

**VICTOR VALLEY ECONOMIC DEVELOPMENT AUTHORITY
REGULAR MEETING AND SUCCESSOR AGENCY TO THE VICTOR VALLEY ECONOMIC
DEVELOPMENT AUTHORITY SPECIAL MEETING
AGENDA**

Southern California Logistics Airport
18374 Phantom Street, Theater Room
Victorville, CA 92394

Wednesday, September 19, 2012
5:00 P.M.

CALL TO ORDER

ITEM 1 PUBLIC COMMENT

SUCCESSOR AGENCY DISCUSSION AGENDA

ITEM 2 INFORMATIONAL PRESENTATION OF THE RECOGNIZED OBLIGATION
PAYMENT SCHEDULE #3 (ROPS#3) AND ADMINISTRATIVE BUDGET FOR
JANUARY 1, 2013 THROUGH JUNE 30, 2013

VVEDA DISCUSSION AGENDA

ITEM 3 APPROVE MINUTES OF THE VICTOR VALLEY ECONOMIC DEVELOPMENT
AUTHORITY OF JUNE 20, 2012 REGULAR MEETING

ITEM 4 ELECTION OF CHAIRMAN AND VICE-CHAIRMAN

ITEM 5 TRANSMITTAL OF SCLAA 12/13 BUDGET

ITEM 6 DISCUSSION AND POSSIBLE DIRECTION REGARDING THE 2012 GRAND JURY
REPORT

ITEM 7 BUSINESS AND COMMENTS

ITEM 8 NEXT SCHEDULED MEETING: DECEMBER 19, 2012 – REGULAR MEETING

CLOSED SESSION

ITEM 9 CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING LITIGATION
PURSUANT TO GOVERNMENT CODE SECTION 54956.9(a): Victor Valley
Economic Development Authority v. State of California, et al., Sacramento
Superior Court Case No. 34-2012-80001113

ITEM 10 ADJOURNMENT

VICTOR VALLEY ECONOMIC DEVELOPMENT AUTHORITY
BOARD MEETING OF: September 19, 2012

SUBMITTED BY: Keith C. Metzler
Executive Director

DATE: September 13, 2012

ATTACHED: None

SUBJECT: Informational Presentation of the Recognized Obligation Payment Schedule (ROPS) and Administrative Budget January 1, 2013 through June 30, 2013

RECOMMENDATION: That Your Honorable Board receive the Recognized Obligation Payment Schedule (ROPS) and Administrative Budget for January 1, 2013 through June 30, 2013.

FISCAL IMPACT: \$14,594,532

DISCUSSION: On January 12, 2012, the Victor Valley Economic Development Authority confirmed its designation as Successor Agency to the Victor Valley Economic Development Authority via Resolution 12-002. Among other things, the Successor Agency is responsible for performing contractual obligations of the JPA, and continuing payments required by the JPA.

Before each six-month fiscal period, the Successor Agency must prepare a Recognized Obligation Payment Schedule (ROPS) per Health & Safety Code 34177(I). The purpose of each ROPS is that it will be the basis by which the County Auditor-Controller determines the amount of funds necessary to be passed through to the Successor Agency to satisfy the former RDA's obligations for which tax increment was pledged. Additionally, per H&S Code 24177(j), the Successor Agency must prepare a proposed Administrative Budget with estimated amounts for the upcoming six-month period, including sources of payment, and submit it to the Oversight Board for its approval. The Administrative Budget includes an Administrative Cost Allowance, as defined in H&S Code 34171(b), which is up to 3 percent of the property tax allocated to the successor agency.

Attached for your information is the ROPS covering the timeframe from January 1, 2013 through June 30, 2013 approved by the VVEDA Oversight Board on August 23, 2012. An attempt was made to present the item to the Successor Agency Board but due to lack of

quorum and the law not requiring Successor Agency approval, the item was moved forward to the Oversight Board due to strict deadlines.

This attached ROPS was submitted to the Department of Finance, State Controller, County Chief Administrative Officer and County Auditor-Controller simultaneously with the submission to the Oversight Board for consideration. Additionally, the ROPS is posted on the Successor Agency's website. This ROPS will become effective January 1, 2013.

Staff remains available for any questions or comments you might have.

