



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jacky Morales
Director

SUBJECT: SEE BELOW

DATE: January 18, 2023

Approved

Date

SUBJECT: SIXTH SUBSTANTIAL AMENDMENT TO THE FISCAL YEAR 2019-2020 ANNUAL ACTION PLAN FOR THE REALLOCATION OF CORONAVIRUS AID RELIEF AND ECONOMIC SECURITY ACT (CARES) FUNDS AWARDED BY THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) FOR ELIGIBLE USE

RECOMMENDATION

- (a) Hold a public hearing to allow for public comment.
- (b) Adopt a resolution relating to the following actions regarding a sixth amendment to the existing Fiscal Year 2019-2020 Annual Action Plan that includes changes to the federal Coronavirus Aid Relief and Economic Security Act (CARES Act) funds awarded by the U.S. Department of Housing and Urban Development (HUD) to the City of San José (City):
 - (1) Approve the following changes relating to the Substantial Amendment to the Fiscal Year 2019-2020 Annual Action Plan to:
 - i. Reallocate Community Development Block Grant CARES Act balance of \$6,836,265 and apply funds to Community Development Block Grant CARES Act eligible uses.
 - (2) Authorize the Housing Department to submit the Substantial Amendment to the U.S. Department of Housing and Urban Development; and,
 - (3) Authorize the City Manager or her designee to negotiate and execute agreements with grantees for the activities identified in these Annual Action Plan amendments and all related contract amendments, extensions, and changes.

SUMMARY AND OUTCOME

This is the sixth amendment to the FY 2019-2020 Action Plan approved by the City Council at the May 14, 2019, Council Meeting. The Action Plan governs the expenditure of entitlement funds and competitive grants that the City receives from HUD. The purpose of the amendment is to spend funds available for COVID-19 response. Although the City is currently in the FY 2022-2023 Annual Action Plan period, it is also necessary to amend the FY 2019-2020 Annual Action Plan for a technical reason. HUD has directed jurisdictions that all new commitments and changes of existing commitments involving CARES Act funding must be done by amendments to the Annual Action Plan that first recognized CARES Act funding. For San José, that is the FY 2019-2020 Annual Action Plan.

This substantial amendment to the Action Plan enables the City to use these identified funds to serve some of the most vulnerable community members impacted by. More specifically, funding will help respond to the community's needs: 1) food for homeless, senior, and disabled populations, 2) complete community Wi-Fi projects near Independence High School, Silver Creek High School, and the Seven Trees neighborhood, and 3) provide sanitation services at emergency interim housing.

The funds will allow food service programs to continue. Current contracts will be amended to end on June 30, 2023, though there is an option to extend the agreements into the first quarter of FY 2023-2024. This will allow expenditures to be processed to meet the HUD expenditure deadline of October 2023. These include contracts with Loaves and Fishes, San Jose Conservation Corps, The Health Trust, Catholic Charities of Santa Clara Count, Sacred Heart Community Services, Hunger at Home, Veggielution, and West Valley Community Services. These amendments are warranted due to the critical needs of the community and are permitted by federal government regulations.

As required by the Citizen Participation Plan¹, this is the second public hearing to provide the public an opportunity to comment on the proposed amendment to the Fiscal Year 2019-2020 Action Plan. The first publicly noticed hearing on the proposed amendments was held on February 9, 2023, before the Housing and Community Development Commission.

BACKGROUND

This is the sixth amendment to the City's FY 2019-2020 Action Plan. The purpose of the amendment is to identify critical community programs. The programs will be using available CDBG CARES Act funds.

