



June 5, 2012

The Honorable Thomas J. Borris
Presiding Judge
Superior Court
700 Civic Center Drive West
Santa Ana, Ca 92701

Re: Response of The Buena Park Library District To Findings And Recommendations of The 2012 Grand Jury Report Entitled “‘Let There Be Light’ - Dragging Special Districts From The Shadows”

Dear Judge Borris:

The Buena Park Library District Board of Trustees submits the following comments on the findings and recommendations contained in the Grand Jury Report entitled “‘Let There Be Light’ – Dragging Special Districts From the Shadows” (“Report”) in conformity with Penal Code sections 933, subdivision (c), and 933.05. The comments provided below address the findings and recommendations requiring a response from the Buena Park Library District (“District” or “Library”). The Library has reviewed the California Special Districts Association’s correspondence regarding the Report dated May 18, 2012, and join in the concerns expressed therein.

Buena Park Library District Responses to Grand Jury Report

F1. Most Orange County special districts, with or without the assistance of the Local Agency Formation Commission (LAFCO), have been incapable or unwilling to consolidate, absorb, or eliminate these outmoded and/or redundant agencies. LAFCO typically addresses larger issues such as merging of cities and elimination of “islands” within the county. The special districts themselves have not worked seriously toward their consolidation or demise. In this regard, the enterprise special districts and the non-enterprise special districts require independent evaluation and handling.

Response: The Library first notes the overbroad nature of Finding 1 and submits that the Finding is not supported by facts referenced in the Report specific to the Library. It is also unclear under what criteria the Finding was made. To the extent Finding 1 is applicable to the Library, the Library disagrees wholly with this Finding.

The Library was founded in 1919 under Education Code sections 19600-19734 and is governed by a five-member Board of Trustees. The Orange County Local Agency Formation Commission (“LAFCO”) established the Library’s sphere of influence on November 12, 1975, and has since comprehensively reviewed the Library’s municipal services and its sphere of influence.

In 1994, the Library commissioned an independent study exploring the feasibility of consolidation and the options for alternative governance structures for the Library. The consolidation feasibility study, prepared by BSI Consultants, Inc. (“BSI Study”), concluded that the Library managed its resources effectively and delivered high-quality, cost-efficient library services. Moreover, the BSI Study concluded that the Library should reject consolidation with the city or the county and continue to function as an independent special district.

In addition to commissioning the BSI Study, the Library has worked cooperatively with LAFCO in conducting comprehensive municipal service reviews (“MSR”) and sphere of influence (“SOI”) analyses in conformity with the Cortese-Knox-Hertzberg Act of 2000. As an independent state-mandated agency, LAFCO reviews and approves jurisdictional boundary changes of local public agencies, which include annexations and detachments of territories to and from cities and special districts, incorporations of new cities, formations of new special districts, and consolidations, mergers, and dissolutions of existing districts. Additionally, LAFCO determines the spheres of influence for each city and district, and initiates proposals involving district consolidation, dissolution, merger, and reorganization.

In 2005, LAFCO prepared an MSR/SOI report (“MSR/SOI Report”) which thoroughly examined the Library’s governance structure and service provisions. LAFCO concluded the following: the Library’s infrastructure is sound and adequate for the delivery of library services; the Library’s expenditures appear to be based on efficient methods of operation; the Library is financially solvent and operates efficiently; the Library’s fee schedule is very much in line with those of other public libraries throughout the county; and the Library operates with a high degree of transparency and is held accountable to the public.

LAFCO adopted the conclusion of the BSI Study that the Library should function as an independent special district and rejected alternative governance structures. LAFCO found no evidence that any of the factors examined in the BSI Study had changed and would result in a different finding if the Library commissioned a new consolidation study.

The Library continues to work with LAFCO in its review of municipal services and spheres of influence. As set forth in LAFCO’s response to the Report dated May 9, 2012, “LAFCO is finishing its third cycle of MSRs and have found no significant issues with special districts in Orange County.”¹

F2. Special districts have made very little progress in complying with the recommendations made by various governmental agencies. To ensure recommendations are followed, more coordination and cooperation is needed from the city and county agencies.