KCM/jrt

Successor Agency Contact Information

Name of Successor Agency: Successor Agency to Victor Valley Economic Development
County: Authority (VVEDA)
San Bernardino

Primary Contact Name: Sophie Escobar
Primary Contact Title: Assistant Director of Economic Development
Address: 14343 Civic Drive, Victorville, CA 92393
Contact Phone Number: (760) 955-5032
Contact E-Mail Address: SEscobar@CI.VICTORVILLE.CA.US

Secondary Contact Name: Brian Moncrief
Secondary Contact Title: Senior Analyst, RSG Inc.
Secondary Contact Phone Number: 714-316-2106
Secondary Contact E-Mail Address: bmoncrief@webtrsg.com

SUMMARY OF RECOGNIZED OBLIGATION PAYMENT SCHEDULE

Filed for the January 1, 2013 to June 30, 2013 Period

Name of Successor Agency: Successor Agency to Victor Valley Economic Development Authority (VEDA)

		Total Outstanding Debt or Obligation
Outstanding Debt or Obligation		\$ 1,317,109,123
Current Period Outstanding Debt or Obligation		Six-Month Total
A	Available Revenues Other Than Anticipated RPTTF Funding	0
B	Enforceable Obligations Funded with RPTTF	14,244,708
C	Administrative Allowance Funded with RPTTF	427,341
D	Total RPTTF Funded (B + C = D)	14,672,049
Total Current Period Outstanding Debt or Obligation (A + B + C = E) <i>Should be same amount as ROPS form six-month total</i>		\$ 14,672,049
E	Enter Total Six-Month Anticipated RPTTF Funding <i>(Obtain from county auditor-controller)</i>	14,672,049
F	Variance (E - D = F) <i>Maximum RPTTF Allowable should not exceed Total Anticipated RPTTF Funding</i>	-
Prior Period (January 1, 2012 through June 30, 2012) Estimated vs. Actual Payments (as required in HSC section 34186 (a))		
G	Enter Estimated Obligations Funded by RPTTF <i>(Should be the lesser of Finance's approved RPTTF amount including admin allowance or the actual amount distributed)</i>	16,562,679
H	Enter Actual Obligations Paid with RPTTF	16,412,679
I	Enter Actual Administrative Expenses Paid with RPTTF	72,483
J	Adjustment to Redevelopment Obligation Retirement Fund (G - (H + I) = J)	77,517
K	Adjustment to RPTTF	\$ 14,594,532.00

Certification of Oversight Board Chairman:
Pursuant to Section 34177(m) of the Health and Safety code,
I hereby certify that the above is a true and accurate Recognized
Obligation Payment Schedule for the above named agency.

Name

Title

Signature

Date

RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS III)
 January 1, 2013 through June 30, 2013

Item #	Project Name / Debt Obligation	Contract/Agreement Execution Date	Contract/Agreement Termination Date	Payee	Description/Project Scope	Project Area	Total Outstanding Debt or Obligation	Total Due During Fiscal Year 2012-13	Funding Source					Six-Month Total
									LMHF	Bond Proceeds	Reserve Balance	Admin Allowance	RPTTF	
Grand Total							\$ 1,317,109,123	\$ 23,009,563	\$ -	\$ -	\$ 427,341	\$ 14,244,708	\$ -	\$ 14,672,049
1	Joint Powers Authority Agreement	5/23/2000	2051-52	Southern California Logistics Airport Authority	Obligation pursuant to Joint Powers Authority Agreement	VVEDA Project Area	746,651,505.45	9,859,587.49			142,550.20	6,148,797.38		6,291,348
2	Joint Powers Authority Agreement	5/23/2000	2051-52	City of Victorville	Obligation pursuant to Joint Powers Authority Agreement	VVEDA Project Area	393,990,108.53	9,148,399.01			132,557.50	5,717,766.76		5,850,324
3	Joint Powers Authority Agreement	5/23/2000	2051-52	City of Hesperia	Obligation pursuant to Joint Powers Authority Agreement	VVEDA Project Area	17,620,039.20	341,703.57			4,900.50	211,377.71		216,278
4	Joint Powers Authority Agreement	5/23/2000	2051-52	County of San Bernardino	Obligation pursuant to Joint Powers Authority Agreement	VVEDA Project Area	40,036,800.44	879,449.73			12,844.90	554,054.03		566,899
5	Joint Powers Authority Agreement	5/23/2000	2051-52	Town of Apple Valley	Obligation pursuant to Joint Powers Authority Agreement	VVEDA Project Area	103,139,669.60	2,376,170.29			33,220.90	1,432,956.22		1,466,179
6	Joint Powers Authority Agreement	5/23/2000	2051-52	City of Adelanto	Obligation pursuant to Joint Powers Authority Agreement	VVEDA Project Area	7,902,979.60	210,053.16			4,167.30	179,753.84		183,921
7	Salaries & Benefits	N/A	When all obligations are retired	Successor Agency	Dissolution Activities & Services	VVEDA Project Area	5,588,000.00	139,700.00			69,850.00			69,850
8	Advertising-Marketing	N/A	When all obligations are retired	Successor Agency	Dissolution Activities & Services	VVEDA Project Area	0.00	0.00			0.00			-
9	Insurance	N/A	When all obligations are retired	Successor Agency	Dissolution Activities & Services	VVEDA Project Area	660,000.00	16,500.00			8,250.00			8,250
10	Membership & Dues	N/A	When all obligations are retired	Successor Agency	Dissolution Activities & Services	VVEDA Project Area	0.00	0.00			0.00			-
11	Miscellaneous Costs	N/A	When all obligations are retired	Successor Agency	Dissolution Activities & Services	VVEDA Project Area	0.00	0.00			0.00			-
12	Printing	N/A	When all obligations are retired	Successor Agency	Dissolution Activities & Services	VVEDA Project Area	0.00	0.00			0.00			-
13	Audit	N/A	When all obligations are retired	Successor Agency	Dissolution Activities & Services	VVEDA Project Area	200,000.00	5,000.00			2,500.00			2,500
14	Contract Services	N/A	When all obligations are retired	Successor Agency	Dissolution Activities & Services	VVEDA Project Area	200,000.00	5,000.00			2,500.00			2,500
15	Legal	N/A	When all obligations are retired	Successor Agency	Dissolution Activities & Services	VVEDA Project Area	1,120,000.00	28,000.00			14,000.00			14,000

