

City of Syracuse
Office of the Syracuse City Auditor
City Auditor Philip J LaTessa

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To: The Honorable Matthew J. Driscoll, Mayor, City of Syracuse
The Honorable Bea Gonzalez, Common Council President
The Honorable Members of the Common Council
From: Philip J. LaTessa, City Auditor, City of Syracuse
Date: July 16, 2009

FORWARD

The attached report presents a summation of the General Fund Revenue for the City of Syracuse in the categories of PILOT payments, developer guarantees, SIDA Administrative fees for Carousel Center, and permit fees, received by the City which derived from the Carousel Center project for the period from October, 2002 through May, 2009.

The City of Syracuse, through its economic development component, the Syracuse Industrial Development Agency, agreed to finance certain public improvements in connection with an expansion of the Carousel Center, following the approval of the Syracuse Common Council in 2002. The City agreed to include the existing Carousel Center land in the City's Empire Zone. In connection with this assistance, the developer agreed to guarantee certain minimum annual payments. Over a period of time, modifications were made culminating with an agreement in 2005. The agreement between the Syracuse Industrial Development Agency and the Pyramid Company of Onondaga (PCO) was approved with the intention of promoting, attracting and encouraging the development of recreational and economically sound commerce and industry in order to advance job opportunities.

As part of the agreement approved by SIDA, the City of Syracuse is to receive \$53,400,000 over a twelve year period, and the County of Onondaga is scheduled to receive \$6,600,000 over the same twelve year period. These payments represent a pre payment to SIDA from PCO.

The following details are intended to provide clarification on what has been received by the City based on the actions taken by the City, the IDA and the PCO on behalf of the Carousel Center between 2002 and now, and to correct any misinformation that has been spread by the many stories circulating because of the recent articles and media coverage of events pertaining to the funding issues with the project.

This report makes no assertion on the merits of the agreements that have been approved during this period; its sole purpose is to provide accurate information on the dollars received by government entities to date and to provide information on the schedule in place for the future payments backed by SIDA and MBIA, Inc Escrow Investment Agreement.



Office of the City Auditor
Philip J. LaTessa
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City of Syracuse
City Revenues – 2002 to 2009
From Carousel Center

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**Report of
the
Elected-City Auditor**

Matthew J. Driscoll, Mayor
City of Syracuse, New York

Bea Gonzalez, President Common Council
City of Syracuse, New York

Members of the Common Council
City of Syracuse, New York

**City of Syracuse Revenues 2002 to 2009
From
Carousel Center**

Introduction:

On May 28, 2009, the Office of the City Auditor opened a formal review of payments received since 2002 from the Carousel Center project. This included a review of all receipts made by the developers of the Carousel Center to the City of Syracuse and/or SIDA for PILOT/grant agreement payments and permit fees. The review covered the period from October 2002 to May, 2009; the end date for the audit was determined based on the availability of data available.

The report also provides, for informational purposes, the schedule of the future payments anticipated to be received by the City of Syracuse, which was funded through an advanced payment made by PCO on or about February 2007 and governed by an Escrow Agreement and a Custodial Agreement between SIDA and MBIA under the terms of a Financial Guaranty Insurance Policy which provide the basis for a Grant Agreement between SIDA and the City of Syracuse providing for future payments.

This review is authorized by Section 5-501(4) of the City of Syracuse Charter. The examination was administered in accordance with the *Government Auditing Standards*, issued by the Comptroller General of the United States and *Standards for the Professional Practice of Internal Auditing*, as circulated by the Institute of Internal Auditors.

These standards necessitate that the audit is planned and performed to attain a reasonable foundation for the judgments and conclusions regarding the function under examination. This review also included evaluations of applicable internal controls and compliance with requirements of law and regulations when necessary to satisfy audit objectives.

The management of the City of Syracuse, New York, is responsible for establishing, maintaining and complying with the internal control structure and for compliance with applicable laws, regulations and contracts.

This report is intended solely for the information of the Mayor, the Common Council and the involved departments of the City of Syracuse, New York, yet it is understood to be a matter of public record and its distribution is not limited. Further information regarding this audit is available at the City of Syracuse's Audit Department upon request.

Scope:

The review was financial in nature and was executed to provide an independent assessment of the funds received from the developers of the Carousel Center for the period of October 2002 – May 2009.

Objectives

- Determine actual amount of funds received by the City of Syracuse and SIDA from the PCO under the Carousel Center agreement(s)
- Verify other payments (PILOT, City Permit Fees, and developer agreements) received by the City from the PCO during the period included in review period
- Review the funding of guaranteed future payments and the schedule of payments from PCO under the governing mechanisms as a result of the Carousel Center agreement(s).

Methodology:

To reach this assessment, the Office of the City Auditor reviewed the schedule of payments and commitments made to the City of Syracuse and to SIDA as the result of the first phase of the project expansion. Those payments were mathematically reviewed.

