



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Jacky Morales-Ferrand  
Jim Shannon

**SUBJECT:** SEE BELOW

**DATE:** April 20, 2022

Approved

Date

04/21/22

**SUBJECT: FIFTH SUBSTANTIAL AMENDMENT TO THE FISCAL YEAR 2019-20 ANNUAL ACTION PLAN FOR THE USE OF FUNDS FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

## RECOMMENDATION

- (a) Hold a second public hearing to allow for public comment.
- (b) Adopt a resolution relating to the following actions regarding a fifth amendment to the existing Fiscal Year 2019-20 Annual Action Plan that includes changes to the federal Emergency Solutions Grant (ESG) Coronavirus Aid Relief, and Economic Security Act funds awarded by the U.S. Department of Housing and Urban Development (HUD) to the City:
  - (1) Approve the following changes relating to the Substantial Amendment to the FY 2019-20 Annual Action Plan to:
    - i. Increase the ESG-CV2 funded LifeMoves Motel Voucher Program by \$3,000,000;
    - ii. Decrease the ESG-CV2 Administration by \$2,000,000 to redirect to other programs and services; and
    - iii. Decrease the ESG-CV2 Encampment Support – Trash by \$1,000,000 to redirect to other programs and services.
  - (2) Authorize the City’s Housing Department to submit the Substantial Amendment to the HUD; and,
  - (3) Authorize the Director of Housing 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.

(c) Adopt the following 2021-2022 Appropriation Ordinance Amendments in the Multi-Source Housing Fund:

- (1) Decrease the ESG CARES II Grant Administration appropriation to the Housing Department by \$2,000,000;
- (2) Decrease the Hygiene/Infection Control appropriation to the Housing Department by \$1,000,000; and,
- (3) Increase the Housing Shelter appropriation to the Housing Department by \$3,000,000.

## **OUTCOME**

This second public hearing provides an opportunity for the public to provide comment on the proposed amendment to the City of San José's (City) Fiscal Year (FY) 2019-20 Annual Action Plan (Action Plan) at this publicly noticed meeting. The first public hearing on the proposed amendments was held on April 14, 2022, before the Housing and Community Development Commission (Commission).

This Substantial Amendment to the Action Plan enables the City to use federal funding made available through the Emergency Solutions Grant program by the CARES Act (ESG-CV2) to be spent in FY 2021-22 to respond to local needs created by the Coronavirus Disease 2019 (COVID-19) pandemic. The funds will be used for emergency hotel/motel vouchers for families.

## **EXECUTIVE SUMMARY**

This is the fifth amendment to the City's FY 2019-20 Action Plan. The Action Plans govern the expenditure of entitlement funds and competitive grants that the City receives from the HUD. The purpose of the amendment is to ensure that all ESG-CV2 funds are spent prior to the September 30, 2022 federal deadline.

The City proposes to use these identified ESG-CV2 funds to assist in the COVID-19 pandemic response and recovery, serving some of the most vulnerable community members. More specifically, ESG-CV2 funds are being redirected to provide emergency hotel stays for families and for domestic violence survivors impacted by the COVID-19 pandemic. Staff will amend current contracts with LifeMoves to provide the services.

## **BACKGROUND**

This is the fifth amendment to the City's FY 2019-20 Action Plan. The purpose of the amendment is to reallocate funds so the City can meet the federal spending deadline of September 30, 2022, for ESG-CV2 funds. Although the City is currently in the FY 2021-22 Action Plan period, the ESG-CV2 activities and proposed budget were included in the FY 2019-20 Action Plan. HUD has directed jurisdictions that all new commitments and changes of existing commitments involving CARES Act funding must be done by amendments to the Action Plan that first recognized CARES Act funding. For the City, that is the FY 2019-20 Action Plan.

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

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 (CPP).<sup>1</sup> San José's Citizen Participation Plan<sup>2</sup> 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 Action Plan is proposed. Per the City's CPP, 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.