Pursuant to Health and Safety Code section 34186 (a)
PRIOR PERIOD ESTIMATED OBLIGATIONS vs. ACTUAL PAYMENTS
RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS I)
 January 1, 2012 through June 30, 2012

Page/ Form	Line	Project Name / Debt Obligation	Paysee	Description/Project Scope	Project Area	Reserve Balance		Admin Allowance		RPTTF		Other	
						Estimate	Actual	Estimate	Actual	Estimate	Actual	Estimate	Actual
		Grand Total				\$ -	\$ 678,119	\$ 732,310	\$ 72,483	\$ 19,190,436	\$ 16,412,679	\$ -	\$ -
1	1	Successor Agency Administration Costs	VVEDA	Administration Costs	VVEDA Project Area			\$ 732,310	\$ 72,483				
1	2	Joint Powers Authority Agreement	Southern California Logistics Airport Authority	Obligation pursuant to Joint Powers Authority Agreement	VVEDA Project Area					\$ 7,130,748	\$ 5,223,386		
1	3	Joint Powers Authority Agreement	City of Victorville	Obligation pursuant to Joint Powers Authority Agreement	VVEDA Project Area					\$ 4,870,635	\$ 4,701,178		
1	4	Joint Powers Authority Agreement	City of Hesperia	Obligation pursuant to Joint Powers Authority Agreement	VVEDA Project Area					\$ 185,318	\$ 155,318		
1	5	Joint Powers Authority Agreement	County of San Bernardino	Obligation pursuant to Joint Powers Authority Agreement	VVEDA Project Area					\$ 620,952	\$ 443,672		
1	6	Joint Powers Authority Agreement	Town of Apple Valley	Obligation pursuant to Joint Powers Authority Agreement	VVEDA Project Area					\$ 1,743,790	\$ 1,269,426		
1	7	Joint Powers Authority Agreement	City of Adelanto	Obligation pursuant to Joint Powers Authority Agreement	VVEDA Project Area					\$ 94,755	\$ 64,755		
1	8	Pass Through Obligations	Affected Taxing Entities	Pass through obligations	VVEDA Project Area					\$ 4,544,238	\$ 4,554,944		
1-5	9-105	Please see Notes tab for further explanation											
See Notes tab		Pass Through Obligations & Joint Power Authority Agreement payments for supplemental tax increment revenue received in prior fiscal years.	Affected Taxing Entities & VVEDA Member Jurisdictions	Pass through obligations for Supplemental Revenue received for prior fiscal years	VVEDA Project Area		N/A						

VICTOR VALLEY ECONOMIC DEVELOPMENT AUTHORITY

REGULAR MEETING MINUTES

Southern California Logistics Airport
18374 Phantom Street, Theater Room
Victorville, CA 92394

Wednesday, June 20, 2012
5:00 P.M

PRESENT:

Brad Mitzelfelt, Chairman, County of San Bernardino
Ryan McEachron, Vice-Chairman, City of Victorville
Curt Emick, Commissioner, Town of Apple Valley
Steve Baisden, Commissioner, City of Adelanto
Russ Blewett, Commissioner, City of Hesperia

Keith Metzler, Executive Director
Andre de Bortnowsky, Legal Counsel
Robbeyn Bird, Controller
Marc Puckett, Treasurer
Jennifer Thompson, Secretary to the Commission

ABSENT:

None

OTHERS PRESENT:

Sophie Escobar, City of Victorville
Frank Robinson, Town of Apple Valley
Gary Hallen, County of San Bernardino

Jim Hart, City of Adelanto
Orlando Acevedo, Town of Apple Valley

CALL TO ORDER

Chairman Mitzelfelt called the Two Hundred and thirty-seventh meeting of the Victor Valley Economic Development Authority to order at 5:03 p.m.

PUBLIC COMMENT

None

DISCUSSION AGENDA

**APPROVE MINUTES OF THE VICTOR VALLEY ECONOMIC DEVELOPMENT AUTHORITY OF
APRIL 9, 2012 SPECIAL MEETING**

Motion: That the Board approve the minutes as presented.

