



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Jacky Morales-Ferrand

**SUBJECT:** SEE BELOW

**DATE:** March 6, 2023

Approved

Date

3/16/23

**SUBJECT: FIRST SUBSTANTIAL AMENDMENT TO THE FISCAL YEAR 2021-2022 ANNUAL ACTION PLAN TO REPORT THE HOME INVESTMENT PARTNERSHIPS AMERICAN RESCUE PLAN PROGRAM ALLOCATION AWARDED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

## RECOMMENDATION

- (a) Hold a public hearing to allow for public comment.
- (b) Adopt a resolution relating to the following actions regarding a first amendment to the existing Fiscal Year 2021-2022 Annual Action Plan to report on the HOME Investment Partnerships American Rescue Plan Program Allocation Plan using HOME Investment Partnerships American Rescue Plan Program funds awarded by the United States Department of Housing and Urban Development to the City of San José:
  - (1) Approve the changes relating to the Substantial Amendment to the Fiscal Year 2021-2022 Annual Action Plan to apply the HOME Investment Partnerships American Rescue Plan Program Allocation Plan; and
  - (2) Authorize the Housing Department to submit the Substantial Amendment to the United States Department of Housing and Urban Development.

## **SUMMARY AND OUTCOME**

This is the first amendment to the Fiscal Year 2021-2022 Annual Action Plan (Action Plan) approved by the City Council at the May 11, 2021 City Council Meeting<sup>1</sup>. The Action Plan governs the expenditure of entitlement funds and competitive grants that the City receives from United States Department of Housing and Urban Development (HUD). In 2021, the City of San José was awarded \$11,676,334 in HOME Investment Partnerships Program (HOME) American Rescue Plan (ARP) funds. The purpose of the amendment is to formally submit the City's HOME-ARP Allocation Plan to HUD.

The amendment to the Action Plan will enable the City to spend federal funding made available in ARP in Fiscal Year 2023-2024. The funds will be used for supportive services for people experiencing homelessness, homeless prevention, and rental assistance.

## **BACKGROUND**

ARP provides funding to assist individuals or households who are experiencing homelessness, at risk of homelessness, and other vulnerable populations, by providing housing, rental assistance, supportive services, and non-congregate shelter to reduce homelessness and increase housing stability across the country. The funds are administered through HUD's HOME Program. On September 20, 2021, the City of San José was awarded \$11,676,334 in HOME-ARP funding by HUD.

HOME-ARP was created under the ARP Act of 2021 to provide housing, services, and shelter. HOME-ARP funds must be used to primarily benefit individuals or families from the following qualifying populations:

- Homeless, as defined in section 103(a) of the McKinney-Vento Homeless Assistance Act;
- At-risk of homelessness, as defined in section 401(1) of the McKinney-Vento Homeless Assistance Act;
- Fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking, as defined by the HUD Secretary; and
- In other populations where providing supportive services or assistance under section 212(a) of the ARP Act would prevent a family's homelessness or would serve those with the greatest risk of housing instability; veterans, and families that include a veteran family member, that meet one of the preceding criteria.

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<sup>1</sup> Final Public Hearing and Approval of Action Plan for HUD, May 11, 2021

<http://sanjose.legistar.com/gateway.aspx?M=F&ID=4385a6c5-ba6c-4b63-bdb1-d56adbff5e4b.pdf>

HOME-ARP funds can be used for four eligible activities:

- Production or preservation of affordable housing;
- Tenant-based rental assistance;
- Supportive services, homeless prevention services, and housing counseling; and
- Purchase and development of non-congregate shelter.

All entitlement jurisdictions, such as San José, that receive HUD's federal funds by formula allocation are required to have an adopted Citizen Participation Plan. San José's Citizen Participation Plan describes the efforts the City will take to encourage its residents to participate in developing federal spending plans. It also requires public participation when a substantial amendment to programs funded in an action plan is proposed. According to the City's Citizen Participation Plan, a substantial amendment constitutes a change to a previously adopted annual plan if it meets one of the following:

- 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. This requirement entails a 30-day public comment period and two public hearings. HUD provided an exception to the 30-day public comment period; HOME-ARP's public comment period is 15 days.