Response: The Library again notes the overbroad nature of Finding 2 and submits that the Finding is not supported by facts referenced in the Report specific to the Library. To the extent Finding 2 is applicable to the Library, the Library disagrees wholly with this Finding.

¹ The District joins the responses of LAFCO as applicable to the District.

No governmental agency has made any recommendation to the Library with which the Library has not complied. As set forth more fully in the Library's response to F1, above, LAFCO has confirmed that the Library is properly structured as a special district and functions effectively and efficiently to the benefit of the community it serves.

F3. Most non-enterprise special districts in Orange County have outlived their purpose and usefulness. Services that they once only available through the special district are now being provided by the surrounding cities and the expanding county.

Response: Finding 3 is again overbroad and does not identify the criteria used to make the Finding. The Library submits that the Finding is not supported by facts referenced in the Report specific to the Library. To the extent Finding 3 is applicable to the Library, the Library disagrees wholly with this Finding.

The Library has consistently delivered high-quality library services in an efficient and cost-effective manner to the growing Buena Park community. The Library is financially solvent, has adequate revenues to provide library services to its service area, and is focused on, and responsive to, the needs of the Buena Park community.

The surrounding areas do not provide library services specifically designed to meet the needs of the Buena Park community. For example, children ages 0 to 14 represent nearly 30 percent of the Library's registered users. To serve this particular demographic, the Library emphasizes such programming as reading programs, weekly story times, and homework help. Moreover, the Library's Board of Trustees has the ability to make policy decisions that directly reflect the specific needs of the Buena Park community. LAFCO relied on these findings when it concluded in its MSR/SOI Report that the Library is properly structured as a special district.

F4. The eleven non-enterprise special districts of Orange County founded before 1965 have not reflected the growth of the cities and county. The services that were unavailable from cities or the county have long since been made available as both the cities and county grew. Some of these special districts could be removed from the county tax rolls, and their services funded and absorbed by the county, surrounding cities or homeowners associations wherein they abide.

Response: The Library submits that Finding 4 is overbroad and the Report does not identify the criteria used to make the Finding. The Finding is not supported by facts referenced in the Report specific to the Library. To the extent Finding 4 is applicable to the Library, the Library disagrees wholly with this Finding.

See responses to F1 and F3, above. The Library has provided services to the growing population. The Library has experienced increases in circulation, reference questions, and program attendance over the past few years, reflecting the growing need in the Buena Park community for these services.

Consolidation would negatively affect the high quality of services that the Library currently provides to the Buena Park community as the Library would then compete with other city and

county departments for adequate funding at a time when city and county budgets are being reduced or have been depleted. In its MSR/SOI Report, LAFCO concluded that consolidating the District with the City of Buena Park would produce minimal cost savings, would generate no new revenues for the District, and would allow the City to reallocate the Library's revenues to other City needs. Furthermore, LAFCO concluded that consolidation of the District with the county library system would not improve the District's short or long-term financial prospects.

To the degree the Report contemplates dissolution of the Library, the Report recognizes that "structural changes to the special districts would require a vote of the constituents within that district." (Report, p. 22.) However, the Finding does not acknowledge the need for a vote of constituents.

Additionally, the Library, which was established in conformity with the Education Code, may not be removed from the county tax rolls. Allocation of tax revenue is made in conformity with statutory law (see Rev. & Tax. Code, § 95, et seq.). As LAFCO has concluded, the Library operates efficiently and is financially solvent.

F7. The unrestricted reserves of the special districts are available to the governing boards to spend as they please. Local citizens are not openly informed of this wealth when agencies ask for fee increases, special assessments, or bond measures. Most of the special districts do not appear to have specific criteria for amassing these reserves nor do they have published long-range plans for their constructive use.

Response: Finding 7 is overbroad and the Library submits that the Finding is not supported by facts referenced in the Report specific to the Library. To the extent Finding 7 is applicable to the Library, the Library disagrees wholly with this Finding.

The Library's reserves are regulated by law. California Government Code section 53646(b)(3) requires the Library to maintain reserves equivalent to 50 percent of the Library budget. Additionally, the Government Finance Officers Association ("GFOA") recommends, at a minimum, that general-purpose governments, regardless of size, maintain unrestricted fund balance in their general fund of no less than two months of regular general fund operating expenditures. The Library has been fiscally responsible in complying both with statutory law and GFOA recommendations.

