



September 17, 2015

Honorable Glenda Sanders, Presiding Judge
Orange County Superior Court
700 Civic Center Drive West
Santa Ana, CA 92701

Re: Response by the Tustin Public Financing Authority to the June 29, 2015 Grand Jury Report re Joint Powers Authorities

Dear Judge Sanders:

The Tustin Public Financing Authority ("TPFA") hereby responds to the June 29, 2015 Grand Jury Report entitled "Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency" (referred to herein as the "Report"). Pursuant to California Penal Code Section 933.05(a) and (b), please find the following responses to Findings F1, F3, F4, F5 and F6 and Recommendations R1, R2, R3 and R4:

Findings of the Grand Jury

F1) Orange County has nine "inactive" Joint Powers Authorities that have no viable activity, revenue, expenditure, assets, or liabilities. The Grand Jury determined that these Joint Powers Authorities serve no benefit to the public or the taxpayers and have the potential for misuse or obfuscation of public funds.

TPFA Response:

The TPFA agrees and disagrees with this Finding in part. While TPFA agrees that the TPFA (a joint powers authority or "JPA") is presently serving no specific purpose, the TPFA believes that JPAs like the TPFA can and do serve important public purposes. The TPFA has and could continue to provide an important tool for financing vital public facilities needed to build out the former Marine Corps Air Station ("MCAS") Tustin.

F3) Orange County has 18 vertical Joint Powers Authorities created by a city along with its redevelopment agency that no longer exists. The Grand Jury determined that these Joint Powers Authorities serve no benefit to the public or the taxpayers and have the potential for misuse or obfuscation of public funds.

TPFA Response:

The City agrees and disagrees with this Finding in part. The TPFA agrees the Financing Authority is presently not in use but that JPAs and financing authorities can and do serve useful public purposes such as the financing of vital public facilities needed to build out the MCAS Tustin..

F4) Vertical Joint Powers Authorities with a single controlling entity, such as a city council, have the potential to use this organizational structure as a shell company to avoid other legal constraints on the controlling entity and to obfuscate taxpayer visibility.

TPFA Response:

The TPFA disagrees with this Finding because the City of Tustin ("City") and the TPFA are very transparent. All of its finances are reported to an elected body during public meetings, and the information is publicly available on the City's website. In addition, the information is reported in the City's Comprehensive Annual Financial Report ("CAFR"), a National award-winning public disclosure document for 28 years running.

- F5) Vertical Joint Powers Authorities in which the controlling entity transfers assets from itself to a Joint Powers Authority for the purpose of obtaining additional funding, or signs a long-term lease to a Joint Powers Authority to obtain assets, are avoiding transparency and are not acting in the best financial interest of the taxpayers.

TPFA Response:

As stated in response to Finding #4, the TPFA disagrees with this Finding because the City and the TPFA are very transparent. All of TPFA's finances are reported to an elected body during public meetings, and the information is publicly available on the City's website. In addition, the information is reported publicly and annually in Tustin's CAFRs.

- F6) Thirty-two of the Joint Powers Authorities identified in Orange County are not complying with the California State reporting requirements in code Section 6500 and SB 282 according to the latest information available from the year 2013.

TPFA Response:

The TPFA disagrees with this Finding. Whenever the notice anticipated by SB 282 is provided by the State Controller, the TPFA has provided and will continue to provide the required response. In recent years there has been no activity for the TPFA to report, but that absence of information to report is itself also reflected in the reports provided to the Controller. In addition, this information is included in the City's award-winning CAFRs.

Recommendations of the Grand Jury

- R1) All Orange County Joint Powers Authorities that are "inactive" should submit the official paperwork with the State of California requesting termination of their existence or provide at the next public meeting the justification for continuing the Joint Powers Authorities (See F1)

TPFA Response:

The TPFA will not implement this recommendation because it is unwarranted. There is a need for maximum flexibility in financing infrastructure, environmental cleanup and improvements needed to develop the former MCAS Tustin. The TPFA and the City believe it would be unwise to eliminate this alternative public finance tool with such important long-term public needs still pending.

- R2) All Vertical Joint Powers Authorities created by a city along with its redevelopment agency should submit the necessary paperwork with the State of California requesting termination of their existence. (See F3)

TPFA Response:

As stated in response to Recommendation #1, the TPFA will not implement this recommendation because it is unwarranted. There is a need for maximum flexibility in financing infrastructure, environmental cleanup and improvements needed to develop the former MCAS Tustin. The TPFA and the City believe it would be unwise to eliminate this public finance tool with such important long-term public needs still pending.

- R3) All Joint Powers Authorities should take the following actions to insure transparency to the taxpayers: (1) have an annual outside audit, (2) post the complete audit on their city website as a separate Joint Powers Authority entity, (3) send the audit to the County Controller and the State Auditor, and (4) ensure the required reports are filed annually to the County and the State. (F4, F5)

TPFA Response:

The recommendation has been and will continue to be implemented as all required audits are prepared and submitted to the State and are on the City's website. SB 282 requires reports to be submitted to the State when the State Controller provides notice to do so in accordance with California Government Code section 12463.1(a). SB 282 does not require the same reports to also be further duplicated for the County, but the TPFA will be happy to submit the same reports to the County if a County system is established for their submittal. As noted above, the reports are public documents available from the State Controller and on the City's website.

- R4) The 32 Joint Powers Authorities that are not complying with the California State Law requiring annual reporting should become compliant by submitting their 2014 report by December 31, 2015, and submitting the required reports annually thereafter. (F6)

TPFA Response:

This recommendation has been implemented because the City has complied and will continue to comply with State law about submittal of reports. All required audits are prepared and submitted to the State and are on the City's website. SB 282 requires reports to be submitted to the State when the State Controller provides notice to do so in accordance with California Government Code section 12463.1(a). SB 282 does not require the same reports to also be further duplicated for the County, but the TPFA will be happy to submit the same reports to the County if a County system is established for their submittal. As noted above, the reports are public documents available from the State Controller and on the City's website.

Thank you for the opportunity to respond to the Grand Jury's Report. If you have any questions regarding our response, please contact Jeffrey C. Parker, City Manager, at (714) 573-3012 or Jerry Craig, Economic Development & Housing Manager, at (714) 573-3121.

Sincerely,



Charles E. "Chuck" Puckett
Chair, TPFA Authority Board

cc: 2014-2015 Orange County Grand Jury

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cc: Jeffrey C. Parker, TPFA Executive Director
David E. Kendig, City Attorney
Pamela Arends-King, Finance Director/City Treasurer
John Buchanan, Deputy Director of Economic Development
Jerry Craig, Economic Development & Housing Manager