

**BONITA CANYON PUBLIC FACILITIES FINANCING AUTHORITY
OF ORANGE COUNTY**

2985 Bear Street · Costa Mesa, California 92626 · (714) 424-5000

JOINT POWERS AUTHORITY

September 22, 2015

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

Re: **Response to the 2014-15 Orange County Grand Jury report -
Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency.**

Dear Judge Sanders:

This correspondence serves as the response of the Bonita Canyon Public Facilities Financing Authority (“Authority”) to the 2014-2015 Grand Jury report entitled Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency (“Report”). Specifically, this correspondence responds to Findings F.4 and F.5 as well as Recommendations R.3 of the Report.

F.4. 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.

Response: The Authority disagrees wholly with this finding as it relates to the Authority. The Authority members include two public agencies, each controlled by a separate Board or City Council. The Authority formed a CFD (with voter consent) with the sole purpose of levying special taxes to provide repayment of the Authority bonds issued for the facilities outlined in the Authority formation documents. Therefore the Authority does not have a “vertical” structure, but rather a “horizontal” structure as described in the Report.

F.5. 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.

Response: The Authority disagrees wholly with this finding as it relates to the Authority for the reasons previously stated, relative to the purpose and activity of the CFD being limited to the authority formation documents.

R.3. 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 to the County Controller and the State Auditor, and (4) ensure the required reports are filed annually to the County and the State. (F.4, F5.)

Response:

- (1) The recommendation has been implemented.
- (2) The recommendation has been implemented.
- (3) The recommendation has been implemented with regard to sending the Audit to the County Auditor-Controller. The recommendation will not be implemented with regard to sending the Audit to the State Controller as the Authority is already reporting to the State Controller and the annual reporting requirements do not include the submission of an Audit.
- (4) Procedures for this recommendation have been implemented with regard to sending the Audit to the County Auditor-Controller annually. The recommendation will not be implemented with regard to sending the Audit to the State Controller annually as the Authority is already reporting to the State Controller and the annual reporting requirements do not include the submission of an Audit.

Please contact the undersigned at (714) 424-5002 with any questions.

Respectfully submitted,



Paul H. Reed
Secretary, Bonita Canyon PFFA
Deputy Superintendent, Newport-Mesa USD

cc: Orange County Grand Jury
City of Newport Beach – City Manager
Newport-Mesa Unified School District – Superintendent
Bonita Canyon Public Facilities Financing Authority – Authority Board