The Library's *Fund Balance and Reserve Policy* states that the Library shall accumulate and maintain unappropriated funds and capital balances in the General Fund and Capital Improvement Fund as necessary to maintain adequate levels of services and sound fiscal condition of the Library. Adequate reserves are maintained for economic uncertainties, financial hardships, downturns in the local and national economy, local disasters, future capital obligations, and cash flow and legal requirements. The Library's Policy which was adopted in May, 2005 and revised May 1, 2012, also states that the fund balance shall be prioritized in accordance with GASB Statement 54 classifications, which categorize fund balances based on the extent to which the Library is bound to honor spending constraints.

The Library Board of Trustees is an elected body accountable to the taxpayers through the election process. The Board reviews the Library's reserves at its public Library Board meetings. The Board adopts an annual budget, which includes funds for necessary capital improvement projects, through the open meeting process. As reflected in the MSR/SOI Report, the Library operates with a high degree of transparency and is held accountable to the public.

F8. The twenty-seven special districts in Orange County have amassed unrestricted reserves of over \$866,000,000. That is enough money to fund all of these special districts for more than year without taxes, fees, interest, or other sources of revenue. The boards of directors have the sole discretion to spend these unrestricted reserves.

Response: Finding 8 is again overbroad and incorrectly suggests that the reserves of other districts may be used to support the Library District's operations. The Finding is not supported by facts referenced in the Report specific to the Library. To the extent Finding 8 is applicable to the Library, the Library partially disagrees with this Finding.

The Library agrees with the Finding to the limited extent that it reflects that the Library has reserves as required by law. As set forth in response to F7, above, the Library maintains reserves in conformity with statutory requirements. The Library does not have adequate funding to operate without taxes, fees or other sources of revenue and sees no facts in the Report to support this conclusion.

The Library's reserves are regulated by law. California Government Code section 53646(b)(3) requires the Library to maintain reserves equivalent to 50 percent of the Library budget. Additionally, the Government Finance Officers Association ("GFOA") recommends, at a minimum, that general-purpose governments, regardless of size, maintain unrestricted fund balance in their general fund of no less than two months of regular general fund operating expenditures.

The Library's *Fund Balance and Reserve Policy* states that the Library shall accumulate and maintain unappropriated funds and capital balances in the General Fund and Capital Improvement Fund as necessary to maintain adequate levels of services and sound fiscal condition of the Library. Adequate reserves are maintained for economic uncertainties, financial hardships, downturns in the local and national economy, local disasters, future capital obligations, and cash flow and legal requirements. The Library's Policy which was adopted in May, 2005 and revised May 1, 2012, also states that the fund balance shall be prioritized in accordance with GASB Statement 54 classifications, which categorize fund balances based on the extent to which the Library is bound to honor spending constraints.

While the Library Board of Trustees has some discretion in setting priorities for expenditures, the Board is accountable to the public it serves. The Library Board of Trustees holds monthly board meetings which are open to the public and which include budget and spending plans for the Library District. In conformity with the Brown Act, the agenda is posted and the public is invited to comment on the agenda items, including the budget and Library expenditures. As

reflected in the MSR/SOI Report, the Library operates with a high degree of transparency and is held accountable to the public.

F11. The Buena Park Library and the Placentia Library (the oldest special districts in Orange County) have long outlived their original intent of providing reading materials for their original isolated communities with an electorate of about 100 people. They could readily be absorbed into the County Library System or the cities.

Response: The Library disagrees wholly with this Finding. The Finding is not supported by facts referenced in the Report and the Report fails to identify the legal authority or the specific criteria relied upon in making the Finding. See responses to F1, F3, and F4, above. The Library continues to offer high-quality library services to the entire Buena Park community of over 80,000, and to people in the surrounding area who prefer to use the Library's services. Absorption by the city or county is a complex process, especially in light of the fact that both the City of Buena Park and Orange County have been implementing budget cuts. Taking on the Library would only burden them with additional budget issues and would limit services rather than improve library services to the Buena Park community.

