



AGENDA REPORT

Meeting Date

March 19, 2007

Agenda Title

Status Report on Capistrano Unified School District Audit

Recommended Action

As necessary.

Executive Summary

At the June 5th City Council meeting, the firm of Vavrinek, Trine & Day (VTD) was selected to conduct an audit of certain revenue sources of the Capistrano Unified School District (CUSD). VTD was retained to audit CUSD's use of funds from the following sources: Community Facilities District No. 87-1 (CFD 87-1), the Tax Sharing Agreement and First Implementation Agreement between the Mission Viejo Community Development Agency (CDA) and CUSD, and the 1999 voter-approved Measure A - the Neighborhood School Overcrowding, Safety/Repair Measure.

According to the June 5 staff report, VTD stated that completion of field work would depend on the availability of CUSD financial records. VTD planned to schedule a meeting with the District by June 21. They would then allow the school district about two weeks to gather the initial records. With school district cooperation, field work would be completed by the end of July. It was expected that an initial draft report would be shared with the school district by August 11. The school district would then have an opportunity for comment. A second draft report to the City would follow soon afterwards. On June 15, a letter was mailed to David Doomey at CUSD introducing VTD and advising of the impending audit. Mr. Doomey, when contacted by VTD, indicated that all correspondence needed to go through the superintendent. A new letter was sent via Federal Express on June 19th to James Fleming. On June 26th, we were advised by VTD that CUSD had delayed field work until August. In August, the school district advised VTD that they must use the Public Records Act process to request information and they would not be allowed to conduct a standard audit of records on site. A field inspection of records would have allowed VTD to thoroughly inspect records, ask questions, and dig deeper. Having to go through the Public Records Act to request information has truly hindered VTD's ability to follow a paper trail.

Joe Aguilar, a partner at VTD, has prepared a status report and chronology of their engagement. Mr. Aguilar will be in the audience to address questions.

Previous Relevant Council Actions for This Item

June 5, 2006-Audit of Capistrano Unified School District, April 3, 2006-Approved proceeding with an audit of CUSD, May 1, 2006-Approved scope of work for CUSD audit

Attachments

Status Report and Chronology prepared by Vavrinek, Trine & Day

Fiscal Impact:

Amount Requested \$

Sufficient Budgeted Funds Available?: Yes ___ No ___ (If no, see attached fiscal analysis)

Prog/Fund # _____ Category: Pers. ___ Optg. ___ Cap. ___ -or- CIP# _____ Fund# _____

Prepared By

Irwin Bornstein
Asst City Mgr/Dir of Admin Svcs

Reviewed By

Irwin Bornstein
Asst City Mgr/Dir of Admin Svcs

Reviewed By

William P. Curley, III
City Attorney

Submitted By

Dennis Wilberg
City Manager



March 5, 2007

Attn: Irwin Bornstein
City of Mission Viejo
200 Civic Center
Mission Viejo, CA 92691

Re: Status Report on Capistrano Unified School District Engagement

Dear Irwin:

We wish to advise the City of Mission Viejo on the status of our assignment on performing certain "Agreed-upon Procedures" that analyze the facility spending and funding of school facilities by the Capistrano Unified School District ("District"). The completed assignment can be expected to reveal insights on the nature of spending and funding options utilized by the District in constructing facilities serving the residents of Mission Viejo. This status report is not intended to replace the final report on our procedures nor substitute for any information obtained on the engagement by our procedures.

The assignment included an inspection of revenues generated by properties within the City limits of Mission Viejo for CFD 87-1 and school bond Measure "A", as well as Mission Viejo Community development agency provided tax sharing revenues. It was our original understanding that our auditing firm would be allowed to access records at the District offices to perform the engagement's various procedures. However, the District has chosen not to allow access to such records except through the public information access statutes.

We apologize for the prolonged period of time it has taken us to perform the procedures thus far. Attached you will find a chronology of events that has occurred during our work.

Recap of key events that delayed the assignment:

- We had verbal authorization from District officials on June 22, 2006 to begin our field work at the District offices in late July 2006.
- Subsequently, the District officials postponed this fieldwork until the middle of August 2006.

