

County of Santa Clara

Board of Supervisors

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MANAGEMENT AUDIT OF THE MEASURE B TRANSPORTATION IMPROVEMENT PROGRAM (MBTIP)

AUDIT SYNOPSIS

This management audit examined the MBTIP's closeout activities and fund balance. Consequently, the audit scope consisted primarily of: 1) evaluating the timeliness of closing out the remaining highway, rail and ancillary projects, and 2) examining MBTIP revenues and expenditures to quantify the amount of unexpended funds being held by the County of Santa Clara and the Santa Clara Valley Transportation Authority (VTA).

Since nearly all transportation projects funded by the MBTIP are complete, this audit report contains only two substantive findings and six recommendations. Full implementation of these recommendations would enable the County to use \$6.2 million of surplus Measure B funds on one-time general County purposes, require the County to properly appropriate residual sales tax revenue, and allow the County to recover between \$1.54 and \$4.07 million that has been overpaid to VTA. Although expected to diminish over time, residual sales tax distributions may continue until March 2016 or later, and the County could receive an additional \$1 million or more in residual sales tax that would be available for general County purposes or other transportation improvements, as determined by the Board of Supervisors.

KEY FINDINGS

- Although the Measure B half-cent sales tax expired on March 30, 2006, the County's Measure B Fund had a cash balance of approximately \$10.7 million as of March 31, 2011. Approximately \$4.4 million of these funds remain committed to the County Roads and Airports Department (County Roads), and \$232,723 has been set aside for final administrative costs, leaving a surplus cash balance of approximately \$6.2 million.
- Since the intent of Measure A has been met, all Measure B funds that are neither committed to County Roads nor required for remaining administrative expenses may be used on general County purposes, as allowed by the State Constitution and determined by the Board of Supervisors.
- The County continues to receive residual sales tax distributions as a result of amended merchant tax returns or audits of merchants conducted by the State Board of Equalization (BOE). To date, the MBTIP has received approximately \$8.9 million in residual sales tax revenues, of which nearly \$8.8 million has been paid to VTA.
- The County and VTA entered into a *Master Agreement* in 1999 that set forth the terms and conditions of the implementation and termination of the MBTIP. These terms were altered by a 2004 *Fund Swap Implementation Letter of Agreement (ILA)* that called for the County to use residual sales tax revenues to reimburse VTA a total of \$7.23 million for highway landscaping projects. In addition, a final amendment to the *Master Agreement*, identified as *Amendment 20* and executed in 2007, called for the County to pay VTA the "fixed and final" sum of \$51.2 million, which included \$4.14 million of residual sales tax revenues, to closeout all MBTIP projects for which it was responsible.
- Because of ambiguity over the County's obligation and authority to continue making residual sales tax payments to VTA, the County overpaid VTA by at least \$1.54 million, and perhaps by as much as \$4.07 million. Moreover, County payments of residual sales tax revenues to VTA were not appropriated by the Board of Supervisors in a budget resolution and therefore did not comply with Government Code Section 29000 et seq.
- If the County continues to turn over residual sales tax distributions to VTA for five or more years, an additional \$1 million or more in revenue could be paid to VTA without contractual or legal authority.

A copy of the full report is available at:

<http://www.sccgov.org/managementauditor>