All entitlement jurisdictions such as San José that receive HUD's federal funds by formula allocation are required to have an adopted Citizen's Participation Plan. San José's Citizen's

¹ City of San José, *Citizen Participation Plan*, amended Aug. 4, 2020, <https://www.sanjoseca.gov/your-government/departments-offices/housing/resource-library/hud-reports/consolidated-annual-action-plans/citizen-participation-plan>

Participation Plan describes the efforts that the City will take to encourage its residents to participate in developing federal spending plans. It also requires a public process when a substantial amendment to programs funded in an Action Plan are proposed. According to the City's Citizen's Participation Plan, a Substantial Amendment constitutes a change to a previously adopted Annual Plan that:

- Increases or decreases by the greater of \$100,000 or a 25% change in the amount allocated to a category of funding; or
- Makes a significant change to an activity's proposed beneficiaries or persons served; or
- Funds a new activity not previously described in the Action Plan.

When a proposed change in program funding reaches one of these thresholds, the City must comply with the public process required in the Citizen Participation Plan for substantial amendments, which requires a 30-day public comment period and two public hearings. Public hearings may be conducted virtually.

Accordingly, the City has advertised the availability of the proposed amendments and the opportunity to comment on these amendments on its website five days prior to the hearing, has sent a notice by email to its general distribution list and to its Housing and Community Development Commissioners, and has posted the opportunity to comment on its social media accounts. An email address was provided on the notice where comments can be submitted. In addition, comments will be accepted prior to the hearing via a link on the City Council's agenda webpage as well as by e-mail to the City Clerk (city.clerk@sanjoseca.gov) by 12:00 noon on the day of the hearing. During the hearing, comments can be submitted via eComment on the City's agenda webpage as well as by emailing councilmeeting@sanjoseca.gov and identifying the agenda item number in the subject line.

ANALYSIS

To date, the City of San José has been awarded \$12,841,924 in CDBG CARES Act funding through a formula calculation.

Table 1: FY 2019-2020 Federal Funding Levels

Fund	Allocation	Expended	Balance Available
CDBG CARES Round 1	\$5,263,414	\$5,263,414	\$0
CDBG CARES Round 3	\$7,578,510	\$742,245	\$6,836,265
TOTAL	\$12,841,924	\$6,005,659	\$6,836,265

The City's FY 2019-2020 Action Plan is being amended for the following reasons:

- funding critical needs of the community;
- meeting the federal deadline to disburse CDBG CARES funds;
- providing continuous assistance and service identified in the Action Plan.

The proposed changes to the City’s FY 2019-2020 Action Plan qualify as a Substantial Amendment because it meets the criteria identified below:

1. Increase or decrease by the greater of \$100,000 or a 25% change in the amount allocated to a category of funding, or
2. Makes a significant change to an activity’s proposed beneficiaries or persons served, or
3. Fund a new activity not previously described in the Consolidated and/or Action Plan.

The fourth substantial amendment to the FY 2019-2020 Action plan was approved by City Council at the March 23, 2021 Council Meeting². The changes to the CDBG CV (CARES) funding in the FY 2019-2020 Action Plan is provided in Table 2 below:

Table 2: Proposed Funding Changes

Activities	Approved in 4th Substantial Amendment FY 2019- 2020 AAP	Funding for FY 2022-2023
Meals-Food Service Program	\$453,000	\$2,396,815
Emergency Interim Housing Operations (Sanitation)	\$400,000	\$1,000,000
Community Wi-Fi Projects	\$0	\$3,439,450
TOTAL	\$853,000	\$6,836,265

Proposed Newly Funded Activities

The CDBG CARES Act funds must be used to prevent, prepare for, and respond to COVID-19. The Housing Department is proposing to amend several food service agreements to extend services to the end of FY 2022-2023. The food distribution team provides delivery of meals to our most vulnerable residents. Seniors, disabled residents, homeless residents, low-income individuals, and low-income families will be served. The agreements will be extended to 6/30/2023 using CDBG-CV (CARES) funds. Additional funding is also required to complete Community Wi-Fi projects in areas surrounding Independence High School. Silver Creek High School and the Seven Trees neighborhood. Funds will also provide sanitation services to emergency housing operations.