MOTION: BLEWETT SECOND: EMICK
AYES: MC EACHRON, EMICK, BLEWETT, BAISDEN, MITZELFELT
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

FINAL TAX INCREMENT DISTRIBUTION 2011-2012 FISCAL YEAR

Keith Metzler – Mr. Chairman and members of the Board I am going to turn this over to Marc but before doing so this item is dealing with cash on hand, cash that we've shared in general before that required distribution. This is monies held on account that were generated prior to the effective date of the redevelopment agency dissolution so basically its monies on hand before February 1st of this calendar year. TAC recommended that we approve the distribution of taxes as presented in the order of 731,672 and some change.

Marc Puckett – Thank you Mr. Chairman, again as the Executive Director advised you, this is the final distribution relating to the tax increment for the 2011-2012 fiscal year. All of these collections predate February 1, 2012 and it consists of revenues from basically three sources. One is from funds that were initially in dispute related to amendment area 8. Amendment area 8 which you see is listed at \$555,000 to be distributed today. Amendment area 8 as a whole is negative in terms of the captures tax increment however this past fiscal year VVEDA had received roughly about \$780,000 which prompted a call to the County Auditor Tax Collectors office to determine what the source of these funds were. In working with them we determined that the funds actually related to four fiscal years and an overpayment of roughly \$240,000 and also related to an item that is in somewhat dispute about \$68,000 related to a supplemental refund process for sales that occurred, change of ownerships that occurred over the last year. As a result of these changes of ownership lets say the tax value was 200, the base value is 100 and the sale price was 150 the Auditor/Treasurer/Tax Collector's office processes a refund between the difference between the taxable value and the sale value. The tax code allows the Auditor/Treasurer to calculate that on a property by property basis. Effectively they would have calculated a property tax refund for the sale price that was below the taxable value on an individual property, however that process does not have a mechanism in place to compare the individual property sale price to whether or not there was a captured tax within the entire area. In this case amendment area 8 was negative and had no captured tax value in the area even though some of the properties within the area had positive captured tax value and some of had negative so the net effect of this is that VVEDA was charged \$68,000 for individual tax refunds for these properties where we did not have any captured tax revenue to offset those refunds. The net result of these discussions is that we have a refund to process to the County for the overpayment and the remaining amount to be distributed for the prior year's amount to roughly \$555,000. In addition to that we have budgetary savings related to 2010-2011 fiscal year to distribute and interest on those collections is roughly about \$57,000. The amount to be distributed is outlined in the attached schedule in Table 1, the far right column titled total revenue distribution which is noted by agency. That concludes my staff report. If there are any questions I would be more than happy to answer those.

Russ Blewett – Why should I vote for this? There is no money there for us.

Brad Mitzelfelt – I can't read my copy actually.

Russ Blewett – You can buy half of an ipad.

Brad Mitzelfelt – They're paying money that they withheld improperly basically?

Marc Puckett – The County had paid us roughly \$780,000 in an area that was negative as a whole and we determined that a portion of the amount distributed related to prior tax year collections that were received for prior tax years. The amount that was received for the current tax year was an over distribution by the County which was returned to the County. The issue related to the \$68,000 is actually just a quirk in the property tax code that the County Auditor/Treasurer/Tax Collector's office is authorized to distribute those funds for supplemental refunds on a property by property basis with no consideration of whether or not the entire tax increment area is positive or negative.

Brad Mitzelfelt – Are there any questions? Discussion?

Russ Blewett – What's the reason for no money?

Marc Puckett – Amendment area 8, I don't believe...

Russ Blewett – Is in our area...

Marc Puckett – Hesperia has any properties within amendment area 8.

Keith Metzler – Amendment area 8 largely, Sophie is the area north of SCLA that includes County territory, Victorville territory and Adelanto territory so largely those three jurisdictions?

Sophie Escobar – A small portion of Apple Valley

Keith Metzler – A very small portion.

Sophie Escobar – Everyone except for Hesperia was in the 8th amended area.

Curt Emick – So small that the fire protection district gets 0 right?

Marc Puckett – Correct, you see that for Hesperia and Apple Valley, the amount of the distribution relates solely to the budget savings and the earnings distribution.

Curt Emick – Thank you.

Brad Mitzelfelt – What is the pleasure of the Board?

Motion: That the Board approve the final tax increment distribution for fiscal year 2011-2012 as presented.