## **ANALYSIS**

This is the first amendment to the Action Plan, which will enable the City to spend federal funding made available through ARP. A substantial amendment is necessary because the allocation of \$11,676,334 in HOME-ARP funds meets the threshold of an increase of more than \$100,000 in funding. The Housing Department completed a broad community engagement process to develop the allocation plan. The Housing Department recommends the funds be used for supportive services for people experiencing homelessness, homeless prevention, and rental assistance. A summary of the proposed amendment is included as an **Attachment**. The recommended activities are consistent with HUD's guidelines for these funds.

Consultation Process

Prior to the development of its HOME-ARP allocation plan, HUD requires that cities consult with agencies and service providers who work with the qualifying populations (listed above) to identify unmet needs and gaps in housing or service delivery systems. These consultations enable the Housing Department to discuss the unmet needs and identify gaps in the housing, shelter, and service system for the HOME-ARP qualifying populations.

The Housing Department embarked on a two-month targeted consultation effort, initiated in February 2023, to gather input from community stakeholders. To meet the consultation process requirements set by HUD, the Housing Department hosted four listening sessions to solicit feedback from agencies that serve the qualifying populations who will benefit from HOME-ARP funding. An invitation to each listening session was provided at least two-weeks before the meeting to ensure maximum attendance. If an agency could not attend, the Housing Department requested the agency fill out a survey. The Housing Department created a HOME-ARP webpage which served as a one-stop shop for anyone interested in providing input about how to spend available funding. The Housing Department provided the website link to the agencies invited to the listening sessions.

An online multilingual survey was developed in English, Spanish, and Vietnamese. The survey was open to the public during the entire month of February 2023. Noticing for the public comment and public hearing followed the HUD noticing requirements and was published in five different multilingual newspapers, including *The Mercury News* (English), *El Observador* (Spanish), *Vietnam Daily* (Vietnamese), *Asian Journal* (Tagalog), and *World Journal* (Chinese). Additionally, the Housing Department’s communication team sent out eblasts and social media posts about the different participation opportunities and the input collected is summarized below for each of those opportunities:

<b>Method of Gathering Input</b>	<b>Date</b>	<b>Input Collected</b>
Continuum of Care Board Meeting	March 28, 2022	<ul style="list-style-type: none"> <li>Utilize funding to supplement supportive services, homeless prevention, and income assistance.</li> <li>Support for financial assistance and tenant-based rental assistance, and employment training for lived experience individuals.</li> <li>Support for collaborating with other cities to provide services.</li> </ul>
One-Hour Listening Sessions with Agencies	February 2, 2023 February 9, 2023	<ul style="list-style-type: none"> <li>Be strategic with the funding.</li> </ul>

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Serving Qualifying Populations	February 16, 2023	<ul style="list-style-type: none"> <li>• All eligible activities are important and cannot work without each other.</li> <li>• Provide support services for households with mixed status.</li> <li>• Provide supportive services via financial assistance to help households affected by the pandemic.</li> <li>• There is insufficient shelter in our City.</li> <li>• Priorities in ranking order: support services, rental assistance, affordable housing, and non-congregate shelter.</li> </ul>
One-Hour General Workshop	February 10, 2023	<ul style="list-style-type: none"> <li>• Support for non-congregate shelter.</li> <li>• Support services that get to the root of homelessness, specifically for chronically homeless individuals.</li> <li>• Support services for middle-class households who do not qualify for services.</li> </ul>
Distribution of Multilingual Surveys	February 1-28, 2023	<ul style="list-style-type: none"> <li>• At survey closure on February 28, 2023, 69 surveys had been filled out by various community partners. Results showed the top three priorities are affordable housing, support services, and rental assistance.</li> </ul>
Public Comment Period	March 1- March 15, 2023	<ul style="list-style-type: none"> <li>• A public hearing occurred March 9, 2023 at the regular meeting of the City’s Housing and Community Development Commission. A supplemental memorandum summarizing public comment will be published prior to March 28, 2023.</li> </ul>
Public Hearing	March 9, 2023 March 28, 2023	