When a proposed change in program funding reaches one of these thresholds, the City must comply with the public process required in the CPP for Substantial Amendments, which includes a 30-day public comment period and two public hearings. However, due to the need to deploy funds quickly to respond to the COVID-19 pandemic, HUD has waived the citizen participation requirements for entitlement recipients, provided that (1) no fewer than five days are provided for public comment and that (2) reasonable notice and the opportunity to comment is provided. For ESG-CV funds made available under the CARES Act, HUD waived the consultation and citizen participation requirements altogether, provided that the recipient publishes its planned

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<sup>1</sup> "Citizen Participation Plan" is HUD's name for this plan in federal statute. Staff intends to propose a new name for the City's Plan to better reflect that it addresses how the entire community, not just citizens, should be notified and able to engage and comment on HUD-funded priorities.

<sup>2</sup> 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>.

changes, at a minimum, on the internet at the appropriate government web site or through other electronic media. However, the City's CPP requires at least two public hearings to give the residents of San José an opportunity to provide feedback on the proposed actions. Public hearings may be conducted virtually.

Staff met the City's CPP requirements and exceeded HUD's outreach requirements for the use of ESG CV-2 funds, holding two public hearings and giving 30 days for public review. Staff published official notices required by HUD, in the *Mercury News*, of the public meetings and 30-day public review period. These notices were translated into Spanish, Vietnamese, Chinese, and Tagalog and were published in the *El Observador*, *Vietnam Daily News*, *World Journal*, and *the Asian Journal* newspapers. City staff also sent e-mail announcements of the public hearings on the Substantial Amendment and ways to submit comments to over 2,600 organizations and individuals concerned about affordable housing and community development issues. The e-blasts were also posted on the Housing Department's website at [www.sjhousing.org](http://www.sjhousing.org), and were turned into news briefs that were automatically sent to media outlets.

In addition to submitting directly to staff, comments can be submitted prior to the City Council 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](mailto: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](mailto:councilmeeting@sanjoseca.gov) and identifying the agenda item number in the subject line.

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

### *COVID-19 Pandemic Response*

Since March 2020, the Housing Department has been immersed in COVID-19 pandemic response and recovery. The City allocated funding to support emergency shelter, food and necessities distribution, and emergency rental assistance. In April 2020, the City Council accepted the Housing Department's first Action Plan amendment, which reallocated \$6.2 million in existing FY 2019-20 CDBG from HUD.<sup>3</sup> In July, the City Council approved a second Action Plan amendment to allocate an additional \$589,000 in CDBG and \$6.6 million in federal HOME grants.<sup>4</sup> These reallocated grants went towards the following:

- temporary non-congregate shelter space for people at high-risk for COVID-19
- rent and utilities assistance for individuals and families financially impacted by COVID-19
- emergency hotel stays for families and victims of domestic violence

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<sup>3</sup> Council Report April 21, 2020 Item 8.4: <http://sanjose.legistar.com/gateway.aspx?M=F&ID=e3aa97a8-5785-494c-b26b-0a02cc207e8f.pdf>

<sup>4</sup> Council Report July 1, 2020 Item 8.7: <http://sanjose.legistar.com/gateway.aspx?M=F&ID=e3aa97a8-5785-494c-b26b-0a02cc207e8f.pdf>

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- food delivery to vulnerable residents, like seniors and people with disabilities
- diaper and calming kit distribution to low-income families and childcare home providers
- expanded congregate homeless shelter space to facilitate social distancing, and
- grants to support small businesses affected by COVID-19.

