



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Angel Ríos

**SUBJECT:** SANTA CLARA COUNTY FOOD  
REIMBURSEMENT AGREEMENT

**DATE:** May 15, 2020

Approved

Date

5/17/20

## **RECOMMENDATION**

Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with Santa Clara County to reimburse the City for the loaded cost of food and necessities distributed to residents of the unincorporated County through December 31, 2020.

## **OUTCOME**

The recommended action enables the City of San José (City) to feed vulnerable populations in the unincorporated areas of Santa Clara County (County), provide necessities to maintain good health for these vulnerable populations, and to invoice and receive reimbursement from the County for the loaded cost of these food and necessity distribution services provided by the City.

## **BACKGROUND**

As a result of local, state, and federal mandates and advisories in response to COVID-19, the City Emergency Operations Center (EOC) received a request on March 18, 2020 from the County of Santa Clara (County) EOC to set up, administer, and staff a countywide food and necessities distribution program for children, adults, and senior citizens impacted by the National COVID-19 Emergency, the shelter-in-place order, and the subsequent economic downturn which is forcing more vulnerable populations into poverty<sup>1</sup>. The County requested the City lead countywide food and necessities distribution during the COVID-19 emergency response, the recovery period, and beyond the recovery period through an initial term of December 31, 2020.

<sup>1</sup> According to Santa Clara County's Department of Employment and Benefit Services, applications for CalFresh (food stamp) assistance more than doubled between the periods March 1-15 and April 1-15. The San Jose-Sunnyvale-Santa Clara metropolitan statistical area is [projected](#) to see 15.3% unemployment during May 2020 as a result of the COVID-19 pandemic. For comparison, the 2010 annual rate of unemployment during the Great Recession was 10.5%. The two employment categories with projected highest job losses are: (i) personal care and service, and (ii) food preparation and serving.

The County public health office restrictions, triggered by the COVID-19 pandemic – to shelter-in-place, shut down non-essential businesses and close schools – has increased demand for food distributed through County, City, Community-Based Organizations and school food programs. These entities have insufficient capacity and resources to meet the expanding food needs within their existing food distribution network, which includes serving residents of the unincorporated portions of the County. On May 12, City Council authorized the City Manager to finalize initial response contracts with a variety of meal (grocery and prepared meals) and necessities providers to help fill the gap in meal capacity to meet the hunger needs with a weekly output of over 3,000,000 meals per week<sup>2</sup>.

In a meeting with the Federal Emergency Management Agency (FEMA) staff on Sunday, May 3, 2020, the City confirmed that certain types of activities under the food service contracts would not be eligible for FEMA reimbursement. Two types of activities that are not deemed eligible by FEMA:

- First, the City would not be reimbursed by FEMA for meals provided to residents who live in unincorporated pockets and other cities in the County of Santa Clara because FEMA staff indicated that the County and other cities have the legal responsibility to seek reimbursement for services provided to their jurisdictions and that they cannot delegate this legal responsibility by any mechanism to the City of San José.
- Second, FEMA staff is not expanding the reimbursement eligibility categories issued following the national declaration of emergency notwithstanding the unique nature of the COVID-19 pandemic. Under these categories, eligibility for food assistance is limited to residents that have been diagnosed as being positive for COVID-19, residents that are at high-risk (such as those over 65 or those with another underlying health condition), or residents that are unable to leave home because of exposure to COVID-19. Consequently, the City will not be reimbursed by FEMA for providing meals to residents exclusively based on their status as low-income or economically impacted by the emergency.

Since March 20, 2020 the Administration has pursued a reimbursement agreement with the County to ensure the City is compensated for food and necessities services provided to residents in the unincorporated County pockets.

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<sup>2</sup> Based on data from research by Santa Clara University on the number of meals provided to vulnerable households in Santa Clara County during the 2010 recession. Projections for food assistance during COVID-19 are adjusted to reflect a more severe economic downturn due to COVID-19.

## **ANALYSIS**

Due to the lack of a mutual aid agreement specific to food and necessity distribution, a countywide food distribution apparatus had to be established quickly to coordinate and maximize existing services while building and securing additional meal and necessities capacity to meet the rapid rise in food insecurity resulting from the impacts of COVID-19 pandemic. The system was originally envisioned by the County and the City to feed those in need as the highest priority with the business model assuming that the City would be able to recoup its loaded costs from other jurisdictions, including the County, either through federal aid funding sources or directly from other jurisdictions. As described above, FEMA stated on May 3, 2020, that it will not reimburse the City for meal and necessities distribution costs provided to residents outside of the City limits, regardless of the populations served. As such the City must pursue individual reimbursement agreements with the County and the cities within the County to recover costs while maintaining the countywide food and necessities distribution services.