² 4th Substantial Amendment to the FY 2019-2020 Annual Action Plan approved March 23, 2021

<https://sanjose.legistar.com/View.ashx?M=F&ID=9259480&GUID=186F1BC3-72AF-45FF-9131-B6448BD62E70>

Food Service Agreements:

The CDBG-CV (CARES) funds will allow food service programs to continue. Current contracts will be amended to end on June 30, 2023, though there is an option to extend the agreements into the first quarter of FY 2023-2024. This will allow expenditures to be processed to meet the HUD expenditure deadline of October 2023.

\$2,396,815 will be available for the following Food Service Agreements:

Food Service Agreements
Catholic Charities of Santa Clara County
The Health Trust
Loaves & Fishes Family Kitchen
Hunger at Home
Sacred Heart Community Service
Veggielution
West Valley Community Services (WVCS)
San Jose Conservation Corp

Racial Equity Impact Analysis

The Community Wi-Fi installation projects target households residing in qualified census tracts. The project will benefit low-mod income families. The Food Service Agreements will benefit the following:

Agency Partner	Scope of Work	Target Population
Catholic Charities of Santa Clara County	GRANTEE will distribute pre-packaged grocery boxes at Parish Distributions and deliver pre-packaged grocery boxes to homes	*High-risk individuals people over 65 or with certain underlying health conditions, as defined by the Center for Disease Control and Prevention (“CDC”); *Low -or- moderate income households or communities *Households disproportionately impacted by unemployment *Households that experienced increased food or housing insecurity *Households residing in Qualified Census Tracts
The Health Trust	GRANTEE will deliver meals to homebound	*High-risk individuals people over 65 or with certain underlying health conditions, as defined by the Center

	seniors within the City of San Jose	for Disease Control and Prevention (“CDC”); *Low -or- moderate income households or communities *Households that experienced increased food or housing insecurity *Households residing in Qualified Census Tracts
Loaves & Fishes Family Kitchen	GRANTEE will provide meal distribution to locations throughout San Jose. GRANTEE will also provide meals to temporary shelters to support unhoused individuals impacted by the COVID-19 pandemic.	*High-risk individuals people over 65 or with certain underlying health conditions, as defined by the Center for Disease Control and Prevention (“CDC”); *Low -or- moderate income households or communities *Households disproportionately impacted by unemployment *Households that experienced increased food or housing insecurity *Households residing in Qualified Census Tracts
West Valley Community Services	GRANTEE will distribute farm boxes through their Eastside Connect program located at Emma Prusch Park	*High-risk individuals people over 65 or with certain underlying health conditions, as defined by the Center for Disease Control and Prevention (“CDC”); *Low -or- moderate income households or communities *Households disproportionately impacted by unemployment *Households that experienced increased food or housing insecurity *Households residing in Qualified Census Tracts
Veggielution	GRANTEE will distribute farm boxes through their Eastside Connect program located at Emma Prusch Park	*High-risk individuals people over 65 or with certain underlying health conditions, as defined by the Center for Disease Control and Prevention (“CDC”); *Low -or- moderate income households or communities

		<ul style="list-style-type: none"> *Households disproportionately impacted by unemployment *Households that experienced increased food or housing insecurity *Households residing in Qualified Census Tracts
Sacred Heart Community Service	GRANTEE will supply grocery boxes through their pantry program that consist of a variety of foods located at Sacred Heart Community Service	<ul style="list-style-type: none"> *High-risk individuals people over 65 or with certain underlying health conditions, as defined by the Center for Disease Control and Prevention (“CDC”); *Low -or- moderate income households or communities *Households disproportionately impacted by unemployment *Households that experienced increased food or housing insecurity *Households residing in Qualified Census Tracts
Hunger at Home	GRANTEE will provide grocery box distribution via drive-through at the Hunger at Home distribution center and PayPal Stadium. GRANTEE will also provide and deliver cold or reheat-able meals to eligible San Jose residents.	<ul style="list-style-type: none"> *High-risk individuals people over 65 or with certain underlying health conditions, as defined by the Center for Disease Control and Prevention (“CDC”); *Low -or- moderate income households or communities *Households disproportionately impacted by unemployment *Households that experienced increased food or housing insecurity *Households residing in Qualified Census Tracts
San José Conservation Corps	Contractor will provide Supervisors and Corpsmembers to assist food boxing efforts of Second Harvest of Silicon Valley. Corpsmembers may also be utilized at distribution sites to assist in	<ul style="list-style-type: none"> *High-risk individuals people over 65 or with certain underlying health conditions, as defined by the Center for Disease Control and Prevention (“CDC”); *Low -or- moderate income households or communities *Households disproportionately impacted by unemployment

