

Association of Bay Area Governments

Executive Board

January 19, 2023

Agenda Item 6.e.

Regional Housing Needs Allocation (RHNA)

Subject:

Request from Santa Clara County to transfer a portion of its Regional Housing Needs Allocation (RHNA) to the City of San Jose

Background:

Government Code Section 65584.07(a) allows an unincorporated county and one or more jurisdictions in that county to voluntarily agree on a transfer of units from the county to the city or town. Voluntary transfers can be completed during the period between adoption of the Final RHNA (December 16, 2021) and the Housing Element due date (January 31, 2023). The statute stipulates that the county's share of low-income and very low-income housing shall be reduced only in proportion to the amount by which the county's share of moderate- and above moderate-income housing is reduced. The jurisdictions proposing the transfer must submit an analysis of the factors and circumstances, with all supporting data, justifying the revision to ABAG. By statute, ABAG shall approve the proposed transfer if the conditions identified above have been satisfied.

Issues:

On January 6, 2023, the County of Santa Clara submitted a letter to ABAG (Attachment A) requesting the transfer of RHNA units to the City of San Jose. Table 1 shows the number of units to be transferred by income category.

Table 1: Maximum Potential Transfer from Santa Clara County to City of San Jose and Revised Allocations

	Very Low	Low	Moderate	Above Moderate	Total
County Original RHNA	828	477	508	1,312	3,125
County Revised RHNA	0	0	0	0	0
Change in County RHNA	-828	-477	-508	-1,312	-3,125
San Jose Original RHNA	15,088	8,687	10,711	27,714	62,200
San Jose Revised RHNA	15,916	9,164	11,219	29,026	65,325
Change in San Jose RHNA	+828	+477	+508	+1,312	+3,125

ABAG-MTC staff has reviewed Santa Clara County's submittal and recommends that based on the attachments, the Executive Board approve the County's reduction in its RHNA, subject to certain conditions being satisfied. Santa Clara County has demonstrated the transfer will be a voluntary agreement with San Jose by providing a copy of the draft Memorandum of Agreement between the two jurisdictions (Attachment B). For ABAG to approve the transfer and for Santa Clara County to meet the January 31, 2023 deadline, ABAG must consider and approve the

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transfer at its January 19, 2023 meeting. Unfortunately, at the time of publication for materials for the ABAG January 19, 2023 meeting, Santa Clara County is not able to submit an executed copy of the transfer agreement. At its [January 10, 2023, meeting](#), the Santa Clara County Board of Supervisors delegated authority to its County Administrator to negotiate and execute an agreement to transfer the RHNA units. Likewise, the San Jose City Council is scheduled to consider a similar delegation of authority prior to the January 31 deadline for completing the transfer. Assuming both entities approve and execute the Memorandum of Agreement, Santa Clara County will be able to submit an executed version of the attached Memorandum of Agreement by January 31, 2023.

As the final negotiations between the County and City are not yet complete, the attached draft Memorandum of Agreement (Attachment B) reflects the highest number of units (3,125 or 100% of the County's RHNA) that could potentially be transferred to San Jose. However, it is possible that the parties may agree to transfer a smaller number of units. As an example of a smaller total transfer, Table 2 of the County's transfer request (Attachment A) shows the results of a transfer of 2,000 units. The example transfers included in the County's transfer request demonstrate that, regardless of the total number of units to be transferred, the transfers of very low- and low-income units are proportional to the transfers of moderate- and above moderate-income units, as required by law (see Table 1, Attachment A). The final number of units to be transferred, by income category, will be determined in the final agreement approved by Santa Clara County and the City of San Jose.

The submittal includes an analysis of the factors justifying the transfer, which include preservation of agricultural land, city control within Spheres of Influence, and county financial support for affordable developments within city limits. In addition to meeting these statutory requirements, Santa Clara County also included the analysis of how the transfers are consistent with furthering the RHNA objectives identified in Government Code Section 65584(d), as requested by ABAG.

Recommended Action:

The Executive Board is requested to:

1. Approve Santa Clara County's request for the transfer of RHNA units to the City of San Jose up to the number of units described in Table 1 (above), subject to all of the following conditions being satisfied:
 - a. The County of Santa Clara submits an executed copy of the Memorandum of Agreement between County of Santa Clara and the City of San Jose, in substantial form to Attachment B, as determined by MTC's General Counsel, on or before 11:59 p.m. on January 31, 2023; and
 - b. The total number of RHNA units transferred from the County of Santa Clara to the City of San Jose may be a lesser amount than what is shown in Attachment B, provided that the County of Santa Clara's final share of low-income and very low-income housing shall be reduced only in proportion to

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the amount by which the County of Santa Clara's share of moderate- and above moderate-income housing is reduced, as determined by the Executive Director or designee.

- c. Failure to satisfy the conditions above by 11:59 p.m. on January 31, 2023, shall render the approval of Santa Clara County's transfer of RHNA units to the City of San Jose void.
2. Authorize the Executive Director or designee to take any action necessary to implement the approval.

If the conditions identified above are not fulfilled by January 31, 2023, ABAG's provisional approval of the RHNA transfer will no longer be in effect.

Attachments:

- A. Santa Clara County Request for RHNA Transfer
- B. DRAFT Memorandum of Agreement between County of Santa Clara and City of San Jose

Reviewed:



Brad Paul