Based on input collected, the Administration recommends to distribute the HOME-ARP allocation as listed in Table 1:

**Table 1: Fiscal Year 2023-2024 Federal Funding Levels  
Recommended HOME-ARP Allocation**

<b>Eligible Activity</b>	<b>Outcome</b>	<b>Amount</b>
Homelessness Prevention	500 individuals served	\$3,000,000
Tenant-Based Rental Assistance	300 individuals served	\$4,500,000
Supportive Services for Homeless at Non-Congregate Shelter	300 individuals served	\$2,424,884
Administration and Planning of the HOME-ARP Allocation Plan		\$1,751,450
<b>TOTAL</b>		<b>\$11,676,334</b>

A summary of the recommended funded activities includes:

- Homeless Prevention: provides temporary financial assistance, legal support, and other services to help at-risk families and individuals maintain their housing and avoid falling into homelessness.
- Tenant-Based Rental Assistance: provides temporary rental assistance to individuals and families experiencing homelessness.
- Supportive Services for Homeless as Non-Congregate Shelter: support for people experiencing homelessness who are staying at the City's non-congregate shelters, including interim housing and bridge housing communities. The types of eligible support services include financial literacy, basic income, childcare, food insecurity, storage, transportation, employment training, behavioral health, case management, moving expenses, and medical equipment.
- Administration and Planning of the HOME-ARP Allocation Plan: funding for staff who will manage the HOME-ARP allocation plan. The grant and homeless response teams must develop Requests for Proposals (RFP) and evaluate responses. The grants team will develop and negotiate contracts for each program. Staff is also responsible for reviewing and approving monthly invoices and documentation requirements, contract monitoring, reporting to HUD, and future audit reviews. Funds will also support a portion of the fiscal management team who tracks and monitors the spending of funds and assists in contract monitoring and auditing.

The City of San José, through its Request for Proposals process, will solicit applications from non-profit organizations for projects receiving HOME-ARP funding. The Request for Proposals process will take place over a three to four month period and funding of projects will begin in Fiscal Year 2023-2024. All proposals received will be evaluated to determine the most competitive project.

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### **EVALUATION AND FOLLOW-UP**

After the City Council public hearing, staff will submit the First Substantial Amendment to the Action Plan and the record of public comments to HUD for approval.

### **COST SUMMARY/IMPLICATIONS**

The recommendation action in this memorandum primarily impacts the HOME Fund. 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. The First Substantial Amendment to the Action Plan will allow the City to implement the HOME-ARP Allocation Plan.

### **BUDGET REFERENCE**

The table below identifies the fund and appropriation to fund contracts recommended as part of this memorandum.

Fund #	Appn. #	Appn. Name	Total Appn.	2022-2023 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
445	213B	Housing Shelter	\$11,676,334	1,000	06/21/2022 Ord No 30790

### **COORDINATION**

The preparation of this memorandum was coordinated with the City Manager's Budget Office and the City Attorney's Office.

### **PUBLIC OUTREACH**

This memorandum will be posted on the City's Council Agenda website for the March 28, 2023 City Council meeting.

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

As required by the Citizen Participation Plan<sup>2</sup>, this is the second public hearing to provide the public an opportunity to comment on the proposed amendment to the Action Plan. The first publicly noticed hearing on the proposed amendment was held on March 9, 2023 before the Housing and Community Development Commission. A supplemental memorandum summarizing the public comment will be published prior to March 28, 2023.