- On or about August 9, 2006, the District informed us that they would not permit record inspection at their offices in the same manner as other audit engagements. We were also informed that we could only access records through public information request.
- Since our firm audits over 300 public agencies each year between August and December of each calendar year, we had little or no staff available to work on the assignment from about September 1, 2006 until about December 15, 2006.
- Limited procedures were completed using the public information request from September 2006 to December 2006.
- Further public information requests have been submitted to the District since January 1, 2007. The most recent request dated February 2, 2007 was not responded to by the District until February 28, 2007.

Scope of Work Procedures

CRA Tax Increment Pass-Through Funds

1. We have completed an examination of the tax sharing agreement and other documents governing the use of these funds.
2. The sampling of disbursements completed to date, do not indicate any questionable costs. Sampling work on transfers, journal entries and revenue allocations are not yet done.
3. District monitoring, accounting and reporting associated with this funding appear to be deficient in regards to stipulations called for in the Tax Sharing Agreement between the District and the Community Development Agency.
4. The tracing of all revenues to the District has not yet been completed in the assignment.

CFD 87-1 Funds

1. The sampling of disbursements completed to date, do not indicate any questionable costs. Sampling work on transfers, journal entries and revenue allocations are not yet completed.
2. We have not completed examining all of the CFD covenants, agreements and statutes governing the use of these funds. Thus far, the District has not yet provided evidence of annual reporting of expenditures for the CFD as required by State law.
3. We have gathered a significant amount of data from the County Tax Collector for determining the amount of taxes generated within the City limits of Mission Viejo for this

CFD. Correlation of the tax revenues will be made once the total of CFD expenditures can be summarized for the past four years.

Measure "A"

1. We have not yet completed the examination of bond covenants, ballot restrictions and other documents governing the use of these funds.
2. The sampling of disbursements completed to date, do not indicate any questionable costs. Sampling work on transfers, journal entries and revenue allocations are not yet completed.
3. We have gathered a significant amount of data from the County Tax Collector for determining the amount of taxes generated within the City limits of Mission Viejo for Measure "A". Correlation of the tax revenues will be made once the total of Measure "A" expenditures can be summarized for the past four years.

Preliminary Findings

1. The City should make a written request to the District Board that it allows the City and its agents the ability to inspect the District's records in regards to this engagement. This request may be appropriate at this time since the recent election resulted in three new school board members. Even at this stage of our work, any change in the District's posture in allowing us to have greater accessing to the records would be helpful.
2. We recommend that the Community Development Agency inform the District in writing that it is in non-compliance with the Tax Sharing Agreement for not accounting for the revenues and expenditures associated with the tax sharing revenues in a separate fund or account.
3. We recommend that the Community Development Agency pursue an amendment to the tax sharing agreement that calls for the Agency to have auditing privileges of the District's records in regards to compliance with the agreement.
4. The Community Development Agency should make a written request each fiscal year to the District asking for an accounting of revenues and expenditures of the CRA tax sharing monies. If the District is unresponsive, the Agency should exercise other means available to it for enforcing this aspect of the agreement.
5. The City should formally request that the District provide annual reports of CFD monies for the past four years, as required by State law, within the next 30 days. If the District is unresponsive, the City should inform the State Controller and State Attorney General of the District's failure to make such reports available to the public.

We are in the process of submitting another request for public information from the District. They should receive the request by March 12, 2007. The last request for information should go to the District within 5 business days of their response to our March 12th request. If they respond by March 23rd, the last request should be to the District by March 30th. We will be splitting up several information requests this next two weeks in hopes of expediting the completion of the engagement. We intend to meet with District staff and cover our preliminary conclusions on the engagement.

The public information request process has delayed the completion of the engagement. We hope that we can have the engagement completed by the latter part of April. Completion of the engagement is achievable, but contingent upon the District's cooperation and timely response to our requests.

We understand that the City may be frustrated by the pace for completing this engagement. Our firm has also experienced frustration with the progress as well. We believe that the upcoming requests for information to District will complete the records needed to complete the engagement.

If you have any questions regarding these matters, please contact me at (909) 466-4410.

Sincerely yours,

Joe Aguilar, Sr.