	distributing boxes to the public	*Households that experienced increased food or housing insecurity *Households residing in Qualified Census Tracts
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Climate Smart San Jose

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

EVALUATION AND FOLLOW-UP

After the City Council public hearing, staff will submit the Substantial Amendment and the record of public comments to HUD for approval. The performance outcomes of the HUD funded programs are reported to the public and the City Council in the Consolidated Annual Performance Evaluation Report.

COST SUMMARY IMPLICATIONS

The recommendation actions in the memorandum primarily impacts the CDBG-CV (CARES) fund. In the CDBG CV3 fund, these actions include reallocating CDBG-CV (CARES) funds from FY 2019-2020. If approved, these actions result in no net changes in overall funding. The actions recommended in this memorandum have no impact on the General Fund and meets the CARES requirements. The sixth substantial amendment to the FY 2019-2020 Action Plan will allow the City to reallocate the CDBG CARES funds to address critical needs and to effectively meet the federal deadline to expend the CDBG CARES funds. The expenditure deadline is October 26, 2023.

BUDGET REFERENCE

The City received an award of \$7,578,510 in CDBG CV3 (CARES) funding. Revenue from the Federal Government was noted on 8/11/2020, Ordinance #79678. CDBG CV3 (CARES) funding is in Fund 448 Multi Source Housing Fund

COORDINATION

The preparation of this memorandum was coordinated with the City Attorney’s Office.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the February 14, 2023, Council meeting.

Outreach was undertaken for this item in addition to the agenda posting described above. These outreach efforts are described below.

Staff published official notices of the public meetings and 30-day public review period in newspapers as required by HUD. The Substantial Amendment is also posted on the Housing Department's website at www.sanjoseca.gov/housingconplan. Staff published official notices of the public meetings as required by HUD. These notices were posted in English, Spanish, Vietnamese, Chinese, and Tagalog and were published in *The Mercury News*, *the El Observador*, *Vietnam Daily News*, *World Journal*, and *the Asian Journal* newspapers. Staff also sent email announcements of the public hearings on the Substantial Amendment to over 880 organizations and individuals concerned about affordable housing and community development issues. The email announcements were also posted on the Housing Department's website at www.sanjoseca.gov/housingconplan, and were turned into news briefs that were automatically sent to media outlets.

In addition to submitting directly to staff, comments will be accepted prior to the hearing via a link on the City Council's agenda webpage as well as by e-mail to the City Clerk (city.clerk@sanjoseca.gov) by 12:00 p.m. the day of the hearing together with staff's responses when the document is submitted to HUD. The community also can comment virtually at the public hearing held by the City Council on February 14, 2023.

Staff will include all public comments provided to the City both verbally and in writing together with staff's responses when s the Substantial Amendment is submitted to HUD.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

A commission has taken action on this item. The action is described below.

This item was heard by the Housing and Community Development Commission in a hybrid meeting on February 9, 2022, at 5:45 p.m. The Commission approved a recommendation to the City Council to approve the Sixth Substantial Amendment to the FY 2019-2020 Action Plan.

