

ORANGE COUNTY CIVIC CENTER AUTHORITY

September 23, 2015

Honorable Glenda Sanders, Presiding Judge of the Superior Court of California
700 Civic Center Drive West
Santa Ana, CA 92701

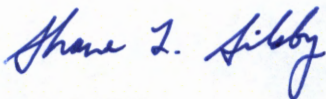
Subject: Response to Grand Jury Report, "Joint Powers Authorities: Issues of Viability, Control, Transparency and Solvency"

Dear Judge Sanders:

Per the request from Paul S. Borzick, Foreman, 2014-2015 Orange County Grand Jury, and in accordance with Penal Code 933, please find the OC Public Works response to the subject report.

If you have any questions, please contact Becky Juliano at (714) 667-9701.

Sincerely,



Shane L. Silsby
Chair
Orange County Civic Center Authority

Enclosure

ORANGE COUNTY CIVIC CENTER AUTHORITY

Responses to Findings and Recommendations 2014-15 Grand Jury Report:

"Joint Powers Authorities: Issues of Viability, Control Transparency and Solvency"

SUMMARY RESPONSE STATEMENT:

On June 29, 2015, the Grand Jury released a report entitled: "Joint Powers Authorities: Issues of Viability, Control, Transparency and Solvency." This report directed responses to findings and recommendations to the Orange County Auditor-Controller, select City Mayors and City Councils, and select Public Agencies. OC Public Works was asked to provide information, which is included below.

FINDING AND RESPONSE:

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: Disagrees wholly with the findings.

The OCCCA has been incorrectly characterized as a Vertical Joint Powers Authority. It is, in fact, a Horizontal Joint Powers Authority between the County of Orange and the City of Santa Ana.

The preamble to the January 17, 1966 Joint Powers Agreement reads:

"THIS AGREEMENT, dated for convenience as of January 17, 1966, is between the CITY OF SANTA ANA, a municipal corporation duly organized and existing under the laws of the State of California, hereinafter called the "City", and the COUNTY of ORANGE, a subdivision of the State of California, hereinafter called the "County";

WHEREAS, the City and the County are each empowered by law to acquire, construct, maintain, operate and lease public buildings and accessory structures; and ..."

The preamble to the October 21, 2014 Restated Joint Powers Agreement reads:

"THIS AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT BETWEEN THE CITY OF SANTA AND THE COUNTY OF ORANGE REGARDING THE ORANGE COUNTY CIVIC CENTER AUTHORITY ("Restated Agreement") is dated as of October 21, 2014 ("Effective Date"), and is by and between the COUNTY OF ORANGE, a political subdivision of the State of California ("County") and the CITY OF SANTA ANA, a

Responses to Findings and Recommendations
2014-15 Grand Jury Report
Page 2 of 5

municipal corporation (“**City**”). County and City may sometimes hereinafter individually be referred to as a “**Party**” or jointly as the “**Parties**.”

WHEREAS, the City and the County previously created the Orange County Civic Center Authority (“**Authority**”) pursuant to California Government Code Section 6500 *et. seq.*, by agreement dated January 17, 1966 (“**Prior Agreement**”); and

WHEREAS, the City and the County are each empowered by law to acquire, construct, maintain, operate, lease and sell public facilities and accessory structures; and

WHEREAS, the City and County are each empowered to provide electric utility service, steam and chilled water to themselves and others to the extent permitted by law; and

WHEREAS, the City and County desire to restate and amend the Prior Agreement and amend the nature and scope of the Authority’s powers and governance, as more fully set forth herein; and

WHEREAS, the Second Amendment to the Prior Agreement, dated December 22, 1970 and the Sixth Amendment to the Prior Agreement, dated June 1, 1999 are the only amendments relevant to the continuing operations of the Authority; and

WHEREAS, the City and County wish to restate and amend the Prior Agreement and the relevant previous and new amendments for ease and clarity and to supersede and supplant the Prior Agreement and all amendments thereto.”

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: Disagrees wholly with the findings.

The OCCCA has been incorrectly characterized as a Vertical Joint Powers Authority. It is, in fact, a Horizontal Joint Powers Authority between the County of Orange and the City of Santa Ana.

