SANITARY DISTRICT NO. 5 OF MARIN COUNTY
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August 17, 2017

The Honorable Judge Kelly V. Simmons
Marin County Superior Court
P.O. Box 4988
San Rafael, CA 94913-4988

Ron Brown, Foreperson
Marin County Grand Jury
3501 Civic Center Drive, Room #275
San Rafael, CA 94903

Re: Response to Recommendation R3, R4 & R8 of the Grand Jurys Report, "The Budget Squeeze: How Will Marin Fund Its Public Employee Pensions?" dated June 5, 2017

Sanitary District No.5 of Marin County ("District" or "SD5"), as a utility providing services in and about Tiburon and Belvedere, California, is required to respond to recommendation:

R3 Agencies should publish long term budgets (i.e., covering at least 5 years), update them at least every other year and report what percent of total revenue they anticipate spending on pension contributions

R4 Each agency should provide 10 years of audited financial statements and summary pension data for the same period (or links to them) on the financial page of its public website.

R8 Public Agencies and public employee unions should begin to explore how introduction of defined contribution programs can reduce unfunded liabilities for public pensions.

Response to R3

The District has already implemented the recommendation to publish long-term budgets (covering at least five (5) years), and updates them at least every other year.

SD5 adopts an annual budget each fiscal year which includes a 5-year historical budget summary that assists the District in determining budgeting for the current fiscal year, which includes Pension contributions broken down by line item. Standard employee/employer contributions, UAL (Unfunded Accrued Liability) amount and Asset Gain/Loss amounts are identified in the most recent CalPERS actuarial for the District. As noted on Page 19 of 61 of the Grand Jury report, "Sanitary District #5 had a very high level of pension contributions at over 25% for each of the most recent years."

It should be clarified, those voluntary contributions were to pay off the District's obligations to CalPERS, as they became available for payment:

- In Fiscal Year 2014-2015: SD5's portion of CalPERS' Side Fund was paid off through FY2012-2013
- In Fiscal Year 2015-2016: SD5's portion of CalPERS UAL balance was paid off through FY2013-2014
- In Fiscal Year 2016-2017: SD5's portion of CalPERS UAL balance was paid off through FY2014-2015

The District's future pension contributions consist of the Classic and new PEPRA member contributions, which are 11.675% for Classic members and 6.533% for PEPRA members. As Policy, the District currently budgets an additional 4.5% of employee salaries into a specific retirement reserve account in preparation of the following:

- CalPERS' failure to furnish up-to-date UAL projections to/for agencies (CalPERS' actuarial reports are issued to agencies two (2) years behind the current fiscal year)
- CalPERS' inability to reach their targets which, in turn, result in new UALs each year for agencies
- CalPERS' mismanagement of investments, which lead to the adoption of a plan reducing the discount rate over the next three (3) years, which is expected to *increase* the normal pension costs for agencies to pay. CalPERS has also adopted other policies to slowly reduce the discount rate in future years based on investment asset return amounts which exceed the projected discount rate.

The additional policies stated in the 3rd bullet-point above, while working toward a more sustainable funding mechanism, introduce even more volatility into projecting future rates. These actions make it difficult for agencies that participate in the pooled plans to determine the impact without hiring an outside consultant to prepare long-term projections.

In summary, the District has fully funded retirement benefits through 2015, and its current practice of providing a 5-year historical summary for Pension Contributions, satisfies the recommendation.

Response to R4

The District will implement the recommendation of providing ten (10) years of audited financial statements, on a going-forward basis, each fiscal year.

The District currently carries the last seven (7) years of its annual audited financial statements on its website which contain disclosures regarding pension funding and guidance on how to obtain further pension data from CalPERS. The District will adopt a process of maintaining all of its past and current annual audited financial statements on its website until it reaches an inventory of ten (10) years and then transition to maintaining the most recent ten (10) year inventory of audited financial statements.

Response to R8

The District will not be implementing the recommendation to explore how introduction of defined contribution programs can reduce unfunded liabilities for public pensions.

