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August 30, 2018

The Honorable Anita Santos  
Judge of the Superior Court of Contra Costa County  
P.O. Box 431  
725 Court Street  
Martinez, CA 94553-0091

Dear Judge Santos:

This letter is in response to Grand Jury Report No. 1808, "Joint Powers Authorities – Transparency and Accountability", released on June 5, 2018. In accordance with Section 933.05, of the California Penal Code, the City provides the attached required responses to Findings 1-4 and Recommendations 1, 4 and 5 as identified in the Grand Jury Report.

Please feel free to contact me at 925.516.5440 should you need additional information.

Sincerely,



Gustavo "Gus" Vina  
City Manager

cc: Mario Gutierrez, 2017-2018 Contra Costa County Grand Jury Foreperson  
725 Court Street, Martinez, CA 94553

Honorable Mayor and City Council of the City of Brentwood

Damien Brower, City Attorney

Attachment

## **City of Brentwood's Required Responses to Grand Jury Findings**

(Grand Jury Report No. 1808, "Joint Powers Authorities – Transparency and Accountability")

### **Grand Jury Finding #1:**

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.

**City Response:** The City agrees with the finding, although it is not aware of the savings or efficiencies, if any, realized by other JPAs that it is not a party to.

### **Grand Jury Finding #2:**

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 taxpayer.

**City Response:** The City partially disagrees with the finding. The "Circular" JPAs do not "avoid legal debt limits" they are just not generally subject to them by law. Financings entered into by JPAs are generally only undertaken by the JPA for one or more of the JPA's members (e.g., the City) to finance one or more projects of the members. The financial arrangements or debt that one or more of the JPA's members enter into or issue to support a particular JPA debt issue will have to independently satisfy all applicable state laws (including any applicable debt limits) in order to be valid.

Disclosures are made in accordance with all applicable legal requirements. As further discussed in the City's response to Grand Jury Finding #4 below, the disclosures made by a JPA may not be as readily available as disclosures made by a member agency.

### **Grand Jury Finding #3:**

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.

**City Response:** The City disagrees with the finding. The dissolution statute specifically recognized the continuing validity of joint exercise of powers agreements that included a RDA/Successor Agency as a member at the time of dissolution (Health and Safety Code 34178). By contract and state statute, the Brentwood Infrastructure Financing Authority's (BIFA's) debts are not debts of the Successor Agency and, therefore, BIFA's ability to incur debt under state law is not generally limited by the dissolution statute. However, any post-dissolution financial arrangement entered into by the Successor Agency to support any BIFA debt would need to comply with the dissolution statute.

The City is not aware of the number of Circular JPAs created by cities with RDAs that no longer exist and does not dispute nor is able to agree with this portion of the finding.

### **Grand Jury Finding #4:**

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.

**City Response:** The City partially disagrees with the finding. This response applies only to the City of Brentwood and BIFA, as the City does not know what information is provided/ not provided by other JPAs in their budget documents. The City annually files a Special Districts Financial Transactions Report for the Special District of Brentwood Infrastructure Financing Authority with the State Controller's Office. Going forward, the City will make this annual report available to the public on the City's website in accordance with the Grand Jury's Recommendation #5.

While the City's Comprehensive Annual Financial Report (CAFR) and Operating Budget do not report consolidated JPA (BIFA) financial information, the City does provide the following BIFA financial information: 1) the debt service for Special Assessment District Bonds, issued pursuant to the Municipal Improvement Act of 1915, is reported in the Agency funds of the Fiduciary funds section of the CAFR; 2) Fund Balances and projected Fund Revenue and Expenditure Summaries for the assessment districts are reported in the City's Operating Budget; and 3) all other BIFA debt that is secured, at least in part, by City of Brentwood revenues is reported in the Debt Service Funds and in the Water Enterprise Fund in the City's CAFR and Operating Budget.

### **City of Brentwood's Required Responses to Grand Jury Recommendations**

#### **Grand Jury Recommendation #1:**

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.

**City Response:** This recommendation will be implemented. The Government Code of the State of California requires general law cities, such as the City of Brentwood, to have its financial statements audited by an independent certified public accountant. In compliance with Gov. Codes Sections 6505, the auditor's report for the Fiscal Year ended June 30, 2018 will be filed with the County Auditor within 12 months of the end of the fiscal year.

#### **Grand Jury Recommendation #4:**

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 Sections 34177 et seq.) and report their findings and any corrective actions to the Auditor-Controller's office by December 31, 2018.

**City Response:** This recommendation will be implemented. The City of Brentwood has confirmed its compliance with the provisions of ABx1 26. The City will report the lack of any findings or necessary corrective actions to the Auditor-Controller's office by December 31, 2018.

#### **Grand Jury Recommendation #5:**

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 31, 2018.

**City Response:** This recommendation will be partially implemented. Recommendations regarding additional special efforts to communicate JPA debt decisions are not warranted because state law already requires adequate notice of the public meeting at

which those decisions are considered, and an opportunity for members of the public to be heard at those meetings. This required notice includes agenda publication on the City's website.

The City does currently make the following available to the public regarding JPA debt and associated decisions: annual audit reports, Bond Official Statements, annual financial reporting of debt in the CAFR, Public Hearing Notices published in the local paper, and public meeting agendas. Annually, the City files a Special Districts Financial Transactions Report for the Special District of Brentwood Infrastructure Financing Authority with the State Controller's Office. In the future, the City will make this annual report available to the public on the City's website.