

5/8/2025

**Association of Bay Area Governments**

Bay Area Metro Center  
375 Beale Street, Suite 800  
San Francisco, CA 94105-2066

**Re: Agenda Item 7b: Regional Housing Needs Allocation (RHNA) Transfers: Delegation of Authority**

Dear ABAG Administrative Committee,

The purpose of this letter is to provide comments on Item 7b of the May 9, 2025 ABAG Administrative Committee Agenda relating to the “Regional Housing Needs Allocation (RHNA) Transfers: Delegation of Authority”. As noted in the staff report, the City of San José (City) has one pending RHNA transfer subject to the proposed process for RHNA Transfer Delegation of Authority. This proposed new process for post-allocation RHNA transfers will have sweeping implications and could be precedent-setting for all future annexations of unincorporated properties within the City of San José’s Sphere of Influence as the County of Santa Clara (County) looks to meet its RHNA obligations.

Generally, the City is supportive of the ABAG staff proposal to delegate authority and shift the process to the MTC Deputy Executive Director given its technical natures. However, the City is requesting **two (2)** modifications to the proposal, as written, which would provide some checks and balances within the process to provide proper transparency of the review and decision-making processes by ABAG/MTC staff.

**1) Public Process and Board Approval for RHNA Transfer Guidelines**

The proposed delegation of authority would authorize the MTC Deputy Executive Director to establish and update guidelines and procedures surrounding pending and future RHNA transfers. There are many factors or criteria that could go into this process that are currently unknown, and the City cannot fully evaluate or understand the future potential impacts of the proposed new process without clarity around the guidelines for the decision-making on RHNA transfers. Therefore, the City requests that development of the guidelines and procedures around RHNA transfers go through a public process where these guidelines and procedures are publicly noticed with ample time for jurisdictions and the public to submit comments and then approved by the ABAG Board, or one of its committees, rather than wholly delegated to ABAG staff.

**2) Reporting and Ongoing Evaluation**

To increase transparency and ensure a fair process, the City also proposes a reporting requirement. The delegation of authority should require the MTC Deputy Executive Director to provide bi-annual updates and reporting to the ABAG Board or one of its committees. The updates and reporting should include evaluating the approved RHNA transfer guidelines and procedures and status and outcomes of each RHNA transfers submitted to ABAG for determination. Providing

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regular reports increases transparency to the public and affected jurisdictions, and ensures a public process if changes to the guidelines and procedures are warranted in the future.

*Background and City of San José Context*

The current RHNA transfer request in the City is for a smaller project entitled by the City for development of 18 housing units. The County is requesting a transfer of 12 units (including two moderate-income units) that matches what was merely estimated as potential capacity in the County's Housing Element Site Inventory. However, the site has been annexed into the City, entitlements have been approved for the site for 18 housing units, and building permits are expected to be issued shortly for 18 units (including two extremely low-income units). The County is requesting that 12 units be transferred to the City and the City is requesting 18 units should transferred. Under the County's request, the City would be asked to take on moderate-income units not currently planned for within the City's Housing Element inventory nor currently approved for development. Therefore, this transfer would unfairly create an immediate shortfall of unplanned moderate-income units. The City believes that the transfer of units should not be based on a theoretical methodology but rather the number of units contained in the City entitlement and ultimately constructed.

Agreeing with the County's unreasonable request has broad implications for known future RHNA transfers between the City due to pending project applications.

For example, the City currently has an application for development of a vacant former golf course property of approximately 114 acres on unincorporated lands that appears in the County of Santa Clara's Housing Element Site Inventory. The County's Housing Element Site Inventory has a realistic capacity of 2,850 units on the site. The current proposed application has 1,721 units. The City is concerned about precedent of transferring RHNA based on theoretical capacity rather than entitled development, with this case in particular representing a shortfall of over 1,000 units. The City should not be expected to unfairly bear the County's RHNA shortfall burden with its own RHNA obligation.

Additionally, ABAG should approach these new RHNA transfer guidelines and procedures carefully to still encourage jurisdictions to come to mutual agreement before submitting these requests for ABAG to intervene.

For these reasons, the City is recommending the two proposed modifications to ensure checks and balances along with transparency in the RHNA transfer process now and in the future.

Sincerely,



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