The BSI Study set forth three consolidation options for the District. First, the Library could merge with the City of Buena Park. Second, the Library could become a subsidiary district of the City of Buena Park. Third, the Library could merge with the Orange County Public Library system. The BSI Study dismissed all three options and recommended that the Library continue to function as a special district. The BSI Study concluded that consolidating with the City of Buena Park would produce minimal cost savings, would generate no new revenues for the Library, and would allow the city to reallocate the Library's revenues to other city needs. Furthermore, LAFCO concluded that consolidation of the Library with the County library system would not improve the District's short or long-term financial prospects.

The BSI Study concluded that the Library had effectively managed its resources and that its management policies resulted in the delivery of high-level, cost efficient library services. LAFCO staff found no evidence to suggest that any of the factors examined in the BSI Study had changed and would result in a different finding if the Library commissioned a new consolidation study. As set forth more fully in the Library's response to F1, above, LAFCO has confirmed that the Library is properly structured as a special district.

F12. The community services that the original non-enterprise special districts provided can be provided by the surrounding cities and the county that have engulfed these districts. Continuing to collect taxes for these special duplicative services is a disservice to both the community they serve and the surrounding communities that provide the same or similar services.

Response: Finding 12 is again overbroad and fails to identify the legal authority or the criteria used to make the Finding. The Library submits that the Finding is not supported by facts referenced in the Report specific to the Library. To the extent Finding 12 is applicable to the Library, the Library disagrees wholly with this Finding.

See response to F1, F3, F4, and F11, above. The Library has consistently delivered high-quality library services in an efficient and cost-effective manner to the growing Buena Park community. The library services offered to the Buena Park community are not offered by any other agency and are therefore not duplicative. Consolidation would negatively affect the high quality of services that the Library currently provides to the Buena Park community as the Library would then compete with other city and county departments for adequate funding at a time when city and county budgets are being reduced or have been depleted.

F15. Only one of the special districts, The South Cost Water District, has had recent performance audits. The lack of performance audits for the remaining special districts leaves the potential for inefficiencies, poor practices, outmoded operations, etc. hidden from the governing boards and the communities they serve. The lack of published performance audits has contributed to the public's ignorance of these audits.

Response: Finding 15 is again overbroad and fails to identify the criteria used to make the Finding. The Library submits that the Finding is not supported by facts referenced in the Report specific to the Library. To the extent Finding 15 is applicable to the Library, the Library disagrees wholly with this Finding.

See response to F1, above. The Cortese-Knox-Hertzberg Act of 2000 requires LAFCO, as an independent agency, to conduct comprehensive municipal service reviews of all public agencies, including special districts, every five years. In conducting these service reviews, LAFCO evaluates the following: infrastructure needs; growth and population projections; financing constraints and opportunities; cost avoidance opportunities; opportunities for rate restructuring; opportunities for shared facilities; government structure options; evaluation of management efficiencies; and local accountability and governance. LAFCO must also prepare a written report summarizing its findings. LAFCO makes this written report available to the public on its website. These reports evaluate each public agency's performance.

In its MSR/SOI Report, LAFCO concluded: the Library's infrastructure is sound and adequate for the delivery of library services; the Library's expenditures appear to be based on efficient methods of operation; the Library is financially solvent and operates efficiently; the Library's fee schedule is very much in line with those of other public libraries throughout the county; and the Library operates with a high degree of transparency and is held accountable to the public.

In addition, the Library is audited on an annual basis and the Library Board of Trustees holds monthly board meetings which are open to the public and which include budget and spending plans for the Library. The Board is an elected body accountable to the taxpayers through the election process. As set forth in LAFCO's response to the Report dated May 9, 2012, "LAFCO is finishing its third cycle of MSRs and have found no significant issues with special districts in Orange County."

**Buena Park Library District Draft Responses
to Recommendations from the Grand Jury Report**

R1. All special districts (except the Vector Control District and the County Cemetery District) should be eliminated from the county tax rolls and should rely solely on fees or the services of surrounding governments. (See F2, F3, F4, F5, & F6.)

Response: The Library notes that Findings 5 and 6 do not apply to the Library and submits that the Findings offered in support of R1 do not support the Recommendation. R1 will not be implemented because it is not warranted or is not reasonable within the meaning of Penal Code section 933.05, subdivision (b)(4).