As the Grand Jury acknowledges on page 22 of 61 of the Grand Jury report, there are significant hurdles to practical implementation of defined contribution plans to limit pension liabilities, including legal (CalPERS approval under PEPRA section 20502) and financial (CalPERS termination fees) obstacles, as well as the need for relevant collective bargaining through labor unions.

Keeping those challenges in mind, the District, on December 12, 2012, implemented a less generous CalPERS pension plan (2% at age 60), to contain pension liabilities in the future. Furthermore, all new

employees hired after January 1, 2013, under PEPRA, were limited to an even less generous CalPERS pension plan (2% at age 62) and are required to contribute 50% of their total share. But even if defined contribution programs were considered and implemented, the District would still be at a significant disadvantage in recruiting future staff, competing with other agencies that continued to offer traditional defined benefit pension plans. After the passage of PEPRA, however, all agencies were put on equal footing in recruiting "new employees" since all were required to offer the same retirement pension benefits.

Finally, in 2013, the District inquired about contract termination with CalPERS. At that time, based off of the actuarial reports through 2011, the District's hypothetical termination liability was $10,513,930. Had the District pursued contract termination at that time, a current termination liability would have been calculated by CalPERS to determine the exact amount needed for secession, of which would be valid only through a certain date. It seems that it is only when an agency engages in formally terminating their contract that CalPERS is able to provide specific - and more importantly, current - agency data (i.e., actual market value, termination liability and unfunded liability). Therefore, it is very discouraging knowing that, although CalPERS manages the investments of so many public agencies and in the age of computers, they are still unable to furnish current, basic financial data, as any standard bank would be able to provide, when inquiring unofficially.

Lastly, we recommend that the Grand Jury turn its attention to CalPERS, focusing on the State system's:

- Failing to report financial data in a timely manner
- Neglect to provide documentation for the basis of its (staggering) charges to agencies
- Mismanagement of public investment portfolios, showing minimal yields, while private funds regularly show much higher returns on investment portfolios over the same time frames
- Possible conflicts of interest in their investment policies

If the Grand Jury feels that this is beyond the scope of its present or future enquiries, then perhaps the Grand Jury should refer the matter to the Attorney General. If legal counsel advises that the statutes around CalPERS prevent any such inquiry, then the Grand Jury should take a look at those statutes, and determine how those statutes should be changed so that County, City and Agency governmental entities have a right to investigate the inner workings of CalPERS.

In closing, Sanitary District No. 5 of Marin County appreciates the Grand Jury's hard work in preparing this report regarding the significant issues facing all public agencies.

Sincerely,

Sanitary District No. 5 of Marin County

Richard N. Snyder
President, Board of Director

cc: D. McCrohan, The Ark

AGENCY RESPONSE TO GRAND JURY REPORT

Report Title: **The Budget Squeeze:** ***How Will Marin Fund Its Public Employee Pensions?***

Report Date: **June 5, 2017** Response Date: **September 5, 2017**

Agency Name: Sanitary District No. 5 of Marin Co. Agenda Date: August 17, 2017

Response by: Richard Snyder Title: Board President

FINDINGS

- I (we) agree with the findings numbered: N/A
- I (we) disagree *partially* with the findings numbered: N/A
- I (we) disagree *wholly* with the findings numbered: N/A

  (Attach a statement specifying any portions of the findings that are disputed; include an explanation of the reasons therefor.)

RECOMMENDATIONS

- Recommendations numbered R3 have been implemented. (Attach a summary describing the implemented actions.)
- Recommendations numbered R4 have not yet been implemented, but will be implemented in the future.

  (Attach a timeframe for the implementation.)
- Recommendations numbered _____ require further analysis.

  (Attach an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.)
- Recommendations numbered R8 will not be implemented because they are not warranted or are not reasonable.

  (Attach an explanation.)

Date: 8.17.2017 Signed: [signature]

Number pages attached 3