



September 28, 2015

Alexander A. Ethans
Mayor

Brian Donahue
Mayor Pro Tem

Rigoberto A. Ramirez
Council Member

David J. Shawver
Council Member

Carol Warren
Council Member

James A. Box
City Manager

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

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

Honorable Judge Sanders:

The Stanton Public Financing Authority ("Authority") has reviewed the findings and recommendations of the Orange County Grand Jury report entitled, "Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency". 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:

Grand Jury Findings

Finding F.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.

Authority Response:

The Authority disagrees partially with the finding. The Authority agrees that there is currently no activity. However, the Authority has the potential to serve a future benefit to the public. The Authority could assist in financing capital improvements for the City if the requirements of Sections 6586 et seq., of the Government Code are met. Currently, there are no costs to the taxpayers by the Authority remaining in existence in an inactive status.

The Authority does not believe that there is a potential for misuse or obfuscation of public funds. The Authority acts in accordance with all relevant statutes, including transparency laws such as the Brown Act (Gov. Code §§ 54950 *et seq.*) and Public Records Act (Gov. Code §§ 6250 *et seq.*). Pursuant to the Brown Act, the Authority's actions are only taken pursuant to noticed and agenda public meetings. Government Code Section 6586.5 also requires a public hearing prior to issuing a bond for a public capital improvement. While there is currently no financial activity by the Authority, should any activity commence, it would be subject to audit by external auditors as well as reported in the City's Comprehensive Annual Financial Report and disclosed in the annual State Controller's Report.

Finding F.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.

Authority Response:

The Authority disagrees wholly with the finding. The Authority was created for the purpose of assisting in the financing of public capital improvements for the City and its former Redevelopment Agency. Moreover, the Authority is a party to the Joint Powers Agreement that created the Stanton Housing Authority.

The Authority does not believe that there is a potential for misuse or obfuscation of public funds. The Authority acts in accordance with all relevant statutes, including transparency laws such as the Brown Act and Public Records Act. Pursuant to the Brown Act, the Authority's actions are only taken pursuant to noticed and agenda public meetings. Pursuant to the Public Records Act, the Authority's documents are available for public inspection. While there is currently no financial activity by the Authority, should any activity commence, it would be subject to audit by external auditors as well as reported in the City's Comprehensive Annual Financial Report and disclosed in the annual State Controller's Report.

Finding 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.

Authority Response:

The Authority disagrees wholly with the finding. The Authority does not believe that there is a potential for misuse or obfuscation of public funds. The Authority acts in accordance with all relevant statutes, including transparency laws such as the Brown Act and the Public Records Act. The Authority's actions are only taken pursuant to noticed and agendaized public meetings, and its documents are subject to inspection. While there is currently no financial activity, should any activity commence, it would be subject to audit by external auditors as well as reported in the City's Comprehensive Annual Financial Report and disclosed in the annual State Controller's Report.

Finding 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.

Authority Response:

The Authority disagrees wholly with the finding. The City's Joint Powers Authorities are created pursuant to Articles 1, 2 and 4 of Chapter 5 of Division 7 of Title 1 of the California Government Code, commencing with Section 6500 (the Joint Exercise of Powers Act), which provides statutory authority for the creation of JPAs. In order to ensure transparency to taxpayers, JPAs must follow the Public Records Act, the Political Reform Act and the Brown Act. While there is currently no financial activity, should any activity commence, it would be subject to audit by external auditors as well as reported in the City's Comprehensive Annual Financial Report and disclosed in the annual State Controller's Report.

In addition, the Authority has the ability to finance capital improvements for the City if the requirements of Section 6586 et seq., of the Government Code are met. Currently, there are no costs to the taxpayers by the Authority remaining in existence in an inactive status.

Finding 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.

Authority Response:

The Authority disagrees wholly with this finding. The Authority filed this report for 2013 on September 15, 2014, prior to the required deadline, and filed the most recent 2014 year-end information on September 14, 2015. The Authority currently has no activity. The State Controller's Office is choosing to not show information on its website for JPAs that have no activity. The lack of information on the State Controller's Office's website does not mean that the Authority is not complying with California State reporting requirements.