To the extent that this Recommendation applies to the Library, the Library responds that it has a strong “open access” philosophy and firmly believes in keeping library services free to the public. Public libraries serve the compelling mission of providing access to knowledge, information, and cultural exploration and affording resources that reflect the educational, recreational, and informational needs of all segments of the community. Charging service fees would discourage access and effectively act as a barrier for those most in need of free library services.

The Recommendation that the Library rely solely on fees is unsound. As a non-enterprise district, and due to the nature of library services, the Library’s revenues derive primarily from property taxes rather than fees. Moreover, charging fees could jeopardize certain state grants and subsidies for which the Library currently qualifies. Additionally, the Library’s collaborative partnership with the Southern California Library Cooperative depends, in part, by the Library providing free library services to the public. In reaching its conclusion that the Library is financially solvent in its MSR/SOI Report, LAFCO found that the Library’s fee schedule is very much in line with those of other public libraries throughout the county.

The Library further notes that compliance with the Recommendation is inconsistent with legal authority. The Library’s property tax allocation is made pursuant to statutory authority and may not be eliminated from the county tax roles based upon a grand jury recommendation. (Rev. & Tax. Code, §§ 95 et seq.)

R3. Library districts should be absorbed into the County Library System. Both the Buena Park and the Placentia Libraries should meet with LAFCO and their cities or County Library System before September 30, 2012 to develop plans and schedules for consolidation and removal from the tax rolls. (See F11)

Response: The Library submits that the Finding does not support the Recommendation. R3 will not be implemented because it is not warranted or is not reasonable within the meaning of Penal Code section 933.05, subdivision (b)(4).

The Library meets with LAFCO on a regular basis, works cooperatively with LAFCO as the agency charged with evaluating the operations of special districts, and will continue to do so.

LAFCO recommended in its last MSR/SOI Report that the Library continue to operate as an independent special district. Consolidation is a complex, lengthy, and expensive process and LAFCO has already concluded that the Buena Park community would not benefit from the Library's consolidation with the City of Buena Park or the County of Orange. LAFCO is currently concluding its third cycle of MSRs and has found no significant issues with special districts in Orange County.

As reflected in LAFCO's response to the Report, the compliance with the Recommendation is inconsistent with legal authority. The Library's property tax allocation is made pursuant to statutory authority and may not be eliminated from the county tax roles based upon a grand jury recommendation. (Rev. & Tax. Code, §§ 95 et seq.)

R6. Special districts should adopt "board of director's practices" for all their reserves, restricted and unrestricted. All reserves should be classified in their 2013-2014 budgets according to GASB Standard No. 54. LAFCO should work with the special districts to prepare standard criteria for accumulating reserves according to the new classifications by December 15, 2012. These standards should be used in preparing the 2013-2014 budgets. (See F7 & F9.)

Response: The Library submits that the Findings do not support the Recommendation. R6 will not be implemented because it is not warranted or is not reasonable within the meaning of Penal Code section 933.05, subdivision (b)(4), except to the extent that it recommends that all Library reserves should be classified according to GASB Standard No. 54 as that is the Library's existing practice.

The Library's reserves are regulated. California Government Code section 53646(b)(3) requires the Library to maintain reserves equivalent to 50 percent of the Library budget. Additionally, the Government Finance Officers Association ("GFOA") recommends, at a minimum, that general-purpose governments, regardless of size, maintain unrestricted fund balance in their general fund of no less than two months of regular general fund operating expenditures.

The Library's *Fund Balance and Reserve Policy* states that the Library shall accumulate and maintain unappropriated funds and capital balances in the General Fund and Capital Improvement Fund as necessary to maintain adequate levels of services and sound fiscal condition of the Library. Adequate reserves are maintained for economic uncertainties, financial hardships, downturns in the local and national economy, local disasters, future capital obligations, and cash flow and legal requirements. The Library's Policy which was adopted in May, 2005 and revised May 1, 2012, also states that the fund balance shall be prioritized in accordance with GASB Statement 54 classifications, which categorize fund balances based on the extent to which the Library is bound to honor spending constraints.