MOTION: MC EACHRON SECOND: EMICK
AYES: MC EACHRON, EMICK, BLEWETT, MITZELFELT, BAISDEN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

FISCAL YEAR 2012-2013 BUDGET

Keith Metzler – Mr. Chairman and member of the Board just to tee it up, this item has a recommendation that was amended by the TAC and that recommendation is that the Board approve Resolution 12-005 adopting the fiscal year budget for 2012-2013 totaling \$162,305 and authorizing the Treasurer to immediately work with RSG using the same distribution methodology that we have been using for the last 10 or 12 years and conduct a distribution analysis and authorize the distribution of those tax increments associated with the receipt, by the Successor Agency, of the \$8.5 million that was just recently received, this week. In general, the item that you're dealing with deals with the budget for the organization or the JPA. We have also shared with you information dealing with the budget approved by the Oversight Board that was actually a part of the ROPS#2 and going forward what effectively we're going to have to train our mind to do is dealing with two different funds as opposed to one organization fund. Now that we serve as a Successor Agency we will also have a budget dealing with just the Successor Agency responsibilities. The item that you are being asked to approve tonight is dealing with the JPA organization. It is from funds carried over from savings of the current fiscal year. I'll just turn it over to Marc at this point.

Marc Puckett – Thank you, as Mr. Metzler had indicated the amount that you're being asked to approve tonight is for VVEDA's budget for the fiscal year 2012-2013. The amount is \$162,205 in total which relates to budgetary savings currently on hand for the fiscal year 2011-2012 year and these are savings that were accrued as of February 1st of the current fiscal year. The activity was all cut off, the assets effectively transferred to the Successor Agency as of that date and the budgetary savings for the 2011-12 budget which was \$280,940 amounted to \$162,305 as of that date. That amount then is used as the funding source for the 12-13 fiscal year so no additional contribution will be required from any of the member agencies. The budget that you are being asked to approve is in the attached amendment A and is segregated into the categories of expense that are identified there which include the insurance premium for that which is a little over \$16,000, meetings or travel expense of \$5,000, audit expense of \$10,000 if that is required, contract/professional service expenses is primarily RSG's costs of \$30,000 and legal costs of \$50,000. Included in that also is a miscellaneous or contingency line item of \$51,179 which is simply the balancing item for the remainder of the \$162,305 and that then provides us with some degree of flexibility going forward if it is the desire of the Board to do some marketing over the next fiscal year or if we require some funding for any other purpose. Effectively then the VVEDA Board would not be required to ask member agencies for an additional contribution since we already have the \$162,305 in VVEDA's account. As Mr. Metzler had stated, the second document provided for your information was the budget that was approved by the Oversight Board for the Successor Agency. It has already been adopted as provided under the requirements of the dissolution process and is provided for your information. That budget is paid from the admin dollars that are provided for, for the administration of the dissolution activities. That concludes my staff report. If there's any questions you have I would be more than happy to answer those.

Brad Mitzelfelt – So the staffing for the Successor Agency is the same staffing correct?

Marc Puckett – Correct

Brad Mitzelfelt – Any questions, comments?

Russ Blewett – Will we be needing to put money in next year?

Marc Puckett – Not for the 12-13 fiscal year. There was a comment at the TAC committee if it would be reasonable to withhold some additional amount from that you're requested to distribute today, the \$8.5 million to potentially fund the 13-14 fiscal year and the discussion centered around that some time during the course of the next fiscal year it is expected that there will be some either resolution to the legal process or the picture will become a little more clearer and we'll know what the status of the organization will be going forward into the 13-14 fiscal year. At that time there will need to be some discussion in terms of how those future activities are funded.

Russ Blewett – Are you proposing a distribution to the cities?

Marc Puckett – Not for the, excuse me, not for the 11-12 budgetary savings which is the \$162,305 that will be used as the funding source for the 12-13 fiscal year, so there is no contribution being requested for the 12-13 fiscal year and there is flexibility within that budget in the amount of the amount set aside for the contingency to fund any future activities based on the Board's direction.

Jim Hart – The point is that I was the one that raised it at TAC, Russ what I was saying is that since the item that you previously approved was the distribution of \$731,000 to the various places, my thought was rather than make that full distribution maybe we hold onto some of that money so you have VVEDA money to fund the 2013-2014 budget. Keith explained that essentially if we fail at the lawsuit then we are going to have much bigger problems than just funding the administrative budget for the JPA, you are going to have much bigger issues. The decision was to go ahead and recommend the distribution and to approve the budget.

Brad Mitzelfelt – Any other questions?

Ryan McEachron – I move approval of the budget.

Andre de Bortnowsky – Keith, correct me if I am wrong, staff has asked you for that motion, if possible, to also authorize the distribution of the monies that we received, the \$8 million because we do not have that slated and we would like to get authorization in accordance with the prior distributions.

Russ Blewett – So in other words we will be seeing checks?

Keith Metzler – As soon as we get the, we will be asking RSG to start the work immediately on diving up that \$8.5 million and what we are asking for is the flexibility that once they are done we will get you the checks as soon as possible.

Ryan McEachron – I will include that in my motion.

Motion: That the Board approve the budget and the distribution of \$8.5 million in accordance with the prior distributions.