Staff published official notices of the public meetings and 15-day public review period in newspapers as required by HUD. The newspaper notices were published in English, Spanish, Vietnamese, Tagalog, and Chinese in The Mercury News, El Observador, Vietnam Daily News, World Journal, and Asian Journal, respectively. The First Substantial Amendment is also posted on the Housing Department's website at <http://www.sanjoseca.gov/your-government/departments-offices/housing/resource-library/hud-reports/consolidated-annual-action-plans/2020-25-consolidated-annual-action-plans>. Staff also sent email announcements of the public hearings on the First Substantial Amendment to organizations and individuals on the Housing Department email list who are interested in affordable housing and community development issues. The email announcements were also posted on the Housing Department's website.

Prior to the development of the HOME-ARP Allocation Plan, the City consulted with the required agencies and service providers to identify unmet needs and gaps in housing or service delivery systems. These consultations provided a basis for the strategy for distributing HOME-ARP funds for eligible activities to best meet the needs of the qualifying populations. The City used the consultations to determine the HOME-ARP eligible activities currently taking place and potential collaborations for administering HOME-ARP.

The City conducted four listening sessions. The listening sessions were on February 2, 2023; February 9, 2023; February 10, 2023; and February 16, 2023. Forty-nine surveys were also collected. A link to the survey was emailed to agencies and made available on the Housing Department's HOME-ARP webpage. The webpage can be found here <https://www.sanjoseca.gov/your-government/departments-offices/housing/nonprofit-grant-programs/home-arp-program>.

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<sup>2</sup> City of San José, *Citizen Participation Plan*, amended August 4, 2020, <https://www.sanjoseca.gov/your-government/departments-offices/housing/resource-library/hud-reports/consolidated-annual-action-plans/citizen-participation-plan>



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## **COMMISSION RECOMMENDATION AND INPUT**

This item was heard by the Housing and Community Development Commission in a meeting on March 9, 2023 at 5:45 p.m. A supplemental memorandum will be published with the comments from this hearing.

## **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 as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

JACKY MORALES-FERRAND  
Director of Housing

The principal author of this memorandum is Stephanie Gutowski, Senior Development Officer, [stephanie.gutowski@sanjoseca.gov](mailto:stephanie.gutowski@sanjoseca.gov). For questions, please contact Ragan Henninger, Deputy Director of Housing, at [ragan.henninger@sanjoseca.gov](mailto:ragan.henninger@sanjoseca.gov).

**ATTACHMENT** – First Substantial Amendment to the FY 2021-2022 Action Plan Summary

# Attachment

## First Substantial Amendment to the FY 2021-22 Action Plan Summary

The following is a summary and draft language that amends the Fiscal Year 2021-2022 Annual Action Plan.

### **Background**

This is a proposed first amendment to the City’s Fiscal Year 2021-2022 Annual Action Plan (Action Plan). The purpose of the amendment is to incorporate the HOME-ARP Allocation Plan into the Action Plan.

The City's Action Plan details its funding strategy for the Community Development Block Grant (CDBG), Emergency Solutions Grant (ESG), HOME Investment Partnership, and Housing Opportunities for People with AIDS programs each year. 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 an 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 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. The addition, the HOME-ARP Allocation Plan meets Housing and Urban Development’s substantial amendment requirements.

### **Proposed Amendment**

This proposed Substantial Amendment identifies HOME-ARP funds as follows:

Beginning on page 48 of the approved Action Plan, amend the estimated amount of HOME and Activities in section AP-38 Project Summary, as follows:

**Table 1 – Project Summary  
Fiscal Year 2021-22 Funding Directed to HOME-ARP**

Fund	Allocation
HOME-ARP Administrative and Planning	\$1,751,450.10
HOME-ARP Entitlement	\$9,924,883.90
<b>Total</b>	<b>\$11,676,334.00</b>