



COUNCIL AGENDA: 2/14/23
FILE: 23-194
ITEM: 8.1

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: January 23, 2023

Approved

Date

2/2/23

**SUBJECT: SIXTH SUBSTANTIAL AMENDMENT TO THE FISCAL YEAR 2019-2020
ANNUAL ACTION PLAN FOR THE REALLOCATION OF
CORONAVIRUS AID RELIEF AND ECONOMIC SECURITY ACT FUNDS
AWARDED BY THE UNITED STATES DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT 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 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 2019-2020 Annual Action Plan to reallocate Community Development Block Grant CARES Act balance of \$6,770,616 and apply funds to Community Development Block Grant CARES Act eligible uses;
 - (2) Authorize the Housing Department to submit the Substantial Amendment to the United States 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 Substantial Amendment to the Fiscal Year (FY) 2019-2020 Annual Action Plan approved by the City Council at its May 14, 2019 City Council meeting. 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). 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 necessary to amend the FY 2019-2020 Annual Action Plan. The CARES Act funding was recognized in the FY 2019-2020 Annual Action Plan. HUD 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, the plan that must be amended is the FY 2019-2020 Annual Action Plan.

This Substantial Amendment to the Action Plan enables the City to use \$6,770,616 in CARES Act funds to serve some of the most vulnerable community members impacted by COVID-19. More specifically, funding will help respond to the following community needs: 1) food for persons who are seniors, disabled residents, unhoused residents, low-income individuals, and low-income families and 2) sanitation services at the City's largest encampments as part of the Services, Outreach, Assistance, and Resource program.

Current food distribution contracts will be amended to end on June 30, 2023, with an option to extend the agreements into October 2023. This will allow expenditures to be processed to meet the HUD expenditure deadline of October 2023. These include contracts with Catholic Charities of Santa Clara County, The Health Trust, Loaves & Fishes Family Kitchen, Hunger at Home, Sacred Heart Community Services, Veggielution, West Valley Community Services, and San José Conservation Corps. 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 will be 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 will be held on February 9, 2023, before the Housing and Community Development Commission.

BACKGROUND

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

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 Participation Plan, a Substantial Amendment constitutes a change to a previously adopted Annual Plan when it meets one of the following thresholds:

- 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 process 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, sent a notice by email to its general distribution list and to the commissioners on the Housing and Community Development Commission, and 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 p.m. on the day of the hearing. During the hearing, comments can be submitted in person, 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

This recommended action proposes a Sixth Substantial Amendment to the City's Fiscal Year 2019-2020 Annual Action Plan. The purpose of the amendment is to reallocate unspent Community Development Block Grant (CDBG) CARES Act funds to address critical community needs and to effectively meet the October 2023 federal deadline to expend the CDBG CARES Act funds. The changes to specific projects and programs are provided in the **Attachment** - Sixth Substantial Amendment to the FY 2019-20 Action Plan.

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

Table 1: FY 2019-2020 Federal Funding Levels

Fund	Allocation	Expended	Balance Available
CDBG CARES Act Round 1	\$5,263,414	\$5,263,414	\$0
CDBG CARES Act Round 3	\$7,578,510	\$807,894	\$6,770,616
TOTAL	\$12,841,924	\$6,071,308	\$6,770,616

The City's FY 2019-2020 Action Plan is being amended to fund critical needs of the community and provide continuous assistance and service identified in the Action Plan. The City is required to meet the federal deadline to expend CDBG CARES Act funds by October 2023.

The proposed changes to the City's FY 2019-2020 Action Plan qualify as a Substantial Amendment because it is a change greater than \$100,000 or a 25% change in the amount allocated to a category.

The Fourth Substantial Amendment to the FY 2019-2020 Action Plan was approved by City Council at its March 23, 2021 City Council meeting². The Fourth Amendment approved CDBG CARES Act Round 3 activities were childcare, meals-food distribution, emergency interim housing operations, motel vouchers, and legal services. The funds for legal services were not spent because there was not a legal services agency with capacity to provide the services. The motel voucher program for families used an alternative funding source that had a more immediate spending deadline. This substantial amendment reallocates those funds that were not spent. The funds must be used for direct COVID-19 related services and activities. The proposed changes to the CDBG CARES Act 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 Annual Action Plan	New Funding for FY 2022-2023 6th Substantial Amendment FY 2019-2020 Annual Action Plan
Meals-Food Distribution Program	\$453,000	\$2,746,815
Sanitation Services at Encampments	\$400,000	\$4,023,801
TOTAL	\$853,000	\$6,770,616

² Fourth 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>

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 agreements to extend services to the end of FY 2022-2023, and possibly to October 2023.

- **Meals-Food Distribution Program** - 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 June 30, 2023 using CDBG CARES Act funds. 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.

