



August 8, 2018

VIA U.S. MAIL AND EMAIL

Mario Gutierrez

Contra Costa County Civil Grand Jury

725 Court Street

PO Box 431

Email: [ctadmin@contracosta.courts.ca.gov](mailto:ctadmin@contracosta.courts.ca.gov)

RE: Response to Grand Jury Report No. 1808, "Joint Powers Authorities"

Dear Mr. Gutierrez,

This letter serves as the City of Walnut Creek's response to your letter dated June 6, 2018 regarding Contra Costa County Grand Jury Report No. 1808, "Joint Powers Authorities." In accordance with your request, and Section 933.05 of the California Government Code, the City is responding to Finding F1 and Recommendations R1 and R5. The City is also voluntarily responding to Findings F2, F3, and F4 and Recommendation R4 as it does have one (1) JPA formed between the City and its former Redevelopment Agency (currently, its Successor Agency) – namely, the Walnut Creek Public Facilities Financing Authority. This JPA was not listed on page 5 of the Grand Jury Report along with similar JPAs previously formed between other cities and their former RDAs.

#### **FINDINGS**

F1: In the Direct JPA model, each member delegates to the JPA a function that each member has the legal authority to provide. This shared approach results in cost savings and better efficiency on behalf of taxpayers.

Response: The City of Walnut Creek agrees with this finding.

F2: The Circular JPAs with a single controlling entity, such as a city council, have the potential to avoid legal debt limits and provide limited disclosures to taxpayers.

Response: The City of Walnut Creek disagrees with this finding. A Joint Powers Authority (JPA) is a separate legal public entity as defined in the California Government Code. Accordingly, JPAs have the ability to incur their own debt separate from their respective member agencies. Further, in regards to the concept of a "single controlling entity," even under circumstances whereby the governing board of a JPA is composed of the same individuals serving on a City Council, those individuals still serve in separate legal capacities and have separate duties and obligations with respect to those entities. All meetings of JPAs are publically noticed, allow for public participation, and are otherwise required to comply with the Brown Act and the California Public Records Act. Audits of JPAs, and the disclosure of such documents, are also subject to state law.

F3: In Contra Costa County, there are 12 Circular JPAs created by cities with RDAs that no longer exist. These JPAs may no longer be valid because each is a member of another Financial JPA which may take on new debt without the prohibition (Gov. Codes Sections 6505 3416/34170 et seq.) placed on Successor Agencies.

Response: The City of Walnut Creek disagrees with this finding. The City does not know the structure of each agreement referred to in this report and therefore the City cannot provide an opinion on their continuing validity. With respect to the Walnut Creek Public Facilities Financing Authority, this JPA was originally formed between the City of Walnut Creek and the Redevelopment Agency of the City of Walnut Creek (RDA). Pursuant to state law, the former RDAs assets and liabilities have been assumed by the Successor Agency of the Former Redevelopment Agency of the City of Walnut Creek. The Walnut Creek Public Facilities Financing Authority remains a valid JPA.

F4: Cities that have created the 12 Financial JPAs do not provide JPA-specific financial information in their budget document. As a result, the public may have difficulty evaluating JPA's financial performance.

Response: The City of Walnut Creek disagrees with this finding. The City provides, and has provided for years, information on the Walnut Creek Public Facilities Financing Authority in its annual Comprehensive Annual Financial Report (CAFR). The CAFR is presented in a public meeting and is available to the public in both written and online formats. The City does not have information on whether or not other cities provide similar information.

## **RECOMMENDATIONS**

R1: All cities with JPAs in the County should confirm their compliance with Gov. Codes Sections 6505 by submitting the required audit report to the County Auditor by December 31, 2018.

Response: This recommendation will not be implemented. JPAs are separate legal public entities, and compliance is the responsibility of each JPA, not the City. The City is a member of several JPAs and does not have the resources to continually monitor each JPA as to its compliance.

R4: The 11 cities that are members of a JPA associated with an RDA or their Successor Agencies should consider confirming their compliance with the provisions of Abx1.26 (Gov. Codes 34177 et seq.) and report their findings and any corrective actions to the Auditor-Controller's office by December 31, 2018.

Response: This recommendation will not be implemented. The Auditor-Controller does not have jurisdiction over a JPA for this purpose. The City complies with state law with respect to the responsibilities of its Successor Agency.

R5: All cities with JPAs should consider making special efforts, such as special mailings to taxpayers, website postings and announcements in local media, to communicate JPA debt decisions and audit reports to the public beyond simple notifications by December 21, 2018.

Response: This recommendation will not be implemented. Again, each JPA is a separate legal entity and the City does not have the responsibility nor the resources available to report on actions taken by every JPA of which it is a member.

The Walnut Creek City Council approved this response at their August 7, 2018 regular meeting. If you have questions or require additional information concerning the above responses, please feel free to contact (925) 943-5899 or email me directly at [buckshi@walnut-creek.org](mailto:buckshi@walnut-creek.org).

Sincerely,



Dan Buckshi, City Manager  
City of Walnut Creek

CC: Walnut Creek City Council