MOTION: MC EACHRON SECOND: EMICK
AYES: MC EACHRON, EMICK, BLEWETT, BAIDEN, MITZELFELT
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

BUSINESS AND COMMENTS

Keith Metzler – Mr. Chairman if I might just jump in, there was an error in the posting of the agenda and Item 6 deals with a conference/closed session under the threatened litigation category and that incorrectly states our current status in the lawsuit because now we do have existing litigation so we are likely going to have to not conduct Item 6 but I don't necessarily think it would be inappropriate at this time to at least give you an update under Item 5 by legal counsel as we did get a response. We actually got a legal filing by the State and Andre can share that information in better detail with you.

Andre de Bortnowsky – If it is ok with you, I don't think it is appropriate to do it in closed session since there is a technical problem with the agenda and I don't want to put anybody in jeopardy of violating the Brown Act but there is nothing that I need direction on at this point. I just want to update you. We filed, concurrently, obviously with IVDA and there is a move to join both of the cases. We will join; we are assigned under the same judge in Sacramento at this point. We received, on Monday, a demur from the State typical salvo the defendant will file litigation and essentially the demur standard is essentially that they are arguing that if you take everything for granted or take everything on its face, on the face of the complaint that there is nothing to litigate. We completely disagree with that. There are two, essentially two theories that the State is arguing one is that we have incorrectly named the State itself as one of the defendants. There is some legal authority to indicate that you should perhaps not name the State but instead name the Governor. We have, as you know, named the various departments, the Department of Finance, the Auditor/Controller, all of them are appropriate. The State is trying to knock us out on erroneously naming the State as an entity. The easy fix to that is to amend the complaint. We actually think we are going to do that and suggest that in writing to them. The second grounds that they are seeking on the demur is actually what I would call a substantive issue. They are basically arguing that we are not a redevelopment agency and, sorry that we are a redevelopment agency, that we are subject to AB 26. That is the whole basis of our litigation so that issue goes to the merits of the case. It is totally inappropriate for a demur. That is what we want the court to decide so we are going to object on those grounds. There is a hearing scheduled for August 24th. We have to have responsive pleadings in by the 13th of August. We have a conference call scheduled for IVDA legal counsel on Friday to come up with a strategy, how best to challenge it but we don't think there is any appropriate grounds for a court to uphold the demur. Even if they did, the only reason they would is because we are in Sacramento and Sacramento trial courts have been ruling very favorably in terms of the AB 26 issues so I think there courts are a little politically motivated. If we did get a negative ruling we would appeal it. I don't think any appellate court would uphold the demur based on the fact that we have not alleged an appropriate complaint. It is clear that there is an issue here to be resolved which is are we subject to AB 26, are we a redevelopment agency? We clearly are not and those are facts, both issues of fact and issues of law that need to be adjudicated by a court. It is not a surprise, it's not a lengthy pleading, it's not going to be an elective response. These go to the issues of whether or not we've pled a legitimate case and we obviously believe we have as does the IVDA. That is kind of the update right now. The strategy is going to be to suggest to them that we would be willing to amend the complaint to drop the State and instead name the Governor in its place and that they should drop the demur based

on the fact that we certainly have plead a legitimate case at this point.

Brad Mitzelfelt – So how does the management of the cases with IVDA....

Andre de Bortnowsky – The cases have been joined right now, but they have a couple of slightly different arguments which the State has objected to their arguments. We are sort of sharing ideas, sharing strategies and we are filing independently to preserve in case one of us has success and the other doesn't. For example the legal teams are working together in terms of what types of arguments we are putting together. We're sharing our research and economies of scale that way has been pretty beneficial.

Brad Mitzelfelt – Sacramento court has been ruling favorably on the State side?

Andre de Bortnowsky – Yes against as you know the Cerritos case, they ruled against the Cerritos case and they ruled against the very late filing by Pasadena. I think there were like 7 or 8 cities that got nailed at the last minute the filed a suit to try and join the State from the applicability of AB 26. All of those have not done well. This is a totally different issue in terms of whether or not we've plead a case. It would be hard for a trial court I think to rule against us, but if they did I certainly think an appellate court would support this. Beyond that what the State really has done is try to argue a motion for summary judgment. That is kind of what their argument is and I think they availed it as a demur. In this case, probably will be settled on a motion for summary judgment. It is not a big trial issue, it is an issue before a judge, these are the facts, this is the law and we need a ruling on it. Then it would be an appeal of the motion of summary judgment that is why it is not a big case in terms of litigation costs, not a lot of experts, it is a function of this is the law and this is what is says these are our documents that establish how we were formed and how we operate. It will be a court to determine that.

Brad Mitzelfelt – Are we asking for a TRO to keep them from sweeping all the money out?