Food distribution agreements with the agencies listed below will be amended to include an additional total amount of \$2,746,815:

Agency	CDBG CARES for Jan-Jun 2023
Catholic Charities of Santa Clara County	\$500,000
The Health Trust	\$150,994
Loaves & Fishes Family Kitchen	\$193,688
Hunger at Home	\$990,000
Sacred Heart Community Service	\$203,222
Veggielution	\$15,793
West Valley Community Services	\$43,118
San Jose Conservation Corps	\$650,000

The Food and Necessities Distribution Team has managed emergency food distribution efforts in response to the COVID-19 pandemic since March 2020. From July 1, 2022 to December 31, 2022, the community-based organizations partnered with the City to distributed approximately three million meals to vulnerable communities across San José. This work has continued to date with a goal to gradually transition the City away from emergency food distribution services. Since demand for food services remains high, the Housing Department and the Department of Parks, Recreation, and Neighborhood Services are working closely to secure short-term service agreement extensions with partnering agencies. These extensions will be funded with the available CDBG CARES Act funding, as well as the balance of unused American Rescue Plan Act funding allocated for food security relief. This will provide residents additional time to find other long-term food security assistance.

The extensions that are currently being developed include those with Catholic Charities of Santa Clara County, The Health Trust, Loaves & Fishes Family Kitchen, Hunger at Home, Sacred Heart Community Services, Veggielution, and West Valley Community Services, all of which will be extended through June 2023. In addition, a food-boxing agreement with the San José Conservation Corps will be extended through March 31, 2023, which is the agency's preferred date to sunset the meal program. The Housing and Parks, Recreation, and Neighborhood Services Departments are working together to transition the administration of these agreements quickly and efficiently, including the establishment of meetings with our partner agency representatives.

- **Sanitation Services at Encampments** - Funds will also provide sanitation services to some of the City's largest encampments as part of the Services, Outreach, Assistance, and Resource program. The program provides sanitation and trash services, comprehensive street-based outreach and support services, and housing and shelter referrals for encampment residents.

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 CARES Act fund. In the CDBG CARES Act fund, these actions include reallocating CDBG CARES Act 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 meet the CARES Act requirements. The Sixth Substantial Amendment to the FY 2019-2020 Action Plan will allow the City to reallocate the CDBG CARES Act funds to address critical needs and to effectively meet the federal deadline to expend the CDBG CARES Act funds. The expenditure deadline is October 26, 2023.

BUDGET REFERENCE

The City received an award of \$7,578,510 in CDBG CARES Act funding. The table below identifies the funds appropriated to fund the actions recommended as part of this memorandum.

Fund #	Appn #	Appn. Name	Total Appn.	Rec. Budget Action	2022-2023 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
441	214Z	Community Development Block Grant CARES Act	\$6,770,616	N/A	967	10/18/2022 Ord. No. 30833

COORDINATION

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

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the February 14, 2023 City 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*, *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 in person or virtually at the public hearing held by the City Council on February 14, 2023.

HONORABLE MAYOR AND CITY COUNCIL

January 23, 2023

Subject: Sixth Substantial Amendment to the Fiscal Year 2019-2020 Annual Action Plan for the Reallocation of Coronavirus Aid Relief and Economic Security Act Funds Awarded by the U.S. Department of Housing and Urban Development for Eligible Use.

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

COMMISSION RECOMMENDATION AND INPUT

This item will be heard by the Housing and Community Development Commission in a hybrid meeting on February 9, 2023, at 5:45 p.m. Housing staff will publish a supplemental memorandum to report the outcome of the Housing and Community Development Commission meeting regarding any action or input provided by the commissioners.

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 California Government Code section 53083 or 53083.1 or in the City's Open Government Resolution.

/s/

JACKY MORALES-FERRAND
Director of Housing

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

Attachment
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 Substantial 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) Coronavirus Aid Relief and Economic Security Act (CARES Act) funds to address critical community needs and to effectively meet the federal deadline to expend the CDBG CARES Act 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 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 Fiscal Year 2019-2020 Action Plan qualify as a substantial amendment because they meet the Housing and Urban Development criteria of a change greater than \$100,000, or a 25% change, in the amount allocated to a category.

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

Proposed Amendment

This proposed Substantial Amendment reallocates CDBG CARES Act funds as follows:

Beginning on page 48 of the approved Fiscal Year 2019-2020 Annual Action Plan, amend the estimated amount of CDBG CARES Act 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 Outcome
Meals-Food Distribution Service Program	Strengthen Neighborhood	CDBG CARES Act \$2,746,815	TBD
Sanitation Services at Encampments	Affordable Housing	CDBG CARES Act \$4,023,801	TBD
TOTAL		CDBG CARES Act \$6,770,616	