R7. Excessive unrestricted reserves should be used to reduce existing debts. Future revenues should be reduced to avoid the accumulation of unallocated revenue that does not meet the adopted new standards. (See F7 & F8.)

Response: The Library submits that the Findings do not support the Recommendation. R7 will not be implemented because it is not warranted or is not reasonable within the meaning of Penal Code section 933.05, subdivision (b)(4).

See Response to R6. The Buena Park Library District maintains adequate reserves as required by law. (Gov. Code, § 53646(b)(3).) Moreover, like every local agency, the Buena Park Library District has its own unique set of fiscal priorities and challenges. The Library Board of Trustees, an elected body accountable to the taxpayers, possesses the authority and the fiduciary responsibility to make policy decisions that directly address the specific needs of the Buena Park community. The Board of Trustees holds monthly board meetings which are open to the public and which include budget plans for the Library and reviews of the Library's reserves.

R8. Each special district should have an independent performance audit at least every three years. The executive summary of the performance audit should be distributed to all the taxpayers of each special district. Each of the special districts that has not had a performance audit within the last five years should contract with an independent outside consultant to conduct such an audit during 2012. These audits should be repeated at least every three years. (See F15.)

Response: The Library submits that the Finding does not support the Recommendation. R8 will not be implemented because it is not warranted or is not reasonable within the meaning of Penal Code section 933.05, subdivision (b)(4), except to the extent that it recommends that the Library's performance be reviewed by LAFCO and through its annual financial audits.

The Library continues to work with LAFCO and welcomes its municipal service reviews, which are performed every five years as required by law. As an independent state-mandated agency, LAFCO evaluates a local agency's population projections, financing constraints, cost avoidance opportunities, rate restructuring potential, governance structure alternatives, management efficiencies, and local accountability. LAFCO prepares a written report summarizing its findings and makes this report available to the public on its website. LAFCO is currently concluding its third cycle of MSRs and has found no significant issues with special districts in Orange County.

As the Report acknowledges: "All special districts are required by law to have their finances audited each year. These are public documents. These audits allow the board of directors and community to review the assets and liabilities of their district and to see how their revenues have been used." (Report, p. 8.) The Library will continue to undergo annual financial audits in conformity with law.

In light of the Library's limited resources, this Recommendation has not set forth a basis for requiring the expense of an additional independent audit to occur every three years, particularly when LAFCO performs this function. The municipal service reviews and financial audits as mandated by state law have not been demonstrated to be an insufficient means to inform the taxpayers of the Library's performance.

R9. Each special district should contribute 1% of its unrestricted reserve fund to LAFCO to help finance preparing and directing the consolidation, absorption, or elimination, and the setting of

standards for reserves for the special districts. These funds should be included in LAFCO's future programs and budgets until the consolidation, absorption or elimination of each special district is achieved. With these additional funds, LAFCO should begin meeting with each special district before the 2014 fiscal year is budgeted for consolidation, absorption and/or elimination of these districts. (See F1, F2, F3, F4, F5, & F6.)

Response: The Library notes that Findings 5 and 6 do not apply to the Library and the Findings do not support the Recommendation. R9 will not be implemented because it is not warranted or is not reasonable within the meaning of Penal Code section 933.05, subdivision (b)(4).

As confirmed by LAFCO in its response to the Grand Jury Report, LAFCO does not have the legal authority to obtain an additional portion of the unrestricted revenues of special districts. Additionally, the Recommendation that the Library contribute 1% of its unrestricted reserve fund is arbitrary in that the Report neither estimates nor provides a basis for estimating the amount of funds required by LAFCO to finance "consolidation, absorption, or elimination" of the District. As LAFCO has concluded that the Library is properly structured as a special district, there is no need to take action to consolidate, absorb, or eliminate the Library.

Notably, the Report recognizes that "structural changes to the special districts would require a vote of the constituents within that district." (Report, p. 22.) However, the Recommendation calls for dismantling the Library District without the vote of the constituents. The Library will continue to effectively manage its resources and deliver high-level, cost efficient library services to the Buena Park community.

Conclusion

The Buena Park Library District is continuously mindful of the importance of service to the community and is dedicated to providing library services and operating the District in an effective and transparent manner.

Sincerely,



Dennis Salts, President
Board of Trustees