In mid-September 2020, the City Council approved a third FY 2019-20 Action Plan Amendment to move the \$32 million in ESG-CV2 funding from the FY 2020-21 to FY 2019-20 Annual Action Plan at HUD's request.<sup>5</sup> The City Council originally approved the use of the ESG-CV2 funds in August 2020 along with the five-year 2020-25 Consolidated Plan.<sup>6</sup> In late September, the City was notified by HUD of its second award of CDBG CARES Act funds in the amount of \$7,578,510 issued as part of HUD's third round allocation of CDBG funds authorized by the CARES Act (CDBG-CV3).<sup>7</sup> Finally, on March 23, 2021, the City Council approved the fourth FY 2019-20 Amendment, that authorized CDBG and ESG funds for City food services and homeless services including motel vouchers and shelter operations.<sup>8</sup>

## **ANALYSIS**

In June 2020, HUD awarded the City of San José \$32,836,839 in ESG-CV2 funds. ESG-CV2 funds must be used to prevent, prepare for, and respond to COVID-19 among individuals and families who are homeless or receiving homeless assistance. The funds must be spent by September 2022. The City's FY 2019-20 Action Plan is being amended for the following reasons:

- accommodating changes in forecasted spending rates that normally occur during the year
- meeting the annual federal deadline to spend ESG-CV2 funds by September, and
- providing assistance and services to families in need.

The proposed changes to the City's FY 2019-20 Action Plan qualify as Substantial Amendment because they meet the HUD criteria of increasing or decreasing by the greater of \$100,000 or a 25% change in the amount allocated to a category. The changes are provided in **Attachment A** and are summarized below in Table 2:

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<sup>5</sup> City Council Report Sep. 22, 2020 Item 8.2: <http://sanjose.legistar.com/gateway.aspx?M=F&ID=5c2f962e-1b4d-4fc4-bec5-a343354f6041.pdf>

<sup>6</sup> City Council Report Aug. 11, 2020, Item 8.1: <http://sanjose.legistar.com/gateway.aspx?M=F&ID=e3aa97a8-5785-494c-b26b-0a02cc207e8f.pdf>

<sup>7</sup> The City did not get a CDBG-CV Round 2 award, which was issued only to States and insular areas. It also was not eligible to compete for CDBG-CV Round 2 funds through the State of California's competitive rounds.

<sup>8</sup> City Council Report March 23, 2021 Item 8.4:

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

**Table 2: Proposed Funding Changes - Additions/Reductions\***

<b>Funding Source</b>	<b>Activities</b>	<b>Approved</b>	<b>Change</b>
ESG - CV2	Administration	\$3,283,684	(\$2,000,000)
	Encampment Support – Trash	\$2,279,200	(\$1,000,000)
	LifeMoves Motel Voucher Program	\$3,500,000	\$3,000,000
		<b>Net Change</b>	<b>\$0</b>

*\*Note: Only Activities with proposed changes are listed above*

The Housing Department is proposing to reduce funding in two activities and redirect funds to the motel voucher program for families. The following changes are included in the Substantial Amendment draft in **Attachment A**:

*Administration* – The Housing Department proposes to reduce this activity by \$2.0 million. Original projections had higher administrative, managerial and analyst support personnel costs earmarked to this federal grant program for contracting, monitoring and tracking expenditures. Based on the ramp up activity and contract timelines, the expense to administer the program was less than anticipated. Moving funds to Emergency Motel Voucher Program will better support community needs.

*Encampment Support – Trash* – The Housing Department is proposing to decrease this activity by \$1.0 million based on lower than expected spending rates for trash service. In September 2020, the Council approved the Services Outreach Assistance and Resources (SOAR) program providing support to encampments during the COVID-19 pandemic. As part of SOAR, BeautifySJ provides regular trash service and clean ups at designated SOAR encampment sites. Due to staffing challenges, BeautifySJ is spending at a lower rate than anticipated.

*LifeMoves Motel Voucher Program* – The Housing Department is proposing to increase this activity by \$3.0 million. While homeless persons in general are vulnerable, families with minor children are especially vulnerable. Motel vouchers add capacity to the homeless shelter system when emergency shelters are full. The motel voucher program plays a critical role in the COVID-19 response and recovery to providing safe, non-congregate shelter. All family emergency shelters in the County are in San José and are typically at full capacity, leaving some families without immediate shelter options. Vulnerable families continue to experience financial hardships as a result of the COVID-19 pandemic. To continue to support families with their interim housing and shelter needs, the Administration is proposing to fund an additional \$3 million for this program. LifeMoves has as an existing contract to operate the City’s Motel Voucher Program and has capacity to take on the additional funding and to increase its services.