Proof of payment and commitment back up was obtained internally from the City of Syracuse reporting system. This office examined actual checks and wires posted

internally against what was received, and compared this to what was budgeted and agreed to be received from PCO. This was reviewed and mathematically calculated to arrive at a conclusion of funds received to date, deposited with SIDA to date, and disbursed to the City of Syracuse and other entities from PCO in accordance with governing agreements related to the Carousel Mall expansion. Proof of payment consisted of checks, invoices, receipts, bank transaction statements and closing statements. The amounts listed as payments to the City of Syracuse and SIDA were traced to the back up material.

In addition to internally auditing receipts, the Office of the City Auditor obtained independent reports and copies of wires and checks and other agreements and contracts from two separate independent auditing/CPA firms and the external outside Counsel to SIDA.

Conclusion:

I) \$45,772,267.00 received to date:

Since 2002 the project has generated \$854,442.00 (eight hundred and fifty-four thousand and four hundred forty-two dollars) from City Permit Fees, \$21,955,825.00 (twenty-one million, nine hundred and fifty-five thousand, eight-hundred and twenty-five dollars) from other residual Mall/City pilot revenue agreements, and \$22,962,000.00 (twenty-two million, nine hundred and sixty-two thousand dollars) from the SIDA/City of Syracuse Grant Agreement, which was funded by The PCO on or about February of 2007.

The total paid to the City of Syracuse/SIDA from PCO as a result of the project and various agreements related to the mall expansion between October of 2002 and May of 2009 to the City of Syracuse/SIDA is \$45,772,267.00 (Forty-five million, seven hundred and seventy-seven thousand, two hundred and sixty-seven dollars).

II \$30,438,000.00 Grant Agreement

In keeping with the grant agreement entered into by the developer, PCO funded \$53,400,000.00 for the express purpose of providing for future payments from SIDA to the City of Syracuse. The Grant Agreement executed between the City of Syracuse and SIDA defined the payments funded by PCO to be used for future, annual payments to SIDA/City of Syracuse. This schedule of payments is backed by the Investment Guaranty Insurance Policy issued through MBIA, Incorporated. MBIA executed a Custodial Agreement between MBIA and SIDA which outlines the investment of the original \$53,400,000.00 (fifty-three million, four hundred thousand dollars) received from PCO. MBIA, Inc is using Wells Fargo Bank's Trust and Custody Solutions division for this investment.

The Escrow Agreement provides that Wells Fargo and MBIA will disburse \$3,382,000.00 (three million, three hundred and eighty-two thousand dollars) annually to SIDA and the City until the 2017/2018 fiscal year. The value of the future payments to SIDA will accrue to another \$30,438,000.00 (thirty million, four hundred and

thirty-eight thousand dollars). In turn a Grant Agreement between SIDA and the City of Syracuse outlines and agrees to a payment plan to disburse those same funds to the City of Syracuse.

III \$76,210,267.00 Total Payments

As a result of current payments and the Grant Agreement, the City of Syracuse will have received \$76,210,267.00 (seventy-six million, two-hundred ten, two-hundred and sixty-seven dollars) from the development by 2018.

IV \$3,170,145.00 in Existing Taxes

Payments made by PCO/Carousel Center on “Junk Yard” and other miscellaneous property taxes of \$3,170,145 (Three million, one hundred-seventy thousand and one-hundred and forty-five dollars). The “Junk Yard” property taxes equate to the taxes that were levied against the land prior to development of the Carousel Mall and are taxes that would have been collected had the project not been developed to date.

V) \$15,200,954.00 Other Fees

PCO has paid \$3,104,684 (three million, one hundred and four thousand, six hundred and eighty- four dollars) in bond reserve to SIDA, \$5,400,000 (five-million, four hundred thousand dollars) in lake front development fees and \$6,696,270 (six million, six hundred ninety-six thousand two-hundred and seventy dollars) in loan fees. These fees have been used to support economic development initiatives throughout the city.

Attachment A provides a spreadsheet outlining the actual payments made by the PCO to the City between October of 2002 and April of 2009 for City Permit Fees, various Carousel PILOT payments, and from the 2005 Grant Agreement authorized by SIDA. It also provides the breakdown of future anticipated monies that the City will receive for the period from 2009 through 2018.

Auditor’s Note:

In 2002, the Common Council unanimously approved a revenue sharing agreement between the City and Onondaga County (Ordinance Number 34 of 2002, approved on January 22, 2002) that provided for the City to receive 30% of the local sales tax generated by the Carousel Center Expansion through the end of 2010, based on the good faith effort of the Pyramid Companies to identify the sales coming from the expanded mall areas. This action was followed by a modification of the revenue sharing agreement approved by the Common Council on September 25, 2006.

The newer legislation, Ordinance Number 601 of 2006, improved the City’s position by including the following alterations to Ordinance Number 34:

- It extended the term of the agreement by an additional 12 years through December 31, 2022.

- It specified that for the extension period (2010-2022), the payment would be calculated so that the City was credited for an amount equal to 30% of the entire local sales tax rate (currently 4%) rather than reverting to the agreement that distributed sales tax in a formula that credited the City with 30% on the first 3% and at 11% for the additional 1% that was currently authorized.

Speculation on the amount of revenue that would have been received by the City in return for approving the various amendments to the original agreements is impossible due to the fact that the Carousel Center expansion has not been completed and given the economic downturn that has had nation-wide impact on retail sales.

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