CEQA

Not a Project, File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on

the environment, and File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

PUBLIC SUBSIDY REPORTING

- This item does not include a public subsidy.
- This item includes a public subsidy of \$100,000 or more as defined in California Government Code section 53083. The Director of the Office of Economic Development has been informed of this subsidy to ensure that it is tracked appropriately. Required information is provided below.
- This item includes a public subsidy of \$100,000 or more to a warehouse distribution center as defined in California Government Code section 53083.1. The Director of the Office of Economic Development has been informed of this subsidy to ensure that it is tracked appropriately. Required information is provided below.
- This item includes a public subsidy as defined in the City's Sunshine Resolution section 2.2.10 and is in the amount of \$1 million or more. An Informational Memorandum as described in Sunshine Resolution section 2.3.2.6.C was/will be released at least 28 calendar days prior to the City Council meeting at which the subsidy will be considered. The Director of the Office of Economic Development has been informed of this subsidy to ensure that it is tracked appropriately.

JACKY MORALES-FERRAND
Director of Housing

JIM SHANNON
Budget Director

The primary author of this memorandum is Stephanie Gutowski, Senior Development Officer. For questions, please contact Ragan Henninger, Deputy Director of Housing, at ragan.henninger@sanjoseca.gov.

Attachment

Attachment A: Sixth Substantial Amendment to the FY 2019-2020 Action Plan

Attachment A
Sixth Substantial Amendment to the FY 2019-2020 Action Plan

SUMMARY

The following is a summary and draft language that amends the Fiscal Year 2022-23 Annual Action Plan.

Background

This is a proposed sixth amendment to the City's Fiscal Year 2019-2020 Annual Action Plan. The purpose of the amendment is to reallocate Community Development Block Grant (CDBG) CARES funds to address critical community needs and to effectively meet the federal deadline to expend the CDBG CARES funds.

The City's Annual Action Plan details its funding strategy for the CDBG, Emergency Solutions Grant, HOME Investment Partnership, and Housing Opportunities for People with AIDS programs each year. Annual Action Plans implement a jurisdiction's Five-Year Consolidated Plan and are developed through public input, analysis, and planning. The Action Plan provides spending caps for the different programs or services funded by federal funds.

Substantial Amendment is Needed

All entitlement jurisdictions such as San José that receive Housing and Urban Development federal funds by formula allocation are required to have an adopted Citizen Participation Plan. San José's Citizen Participation Plan describes the efforts that the City will take to encourage its residents to participate in developing federal spending plans. It also provides requirements for the public process to be used when a Substantial Amendment to programs funded in the Annual Action Plan is proposed. Per the City's Citizen Participation Plan, a substantial amendment constitutes a change to a previously adopted Five-Year Plan or Annual Plan that:

- Increases or decreases by the greater of \$100,000 or a 25% change in the amount allocated to a category of funding, or
- Makes a significant change to an activity's proposed beneficiaries or persons served, or
- Funds a new activity not previously described in the Action Plan.

The proposed changes to the City's Fiscal Year 2019-2020 Action Plan qualify as a substantial amendment because they meet the Housing and Urban Development criteria of making a significant change to a program's budget.

Proposed Amendment

This proposed Substantial Amendment reallocates CDBG CV (CARES) funds as follows:

Beginning on page 48 of the approved Fiscal Year 2019-2020 Annual Action Plan, amend the estimated amount of CDBG CV and Activities in section AP-38 Project Summary, as follows

AP-38 Projects Summary **Project Summary Information**

Table 1: Project Summary

Activities	Needs Addressed	Funding	GOI
Meals-Food Service Program	Strengthen Neighborhood	CDBG-CV3 \$2,396,815	TBD
Emergency Interim Housing Operations (Sanitation)	Affordable Housing	CDBG-CV3 \$1,000,000	TBD
Community Wi-Fi Projects	Strengthen Neighborhood	CDBG-CV3 \$3,439,450	TBD
TOTAL		CDBG-CV3 \$6,836,265	