



City of Westminster

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September 28, 2015

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

RE: Westminster Response to Orange County Jury Report
Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency

Dear Judge Sanders:

Finding #1: 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.

City Response: The City and Westminster Public Financing Authority (WPFA) disagree wholly with the finding. The Westminster Public Financing Authority (WPFA) is not inactive. Debt issued by the WPFA is still outstanding. Lease revenue and related debt service payments are recorded and reported as part of the City of Westminster’s financial records, and therefore it may appear that the WPFA has had no activity. As a result of the lease agreements that are still in effect and the debt that is still outstanding, the Authority continues to serve a useful public purpose.

Finding #3: 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.

City Response: The City and WPFA disagree partially with this finding. The WPFA was formed in 1993 with the City of Westminster and the Westminster Redevelopment Agency as its members. Following dissolution of the Westminster Redevelopment Agency and the withdrawal from membership in the WPFA by the Successor Agency to the Westminster Redevelopment Agency, the Westminster Housing Authority became a member of the WPFA on February 22, 2012. As noted in our response to Finding #1, the City and WPFA disagree that the WPFA serves no benefit to the public or the taxpayers. The potential for misuse or obfuscation of public funds exists, but the City and WPFA believe they have acted in a responsible manner regarding the financing activities of the WPFA.

TRI TA
Mayor

SERGIO CONTRERAS
Mayor Pro Tem

DIANA LEE CAREY
Council Member

TYLER DIEP
Council Member

MARGIE L. RICE
Council Member

EDDIE MANFRO
City Manager

Finding #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.

City Response: The WPFA agrees with this finding. The potential for abuse exists. However, the WPFA believes it has acted in a responsible manner regarding its financing activities.

Finding #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.

City Response: The WPFA disagrees wholly with this finding. The Board of Directors of the WPFA has taken all actions regarding its formation, administration and financing activities in full accordance with the Brown Act. Financial transactions involving the WPFA have been recorded in accordance with generally accepted accounting principles and have been included in the audited financial statements of the City of Westminster. The WPFA believes it has acted in the best interests of its taxpayers.

Finding #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.

City Response: The WPFA disagrees wholly with this finding. The City reports the lease payments and the related debt service payments associated with WPFA debt as part of the City of Westminster's annual audited financial statements and annual reports filed with the State Controller.

Recommendation #1: 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 Authority.

City Response: The recommendation will not be implemented because it is not warranted. The WPFA is still an active entity.

Recommendation #2: 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.

City Response: The recommendation has been implemented. On February 22, 2012, the Westminster Housing Authority became a member of the WPFA, following the dissolution of the Westminster Redevelopment Agency and the withdrawal of the Successor Agency to the Westminster Redevelopment Agency from membership in the Westminster Public Financing Authority, and approved the Amended and Restated Joint Exercise of Powers Agreement forming the Westminster Public Financing Authority.

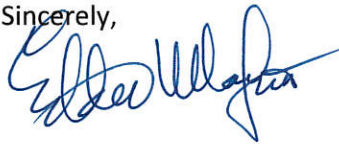
Recommendation #3: All Joint Powers Authorities should take the following actions to insure transparency to the taxpayers: (1) have an annual outside audit, (2) post the complete audit on their city website as a separate Joint Powers Authority entity, (3) send the audit to the County Controller and the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

City Response: The recommendation requires further analysis. The WPFA will analyze whether it is appropriate to account for and report WPFA financial transactions separate from City of Westminster financial activity, and will complete this study by December 1, 2015.

Recommendation #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.

City Response: The recommendation requires further analysis. This recommendation will be analyzed in conjunction with the analysis for Recommendation #3. If it is determined that it is appropriate to account for and report WPFA financial transactions separate from City of Westminster financial activity, the WPFA will comply with all pertinent State laws related to annual reporting for Joint Powers Authorities.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Eddie Manfro', written over a light blue horizontal line.

Eddie Manfro
City Manager