To provide food and necessities distribution services to unincorporated County residents while minimizing impacts to the General Fund, the City has engaged the County on negotiating a reimbursement agreement with the following business terms.

### **Business Terms for the Reimbursement Agreement**

- City to provide a food and necessities distribution service in response to the COVID-19 emergency response and attempt to satisfy all requests to serve residents within the unincorporated areas of the County.
- City to invoice the County, and County to pay, based on the loaded cost per meal served to the unincorporated areas of the County. The loaded cost will include the City's costs to administer the services, which include but are not limited to labor costs, third-party costs, consulting services, technology, and other costs.
- The agreement is proposed to be retroactive to March 18, 2020, with an initial term through December 31, 2020, per the County's request.
- County to pay a deposit and pay for future service to locations within the unincorporated areas within the County.
- County to pay the City for services already rendered as of March 18, 2020.
- If parties are unable to execute an agreement by May 29, 2020, staff will return to the Council on June 2, 2020 to review next steps to minimize the impact to the City General Fund.

### **Methodology for Billing**

Staff intends to compare the baseline of annual food service provided before the pandemic to the weekly growth of meals provided through the City's food and necessity distribution services. The weekly increase over the baseline, will serve as an estimate of the number of meals provided to residents of the unincorporated areas of the County (and other jurisdictions) through channels coordinated or paid for by the City. This initial estimate would include, but is not limited to,

standard countywide programs such as Meals on Wheels, Senior Nutrition Programs, and the variety of Child Nutrition Programs to demonstrate the increase in meals provided to residents based on jurisdiction in addition to other channels/sources/providers engaged to provide food and necessities distribution services.

The City plans to invoice the County for the full cost of only those meals provided in excess of the baseline of annual food service already being provided and reimbursed by the County. The City will provide documentation to the County on the populations served in the County pockets to assist in their use of federal, State and other grant funds. The cost estimate would include the fully loaded cost of providing the food and necessities distribution service including administrative costs to create the countywide food and necessities distribution system.

### **CONCLUSION**

By authorizing the City Manager to negotiate and execute a reimbursement agreement with the County, the City is able to provide meal and necessities distribution services to feed the vulnerable populations within the unincorporated sections of the County while securing critical revenue to minimize the impact to the general fund. The proposed agreement is consistent with the City's approach to serve the public during the pandemic—by feeding the medically vulnerable, seniors, low-income children, families forced into poverty<sup>1</sup> due to the impacts of shelter-in-place and associated economic downturn, and the unhoused population—while partnering with the County and other jurisdictions to manage risk.

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

Staff will apply the billing methodology and clarify assumptions when providing the initial cost estimate to the County during negotiations. Meanwhile, staff is working with federal and state agencies to expand funding and eligibility requirements for meal distribution. Staff will be able to update likely cost scenarios that follow City Council direction to maximize reimbursements and other funding sources so as to minimize General Fund impacts. Staff will return to City Council with updates on the overall food distribution program and the budget actuals and scenarios. Approval of the City and County Reimbursement Agreement will provide the framework for negotiating agreements with the other cities in the County where the City is providing food distribution services. If parties are unable to execute an agreement by May 29, 2020, staff will return to the Council on June 2, 2020 to review next steps to minimize the impact to the City General Fund.

### **CLIMATE SMART SAN JOSE**

The recommendations in this memo do not have any negative impact on Climate Smart San José energy, water, or mobility goals.

### **PUBLIC OUTREACH**

This memorandum will be posted on the City's website for the May 19, 2020, Council agenda.

### **COORDINATION**

This memorandum, related documents and resolutions were prepared in coordination with the Budget Office, Finance Department, Parks Recreation Neighborhood Service Department, and the City Attorney's Office.

### **COMMISSION RECOMMENDATION/INPUT**

No commission recommendation or input is associated with this action.

### **COST SUMMARY/IMPLICATIONS**

On May 12, 2020, the City Council authorized the ratification, negotiation and execution of multiple agreements for the preparation and distribution of food and necessities to target populations impacted by COVID-19, to be funded through the newly established Coronavirus Relief Fund and the Emergency Reserve Fund with a total not to exceed amount of \$32.7 million, of which approximately \$6.5 million is currently estimated to be attributable to distribution to unincorporated County residents and residents of other jurisdictions. Additional expenses will be incurred, and loaded costs will be invoiced to the County subject to additional City Council approval of appropriations of funds through December 31, 2020. Payments from the County to reimburse the City for applicable costs will be recognized after they are received through either a separate City Council memorandum or future budget process, as the timing and level of reimbursement is contingent upon actual demand and service levels.

### **CEQA**

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

/s/  
ANGEL RÍOS  
Deputy City Manager, City Manager's Office

For questions, please contact Angel Ríos, Deputy City Manager, at (408) 793-5553.