Recommendation R.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. (F.1.)

Authority Response:

The recommendation will not be implemented because it is not warranted and is not reasonable. There is a need for maximum flexibility in financing for potential future projects. The Authority’s member agencies have determined that it would be unwise to eliminate this alternative public financing tool.

Recommendation R.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. (F.3.)

Authority Response:

The recommendation will not be implemented because it is not warranted or is not reasonable. As stated in response to Recommendation #1, the Authority believes that there is a need for maximum flexibility in financing for potential future projects for the City.

Recommendation 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.)

Authority Response:

In some instances, the recommendation has already been implemented, and in other instances the Authority will not implement the recommendation because it is not warranted or is not reasonable.

The Authority applauds the effort of the Grand Jury to ensure that joint powers authorities operate transparently, are accountable to the taxpayers and comply with state law.

- (1) In accordance with California Government Code Section 6506 (b) and (c), the Authority is audited on an annual basis by a certified public accounting firm. The audit of the Authority is completed in conjunction with the City’s annual financial statement audit and is incorporated in the City’s Comprehensive Annual Financial Report (“CAFR”). The Authority currently does not have any activity, and as such is not currently reflected in the CAFR. At such point that activity does occur, an audit will take place.

- (2) The Authority has no current activity and as such, there is no ability to post that information on the City's website. At such point that activity does occur, it will be reflected on the City's website through disclosure in the City's CAFR.
- (3) The Authority has no current activity and as such, there is no ability to send the audit to the County Controller and the State Auditor. At such point that activity does occur, it will be reflected in the City's CAFR and filed with the California State Controller's Office on an annual basis in conjunction with submittal of the City's Annual Single Audit Report (when required by GAAP). Despite no Authority activity and nothing to report, the City's FY 2013/14 CAFR was previously submitted to the County Controller on September 24, 2015 along with a copy of the 2014 Special Districts Financial Transactions and Compensation Report ("Report") that was submitted to the State Controller's Office. The City will continue to submit the CAFR and Report to the County Auditor-Controller's Office on an annual basis should they desire in spite of no current activity.
- (4) The Authority is required to file a Report annually with the State of California. The Authority has reviewed its obligations under state law and its annual filings and has complied with those requirements. While there is no activity, and it appears that the State Controller's Office excludes JPAs without activity from its website, the Authority still did file the 2013 Report prior to the required deadline on September 15, 2014, and filed the most recent 2014 Report information on September 14, 2015.

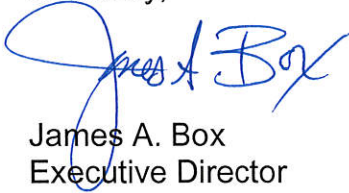
Recommendation R.4.: The 32 Joint Powers Authorities that are not complying with the California State Law requiring annual reporting should become compliant by submitting their 2014 report by December 31, 2015 and submitting the required reports annually thereafter. (F.6.)

Authority Response:

The recommendation has been partially implemented. The Authority currently has no activity, but nonetheless has been submitting the Special Districts Financial Transactions and Compensation Report ("Report") to the State Controller annually and will continue to comply with State law about the submittal of reports. It appears that the State Controller's Office excludes JPAs without activity from its website, however the Authority did file the 2013 Report prior to the required deadline on September 15, 2014, and filed the most recent 2014 Report information on September 14, 2015. SB 282 does not require the Reports filed with the State Controller to also be further duplicated for the County, but the Authority will be happy to submit the same reports to the County if desired by the County.

On behalf of the Stanton Public Financing Authority, I would like to thank you for the opportunity to provide this response to the Orange County Grand Jury. Please contact Stephen Parker, City of Stanton Administrative Services Director at (714) 890-4226 or sparker@ci.stanton.ca.us if you have questions or need additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "James A. Box". The signature is stylized with a large initial "J" and "B".

James A. Box
Executive Director

Cc: Orange County Grand Jury
Matthew E. Richardson, City Attorney
Authority Board of Directors