The preamble to the January 17, 1966 Joint Powers Agreement reads:

"THIS AGREEMENT, dated for convenience as of January 17, 1966, is between the CITY OF SANTA ANA, a municipal corporation duly organized and existing under the laws of the State of California, hereinafter called the "City", and the COUNTY of ORANGE, a subdivision of the State of California, hereinafter called the "County";

WHEREAS, the City and the County are each empowered by law to acquire, construct, maintain, operate and lease public buildings and accessory structures; and ..."

The preamble to the October 21, 2014 Restated Joint Powers Agreement reads:

"THIS AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT BETWEEN THE CITY OF SANTA ANA AND THE COUNTY OF ORANGE REGARDING THE ORANGE COUNTY CIVIC CENTER AUTHORITY ("**Restated Agreement**") is dated as of October 21, 2014 ("**Effective Date**"), and is by and between the COUNTY OF ORANGE, a political subdivision of the State of California ("**County**") and the CITY OF SANTA ANA, a municipal corporation ("**City**"). County and City may sometimes hereinafter individually be referred to as a "**Party**" or jointly as the "**Parties.**"

WHEREAS, the City and the County previously created the Orange County Civic Center Authority ("**Authority**") pursuant to California Government Code Section 6500 *et. seq.*, by agreement dated January 17, 1966 ("**Prior Agreement**"); and

WHEREAS, the City and the County are each empowered by law to acquire, construct, maintain, operate, lease and sell public facilities and accessory structures; and

WHEREAS, the City and County are each empowered to provide electric utility service, steam and chilled water to themselves and others to the extent permitted by law; and

WHEREAS, the City and County desire to restate and amend the Prior Agreement and amend the nature and scope of the Authority's powers and governance, as more fully set forth herein; and

WHEREAS, the Second Amendment to the Prior Agreement, dated December 22, 1970 and the Sixth Amendment to the Prior Agreement, dated June 1, 1999 are the only amendments relevant to the continuing operations of the Authority; and

WHEREAS, the City and County wish to restate and amend the Prior Agreement and the relevant previous and new amendments for ease and clarity and to supersede and supplant the Prior Agreement and all amendments thereto.”

- F.6.** 32 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.

Response: The recommendation has been implemented.

RECOMMENDATIONS AND RESPONSE:

- 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 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. (F.4., F.5.)

Response: The recommendations have been implemented.

The County of Orange / Auditor-Controller General Accounting Unit, on behalf of the Orange County Civic Center Authority (hereinafter “OCCCA”) filed its FY1314 SPECIAL DISTRICT FINANCIAL TRANSACTIONS AND COMPENSATION REPORT on Tuesday, February 24, 2015. As all revenue and all expenditures are coursed through Orange County Civic Center Parking and Maintenance Fund 828, after review and approval by County of Orange staff, the OCCA reported no transactions. In the future, all appropriate financial reports, even though they will have \$0.00 balances, will be reported in a timely manner to all appropriate reporting agencies.

As previously documented, the OCCCA has been incorrectly characterized as a Vertical Joint Powers Authority. It is, in fact, a Horizontal Joint Powers Authority between the County of Orange and the City of Santa Ana.

- R.4.** 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. (F.6.)

Response: The recommendations have been implemented.

Responses to Findings and Recommendations
2014-15 Grand Jury Report
Page 5 of 5

The County of Orange / Auditor-Controller General Accounting Unit, on behalf of the Orange County Civic Center Authority (hereinafter "OCCCA") filed its FY1314 SPECIAL DISTRICT FINANCIAL TRANSACTIONS AND COMPENSATION REPORT on Tuesday, February 24, 2015. As all revenue and all expenditures are coursed through Orange County Civic Center Parking and Maintenance Fund 828, after review and approval by County of Orange staff, the OCCA reported no transactions. In the future, all appropriate financial reports, even though they will have \$0.00 balances, will be reported in a timely manner to all appropriate reporting agencies.

As previously documented, the OCCCA has been incorrectly characterized as a Vertical Joint Powers Authority. It is, in fact, a Horizontal Joint Powers Authority between the County of Orange and the City of Santa Ana.