 2021 special meeting.</i></p>	
<p>Relevant Links</p> <p><i>Provide links or locations of the information in this research as much as possible,</i></p>	<p><u>2021 Silicon Valley Poll</u> <u>2021 Silicon Valley Index</u> Joint Venture Silicon Valley 84 W. Santa Clara St. San Jose, CA 95113 www.jointventure.org</p>	



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*otherwise
provide
attachments.*

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