

THE REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE

MEMORANDUM

TO: REDEVELOPMENT AGENCY BOARD	FROM: HARRY S. MAVROGENES EXECUTIVE DIRECTOR
SUBJECT: SEE BELOW	DATE: FEBRUARY 7, 2008

INFORMATION

SUBJECT: PAYMENTS MADE BY REDEVELOPMENT AGENCY TO SANTA CLARA COUNTY

It has come to our attention recently that the County of Santa Clara is questioning the timing of the Agency's payments to them under the County Settlement Agreement. In order to understand the basis of their claim, it is necessary to understand the various payment provisions of the Agreement, as well as the history of the Agreement.

The original Tax Sharing Agreement was entered into by the Agency, City and the County in 1983 and provided a method for calculating a pass through payment based on the increase in tax increment received throughout the Merged Project Area and based on the County's premise that the funding of Redevelopment activities had "taken away" funds that it would have otherwise received. The Tax Sharing Agreement was amended in December 1993 to include an additional pass through payment based on tax increment received from the South Rincon sub-area and the Almaden Gateway project area. For 2007-08, the Merged Area payment is approximately \$12.3 million and the South Rincon payment is approximately \$5.2 million. The Agreement provides that the South Rincon payment is made in two installments each year, on January 10 and May 10. The Agreement does not specify a date by which the Merged Area payment must be made. However, it must be made within 30 days from receipt of tax increment in an amount sufficient to make the tax allocation payment. The Agreement also specifies that the payments are subordinate to all existing and current indebtedness of the Agency.

In many cases, it can be proven that the presence of redevelopment has significantly increased the pace, density and timing of development where the County may not have realized as much growth in property taxes absent redevelopment.

There is no question in my mind that, absent redevelopment, today North San Jose would be mostly mobile home parks and warehouses. Without the Agency's investment in key infrastructure, such as drainage, sanitary sewers, and roadway improvements, the area would have been bypassed by emerging technology and the growth would have gone towards Fremont. This, of course, would have been a loss to Santa Clara County, as well as to San Jose.

In May 2001, as a result of the creation of the Strong Neighborhoods Initiative, the agreements were renegotiated to provide more money for the County. Since redevelopment law was amended in 1994 to prohibit future pass through payments, the Agency Board delegated its authority to conduct redevelopment activities to the County Board of Supervisors, and the funds transferred to the County under this new provision (the Delegated Payment) must be used by the County on capital projects that primarily benefit San Jose redevelopment project areas. (The pass through payments, on the other hand, are not restricted at all.)

Under the terms of the Agreement, the amount of the Delegated Payment for fiscal years 2000-01 through 2003-04 was equal to the pass through payment (both the Merged Area and the South Rincon payments). Since fiscal year 2004-05, the Delegated Payment is in an amount equal to 20% of the proceeds of any new bond issue.

The final category of payment made by the Agency to the County is pursuant to the Fairgrounds Settlement Agreement among the City, Agency and County. Under that Agreement, the City and the Agency are required to pay the County a total of \$22.5 million in three equal installments of \$7.5 million on July 1, 2007, 2008 and 2009. This money is required to be used for public projects that benefit the residents of San Jose.

When the Delegated Payment requirement came into effect in May 2001, the amounts to be paid to the County doubled from approximately \$8.5 million to \$17 million. The next year, due mainly to the increase in tax increment, the combined payment was \$33.85 million.

The Agency has paid out over \$221 million to Santa Clara County since 2001 in a combination of pass-through, delegated and settlement payments. This is by far the most generous agreement in the State and represents 17.9% of our annual tax increment since FY 2000-01 (in post-ERAF world, with no Agency in existence, the County would get 17% of our funds.)

As mentioned above, recently, the County Executive's office raised a question about the timing of our payments. Our Chief Financial Officer, being fiscally prudent, wants to make absolutely certain that we can meet the Agency's other obligations first, and hence has made the pass through payment when he is assured all obligations are met but has never failed to pay. With regard to the Delegated Payments, I am pleased to say we actually wire transferred the \$40 million straight from the bond closing. Likewise, the Fairgrounds Settlement payment, due July 1, was also made on time.



HARRY S. MAVROGENES
Executive Director