Andre de Bortnowsky – We, IVDA attempted that at the last minute. We talked about doing that as well and the indications were that would be unsuccessful. IVDA settled at the very last minute, the 11th hour, before the hearing on the TRO and the settlement was essentially that the Auditor/Controller, what essentially happened was the Department of Finance agreed with the ROPS that were filed by us and the IVDA so we essentially got all of our monies. To get a TRO you would have to argue irreparable harm and there was no way you were going to argue irreparable harm if they were going to give you the monies. That was essentially the purpose of the TRO was to say don't sweep any money. Department of Finance bought off on our ROPS and IVDA's ROPS so that was the settlement that essentially came out of the IVDA filing.

Russ Blewett – I call it irreparable harm.

Andre de Bortnowsky – In the future it will be.

Brad Mitzelfelt – In the future it will be to the extent that we will....

Andre de Bortnowsky – If we get a faulty ruling against us.

Brad Mitzelfelt – Yes, but what I mean is that then we will be a damaged party and it will do anything about it?

Andre de Bortnowsky – You certainly at that point, to the extent we're not, certainly if we don't get the monies that we seek when we argue for our ROPS we would have the ability to go after an injunction. Probably not a

temporary restraining order but we have in our complaint we are seeking a preliminary injunction in the complaint. Temporary restraining orders are a lot harder to get because that is the irreparable harm it has got to be immediate and an emergency type issue, with here you couldn't establish that in front of a court.

Brad Mitzelfelt – Any other questions?

Curt Emick – Have any of the other cities cases gone through to the appellate courts?

Andre de Bortnowsky – No, they are being briefed right now. The Cerritos one is probably the one that is furthest along and I think they have briefing dates that are set up in August. It is a very strong case and it goes to the impairment of contracts under Constitutional grounds. All of these cases have to get out of Sacramento trial court. I think that is a politically biased environment.

Russ Blewett – Can we ask for change in venue?

Andre de Bortnowsky – AB 26 specifically stipulated that every piece of litigation on AB 26 be in Sacramento Superior court. Very draconian but that is they way the legislation handled it.

Russ Blewett – I have a question thought, that would make an equal protection claim because we are being denied equal protection under the Constitution.

Andre de Bortnowsky – But hard to justify because you are getting your day in court it is just a function of this is the venue and the legislature has dictated where the venue is going to be. It is going to be in the State of California. You do get your day in court you just have to travel to get there. Everything with AB 26 is problematic that is amongst one of the things. The other part of AB 26 that was incredible was there was a death note provision that said if you challenge and you were successful then you wouldn't receive any monies.

Ryan McEachron – Do we still have the ability of going into Federal Court?

Andre de Bortnowsky – No we've looked at that and researched that. These issues of preemption have to get adjudicated first by the State court.

Ryan McEachron – But that can happen?

Andre de Bortnowsky – Well we go through the appellate court then you go to the State Supreme Court, I don't think you get to, there are arguments, Constitutional issues without going to Federal Court on issues of preemption. It has to be decided by the State Court. It is likely that a State Appellate Court is going to buy off on that argument; it is a very strong argument. It is an uphill battle.

Russ Blewett – The good news is that we have some really creative real estate and accounting things that are going on in cities that they will be writing text books about in years to come.

Andre de Bortnowsky – That is very true there are a lot of cities that are sort of damn the torpedoes approach which they have transactions that are in the works and they're to hell with it lets make the State reverse the transaction and part of the problem is that title companies are very hesitant to do anything, touch anything or opine as to anything that deals with the AB 26 redevelopment agency right now. If you are willing to take the risks you can do the transactions.

Russ Blewett – We're willing to settle with the State and give them our golf course which is in a flood plane.

Andre de Bortnowsky – There are a lot of

Russ Blewett – We separated the water out, the city owns the water, the RDA owned the golf courts.

Andre de Bortnowsky – And that is going to probably be a lot of litigation over whether or not they can actually unwind some of those transactions. That is what they are going to try to do but no reason to be focused on that.

Russ Blewett – Would that have to take place in Sacramento?

Andre de Bortnowsky – Everything related to AB 26 has to be done in Sacramento. It is right in the statute.

Russ Blewett – Maybe we get ourselves a new Governor. A few changes....

Brad Mitzelfelt – Any other discussion on that? Any other comments or new business? Then that concludes our business and we will stand adjourned.

ADJOURNMENT

Chairman Mitzelfelt adjourned the regular meeting of the Victor Valley Economic Development Authority at 5:34 p.m.

STATE OF CALIFORNIA COUNTY OF SAN BERNARDINO

I, Jennifer Thompson, Secretary to the Commission of the Victor Valley Economic Development Authority hereby certify the foregoing to be a full, true, and correct copy of the record of the action taken by said Committees by vote of the members present, as the same appears in the Official Minutes of the Victor Valley Economic Development Authority at its regular meeting of June 20, 2012.