## **CONCLUSION**

The proposed Fifth Substantial Amendment to the Action Plan enables the City to use federal funding made available in ESG-CV to be spent by the September 2022 deadline. The funds will be used for emergency hotel/motel vouchers for families and survivors of gender-based violence.

## **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. CARES Act-funded programs are reported on in the Annual Homeless Report presented to the City Council.

## **CLIMATE SMART SAN JOSE**

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

## **PUBLIC OUTREACH**

This memorandum has been posted on the City's website for approval by the City Council on May 3, 2022. The Substantial Amendment is also posted on the Housing Department's website at [www.sanjoseca.gov/housingconplan](http://www.sanjoseca.gov/housingconplan). Staff published official notices required by HUD in *The Mercury News* of the public meetings. These notices were translated into Spanish, Vietnamese, Chinese, and Tagalog and also were published in *the El Observador*, *Vietnam Daily News*, *World Journal*, and *the Asian Journal* newspapers. City staff also sent e-mail announcements of the public hearings on the Substantial Amendment to over 2,600 organizations and individuals concerned about affordable housing and community development issues. The e-blasts were also posted on the Housing Department's website at [www.sjhousing.org](http://www.sjhousing.org), and were turned into news briefs that were automatically sent to media outlets.

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](mailto:city.clerk@sanjoseca.gov)) by 12:00 p.m. the day of the hearing. All public comments provided to the City both verbally and in writing will be included in the appendices of the Substantial Amendment together with staff's responses when the document is submitted to HUD.

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### **COORDINATION**

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

### **COMMISSION RECOMMENDATION/INPUT**

This item is scheduled to be heard by the Commission at its virtual meeting on April 14, 2022 at 5:45 p.m. That meeting occurs after the submission date for this memorandum, so a supplemental memorandum summarizing the Commission's feedback will be included in the amended May 3, 2022, City Council meeting agenda.

### **FISCAL/POLICY ALIGNMENT**

This action is consistent with the City's *Consolidated Plan 2015-20* and with the City's Adopted *Housing Element 2014-2023*, in that the action provides services to very low-income households. It also furthers the advancement of the *Community Plan to End Homelessness* approved by the City Council in August 2020.

### **COST SUMMARY/IMPLICATIONS**

The recommended actions in this memorandum reallocate previously programmed federal ESG-CV2 grant funds within the Multi-Source Housing Fund in the amount of \$3.0 million to meet federal expenditure deadlines by increasing motel voucher emergency shelter funding to benefit vulnerable families (\$3.0 million), offset by decreases to administration costs (\$2.0 million) and hygiene/infection control (\$1.0 million). The actions recommended in this memorandum have no impact on the General Fund and meet federal CARES Act requirements.



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**BUDGET REFERENCE**

The table below identifies the funds and appropriations proposed to fund the actions recommended as part of this memorandum.

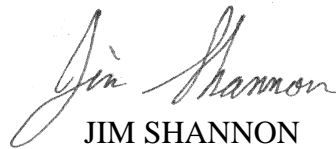
Fund #	Appn. #	Appn. Name	Total Appn.	Rec. Budget Action	2021-2022 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
448	213A	Hygiene/Infection Control	\$4,057,976	(\$1,000,000)	999	6/22/2021, Ord. 30621
448	213B	Housing Shelter	\$17,028,318	\$3,000,000	999	6/22/2021, Ord. 30621
448	213C	ESG CARES II Grant Administration	\$3,419,842	(\$2,000,000)	999	6/22/2021, Ord. 30621

**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.

/s/

JACKY MORALES-FERRAND  
Director of Housing



JIM SHANNON  
Budget Director

For questions, please contact Ragan Henninger, Deputy Director at [ragan.henninger@sanjoseca.gov](mailto:ragan.henninger@sanjoseca.gov).

