



# CITY OF HUNTINGTON BEACH

Fred A. Wilson  
City Manager

September 28, 2015

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

## **RE: "Mello-Roos: Perpetual Debt Accumulation and Tax Assessment Obligation"**

Dear Judge Sanders:

This letter constitutes, in accordance with Section 933.05 of the California Penal Code, the response of the City of Huntington Beach to the Orange County Grand Jury 2014-15 Report, dated June 29, 2015, titled "Mello-Roos: Perpetual Debt Accumulation and Tax Assessment Obligation" (Grand Jury Report). The enumerated items in this response correspond to the Findings and Recommendations contained in the Grand Jury Report for the City of Huntington Beach.

### Grand Jury Findings and Recommendations

The City of Huntington Beach is providing the following response to each of the findings and recommendations, in accordance with California Penal Code Sections 933 and 933.05 (a) and (b).

### **Findings**

**F.1** There is a lack of transparency to homeowners relative to how CFD funds are being used.

**Response: Disagree with Finding.** *The Securities and Exchange Act of 1933 requires all issuers of CFD bonds to report specified information related to their bond issues in a Yearly Fiscal Status Report. The City contracts with a third party to prepare its Annual Continuing Disclosure Reports. The City's CFDs are also audited on an annual basis by an independent firm of Certified Public Accountants in conjunction with the City's annual financial statement audit. These measures provide an additional level of professional review of the City's CFDs and special tax expenditures. For the City of Huntington Beach, this information is gathered and made available as a part of the CFD's Annual Continuing Disclosure Report on the public Electronic Municipal Market Access (EMMA) website. In the future, the City will also add a link to the EMMA website for ease of access to the public.*

**F.2** There does not seem to be appropriate oversight and auditing of CFDs and special tax expenditures within the County of Orange.

**Response: Disagree with Finding.** *There is no State requirement to establish an oversight committee for CFD's as advised in the Grand Jury's first recommendation. However, the City has recently re-instated its Finance Commission in May 2015, which acts in an advisory capacity to the City Council in matters pertaining to financial management. Moreover, CFD financial information is included in the City's CAFR which is audited on an annual basis.*

**F.3** While the assumption is that the CFD debt would be repaid in a finite period of time, there is a mechanism available to controlling entities to extend debt obligations and thereby extend the CFD special tax in perpetuity.

**Response: Partially Disagree with Finding.** *Under the Mello-Roos Act, special taxes may be used to pay for facilities and services, bonds for facilities, or any combination of these. The amount and duration of the special tax is determined during the formation of the district, and cannot be changed without a vote and approval by 2/3 of the property owners.*

*There is no mechanism available to extend CFD debt obligations in perpetuity. CFD bonds may be refunded, but only if the total interest cost to maturity plus the principal amount of the new refunding bonds does not exceed the total interest cost to maturity plus the principal amount of the bonds to be refunded (Government Code Section 53362.5). Under this scenario, the refunding must result in the same or reduced costs to the property owners, making it unlawful to extend the debt obligation in perpetuity through utilization of this mechanism.*

## **Recommendations**

**R.1** Each local agency that established the CFD should create an oversight committee and an audit committee to provide for an independent, transparent view of the manner in which CFD funds are being expended. (F.1, F.2)

**Response: Partially Completed.** *As noted in the above response to Finding F.2, the City recently reinstated its Finance Commission in May 2015, which was first established in 1993. The Board consists of seven appointed members that act in an advisory capacity to the City Council in matters pertaining to financial planning.*

**R.2** Audit report information, as delineated in California Government Code, 1982 Section 53343.1, should be made available to the CFD taxpayers on a website after each fiscal year for each CFD number. (F.1, F.2)

**Response: Partially Completed.** *The City will incorporate this information in each CFD's Annual Continuing Disclosure Report, which is published on EMMA. As previously discussed,*

*the City will also include a link to the EMMA website for additional information on the City's CFDs.*

On behalf of the City of Huntington Beach, I want to thank you for the opportunity to provide this response to the Orange County Grand Jury.

Sincerely,



Fred A. Wilson  
City Manager

- c: City Council
- City Attorney
- Director of Finance

FW/LAF/SH