



September 17, 2015

Honorable Glenda Saunders, Presiding Judge
Orange County Superior Court
700 Civic Center Drive West
Santa Ana, CA 92701

Re: Response by the City of Tustin to the July 2015 Grand Jury Report on Perpetual Debt Accumulation and Tax Assessment Obligation

Dear Judge Sanders:

The following response is provided by the City of Tustin ("City") to the July 2015 Grand Jury Report entitled "Mello-Roos: Perpetual Debt Accumulation and Tax Assessment Obligation" (referred to herein as the "Report").

Pursuant to California Penal Code Section 933.05, the City responds that it "disagrees" with findings F1, F2, and F3, and reports that recommendation R1 has not yet been implemented, but will be, in part, and that recommendation R2 has been implemented. These responses are based upon the following reasons:

Finding #1. There is a lack of transparency to homeowners relative to how Community Facility Districts (CFD) funds are being used.

The City of Tustin disagrees with this finding. The public documents that are prepared in regards to any debt issued state for what purposes the bond proceeds will be used. The specific projects are usually mentioned, however, the language usually states that the funds are to be used for infrastructure projects within the CFD or for infrastructure projects providing a direct benefit to the CFD. The City posts the annual budget, capital improvement budget and annual independent audit on its website at www.tustinca.org. Also, annual disclosure reports that the City is required by the SCE to complete and post to the Electronic Municipal Market Access website (www.emma.msrb.org) are available to all citizens and taxpayers.

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

The City of Tustin disagrees with this finding. The City requires all appropriations and capital improvement projects that include CFD projects and other CFD expenditures to be approved by the City Council through the annual budget process that is held in a public meeting, and all documents regarding the proposed and approved budget are available on the City's website. CFD bond proceeds are held with a fiscal agent whose fiduciary responsibility is to review all expenditures to ensure they are appropriate in relation to the bond documents before the bond proceeds can be released. The City also conducts an annual audit performed by independent certified public accountants. The CFD funds are included in that audit. The annual audit and reports such as audit findings are available on the City's website at www.tustinca.org.

Finding #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.

The City of Tustin disagrees with this finding. With the establishment of the CFD the decisions as to how much can be bonded, whether more debt can be issued after the original debt is paid off and whether an additional special tax can be assessed for services provided under Mello Roos law are made and approved by the City Council through resolution. Changing those decisions requires input and votes from property owners. If a special tax is assessed in perpetuity for ongoing services, then that is a matter of public record and is recorded on title to the property that is publicly available at the County Recorder, and is on the public tax roll, and is referenced on the Title Insurance Report property purchasers obtain when acquiring property.

Recommendation #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.

This recommendation has not yet been implemented but will be, in part. The City of Tustin agrees that either an oversight committee or an audit committee should review at a public meeting the manner in which CFD funds are expended, but that creating or convening both for that same purpose would be an unnecessarily redundant use of time and limited resources. The City has an Audit Commission, and the City agrees to provide the Audit Commission with annual information regarding how CFD funds are spent in addition to the annual budget and annual audit.

Recommendation #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.

This recommendation has been implemented. The City of Tustin posts its annual audit reports on its website which includes the CFD funds.

Thank you for the opportunity to respond to the Grand Jury's Report. If you have any questions regarding our response, please contact Jeffrey C. Parker, City Manager, at (714) 573-3012 or Pamela Arends-King, Finance Director/City Treasurer at (714) 573-3061.

Sincerely,



Charles E. "Chuck" Puckett
Mayor

c: **Orange County Grand Jury**
Jeffrey C. Parker, City Manager
David E. Kendig, City Attorney
Pamela Arends-King, Finance Director/City Treasurer