Attachment A: Fifth Substantial Amendment to the FY 2019-20 Action plan

# **Attachment A**

## **Fifth Substantial Amendment to the FY 2019-20 Action Plan**

### **SUMMARY**

The following is a summary and draft language that amends the FY 2019-20 Annual Action Plan.

#### **Background**

This is a proposed fifth amendment to the City's FY 2019-20 Annual Action Plan. The purpose of the amendment is to meet federal spending deadline of September 30, 2022, for ESG-CV funds. Although the City is currently in the FY 2021-22 Annual Action Plan period, it is necessary to amend the FY 2019-20 Annual Action Plan for a technical reason. HUD has directed jurisdictions that all new commitments and changes of existing commitments involving federal Coronavirus Aid, Relief, and Economic Security Act (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 2019-20 Annual Action Plan.

The City's Annual Action Plan details its funding strategy for the Community Development Block Grant (CDBG), Emergency Solutions Grant (ESG), HOME Investment Partnership (HOME), and Housing Opportunities for People with AIDS (HOPWA) 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 HUD's federal funds by formula allocation are required to have an adopted Citizen Participation Plan. San José's Citizen Participation Plan<sup>1</sup> 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 (CPP), 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 size of the proposed change qualifies this amendment as a Substantial Amendment.

Additionally, HUD has awarded supplemental funding through the CARES Act that required programming in San José's FY 2020-21 Annual Action Plan. For this reason, all amendments regarding CARES Act funds require amendment of the FY 2019-20 Annual Action Plan.

**Proposed Amendment**

This proposed Substantial Amendment redirects ESG-CV2 funds as follows:

1. On page 48 of the approved FY 2019-20 Annual Action Plan, amend the estimated amount of ESG-CV2 and Activities in section AP-38 Project Summary, as follows:

**Table 1 – Project Summary  
FY 2019-20 Funding Directed to COVID-19 Relief**

Fund	Allocation	Total Estimated Resources
ESG CARES Round 1	\$2,482,218	\$2,482,218
ESG CARES Round 2	\$32,836,839	\$32,836,839
<b>Total</b>	<b>\$35,319,057</b>	<b>\$35,319,057</b>

**Table 2 – Proposed Funding Changes - Additions/Reductions**

Funding Source	Activities	Approved	Change	New Funding Level
ESG-CV1	No Changes			
ESG-CV2	Administration	\$3,286,839	(\$2,000,000)	\$1,286,839
	Encampment Support – Trash* <i>*Note: In Table AP-38 below - Part of Activity 30. Hygiene/Infection Control.</i>	\$3,882,000	(\$1,000,000)	\$2,882,000
	LifeMoves Motel Voucher Program <i>*Note: In Table AP-38 below - Part of Activity 31. Housing.</i>	\$3,500,000	+\$3,000,000	\$6,500,000

*AP-38 Projects Summary*  
**Project Summary Information**  
**Table 1 – Project Summary**

#	Project Name	Target Area	Needs Addressed	Funding	GOI
30	Hygiene/Infection Control: Providing hygiene and waste management related services to help control the spread of infectious disease	N/A	• Homeless -ness	ESG CARES 2: <del>\$3,882,000</del> <b>\$2,882,000</b>	TBD
31	Housing: Increasing access to housing opportunities and shelter	N/A	• Homeless -ness	ESG CARES 2: <del>\$21,864,018</del> <b>\$28,278,089</b>	<del>150</del> 300 persons assisted
32	Administration	N/A	• N/A	ESG CARES 2: <del>\$3,286,839</del> <b>\$1,286,839</b>	TBD

---- END OF FY 2019-20 ANNUAL ACTION PLAN AMENDMENT ----