Joe Aguilar

OF VAVRINEK TRINE DAY & CO., LLP

Attachment

City of Mission Viejo Capistrano Unified School District Engagement

Chronology of Events during Engagement

- 6/5/06 Contract awarded to Vavrinek Trine Day & Co. to perform agreed-upon procedures on facility spending by Capistrano Unified.
- 6/15/06 Letter sent to David Doomey at Capistrano Unified by City staff formally informing the District of the pending engagement and requesting them to cooperate with Vavrinek in the Engagement
- 6/22/06 Meet and greet meeting between David Doomey, Sherry Hahn and Jeff Bristow of the District with Joe Aguilar, Brian Ruff and Bill Garcia of Vavrinek. Vavrinek provide the District a copy of the scope of work for the engagement. District officials verbally agreed to have Vavrinek begin their field work the week of 7/24/06.
- On or about 7/13/06 Mr. Aguilar of Vavrinek contacted Sherry Hahn of the District by phone regarding the upcoming record inspections and she requested that the inspection visit at the offices be postponed until 8/21/06 because of the workload at fiscal year end and the moving of records to their new administration facility. Ms. Hahn requested a more specific list of records from Vavrinek. A list of items was given to Ms. Hahn over the phone and Vavrinek agreed to the postponement.
- 7/26/06 Mr. Aguilar sent a letter to David Doomey that formally requested the items needed for the fieldwork commencing on 8/21/06 that were verbally provided to Ms. Hahn on 7/13/06
- On or about 8/9/06 Mr. Aguilar contacted Ms. Hahn by phone as a follow up the 7/26/06 letter and to make sure everything was on track for the fieldwork to commence on 8/21/06. Ms. Hahn informed Vavrinek that the District was not going to allow us to inspect their records without a public information request. She also informed us that the list of records that was already provided was not specific enough for the District.
- 8/18/06 Vavrinek provided a specific list of documents to the District.
- 8/21/06 Vavrinek staff went to the Orange County Tax Collector's office to gather tax revenue records on CFD 97-1 and Measure A.
- On or about 8/22/06 Mr. Aguilar contacted Ms. Hahn by phone to ascertain if the list of documents was specific enough for the District and as to when the document would be available. Ms. Hahn indicated that it would take from 2 to 3 weeks to gather the information.

City of Mission Viejo Capistrano Unified School District Engagement

Chronology of Events during Engagement

- 9/11/06 A phone message was received at the Vavrinek offices that the records requested by the 8/18/06 letter would be ready for pick up on Friday 9/15/06.
- On or about 9/13/06 Mr. Aguilar phone Ms. Hahn and requested a meeting with her on Monday 9/18/06 to go over the documents provided by the District.
- 9/18/06 Mr. Aguilar met with Ms. Hahn and reviewed the records provided by the District. Clarifications were made as to the detail of future records requests.
- 9/22/06 Vavrinek staff began sorting the information provided by the District from the first records request.
- 11/16/06 Vavrinek revised the engagement steps and procedures to accommodate the use of public information requests in obtaining the records
- 11/2/06 Second request of records sent to the District. The request included more specific detail of information.
- On or about 11/13/06 Vavrinek went to the Orange County Tax Collector's office to gather additional tax revenue information on CFD 87-1 and Measure A.
- On or about 11/27/06 Vavrinek received records requested of the District
- 1/9/07 Vavrinek sent another request of records to the District
- 1/24/07 Summaries of expenditures on facility spending and detailed records provided a sampling of disbursements to be inspected.
- 2/2/07 Vavrinek sent another request of records to the District.
- 2/20/07 Vavrinek left a phone message with Sherry Hahn in regards to the status of records requested.
- 2/28/07 The District left a message that the records previously requested were now available for pick up by Vavrinek.
- 3/2/07 Vavrinek obtained records from the District for previous request.

City of Mission Viejo Capistrano Unified School District Engagement

Chronology of Events during Engagement

By 9/18/06, the firm of Vavrinek Trine Day & Co. was into its heavy audit season for its 250 governmental clients and Vavrinek had limited staff available to perform the audit procedures from 9/1/06 through 12/15/06.

The engagement partner twice schedule staffing for the engagement (once in July and again in August 2006). After the second rescheduling of work failed to materialize, it became increasingly difficult for the firm to commit staff given the uncertainty of the District's cooperation. Furthermore, the requirement of using public information requests for obtaining the documentation for the engagement required a reformulating of procedures to finish the assigned procedures.