(SEAL)

Jennifer Thompson
Secretary to the Commission

VICTOR VALLEY ECONOMIC DEVELOPMENT AUTHORITY
MEETING OF: September 19, 2012

SUBMITTED BY:

Keith C. Metzler
Executive Director

DATE: September 12, 2012

SUBJECT:

ELECTION OF CHAIRMAN AND VICE-CHAIRMAN

RECOMMENDATION:

Any action is at the discretion of Your Honorable Board of Commissioners.

DISCUSSION:

In October 1989, the VVEDA Joint Powers Agreement became effective and subsequently was amended to become the Fourth Amended and Restated Joint Powers Agreement which serves to govern the functions of VVEDA. Pursuant to Section 24 of this Agreement, a Chairman and a Vice-Chairman shall stand for election annually at the first meeting of each new fiscal year. Accordingly, it is appropriate at this time to conduct an election of the Board's Chairman and Vice-Chairman. Traditionally, the First District Supervisor has held the position of Chairman, but any action is at the discretion of Your Honorable Board of Commissioners. Staff recommends that procedurally, the Board should formally open nominations for the two Board positions, close said nominations and take a vote as to those nominations.

Staff remains available for questions or comments.

KCM:jt

VICTOR VALLEY ECONOMIC DEVELOPMENT AUTHORITY
MEETING OF: September 19, 2012

SUBMITTED BY:

Keith C. Metzler
Executive Director

DATE: September 10, 2012

SUBJECT:

TRANSMITTAL OF SCLAA 12/13 BUDGET

RECOMMENDATION:

Item presented for informational purposes only. No action required.

DISCUSSION:

On June 28, 2012, the Victorville City Council, acting as the Southern California Logistics Airport Authority, adopted its operating budget for the 2012/2013 fiscal year. The budget, attached hereto, projects revenues and expenditures of \$7,791,482 to be in balance of each other. Not included in this years SCLA budget are the financial expenses associated with its tax allocation bonds as those expenses have been transferred to be a part of the budgeting for the VVEDA and Victorville ROPS. This has been due to SCLAA's debt service being primarily paid from tax increment generated through VVEDA. In fact, the pledged security for SCLAA bonds is the tax increment provided to SCLAA pursuant to Section 4(ii)(f) of the VVEDA JPA. In addition to tax increment, SCLAA relies on miscellaneous grants to assist in funding capital improvements. Finally, with respect to the funding of administration and operations of the airport, SCLA relies on the generation of operating revenues which primarily consist of facility lease revenues, fuel flowage fees and landing fees.

This item is being presented to the Board as Section 28 of the VVEDA Joint Powers Agreement (JPA) requires that Victorville provide the SCLAA budget for informational purposes and its non-binding recommendations, if any.

Staff remains available for questions or comments you might have.

KCM:jt

**CITY OF VICTORVILLE
ESTIMATED EXPENDITURES & CIP BY FUND
FY 2012-2013**

	Proposed Operating Budget	Proposed CIP Expenditures Budget	Additions in Fund Balance	Total
100 GENERAL FUND	46,973,920	0	74,992	47,048,912
120 FUELING STATIONS	351,878	10,400	0	362,278
200 STREET LIGHTING DISTRICT	1,252,826	0	0	1,252,826
201 TRAFFIC SAFETY	1,393,040	0	0	1,393,040
202 STORM DRAIN UTILITY	779,019	132,500	466,551	1,378,070
220 GAS TAX	3,036,174	75,000	0	3,111,174
230 LOCAL TRANSPORTATION FUND	720,014	110,000	527,176	1,357,190
231 A8 2928 TRAFFIC CONGSTN RLF	0	0	0	0
232 PROPOSITION 18	0	789,603	0	789,603
233 TRANSPORTATION DEV ARTICLE 3	0	75,000	0	75,000
234 MOTOR VEHICLE AB 2766	0	260,991	0	260,991
240 STATE ASSET SEIZURE	0	0	0	0
241 RESTRICTED ASSET SEIZURE	0	0	0	0
242 FEDERAL ASSET SEIZURE	35,000	0	0	35,000
250 MEAS I - PROJECTS (50%)	80,716	0	194,284	275,000
251 MEAS I - TRAFFIC (50%)	1,389,027	10,000	0	1,399,027
255 MEASURE I STREET ARTERIALS	0	2,249,044	0	2,249,044
256 MEASURE I LOCAL	0	278,000	0	278,000
265 LOCAL GRANTS	0	829,309	0	829,309
270 STATE GRANTS	235,632	27,500	0	263,132
275 FEDERAL GRANTS	0	10,447,508	0	10,447,508
280 HUD GRANTS	1,225,517	0	0	1,225,517
350 DIF PUBLIC BLDGS	437,280	0	0	437,280
351 DIF FIRE SERVICE	80,000	0	0	80,000
352 DIF ROAD SERVICE	39,279	271,000	1,241,206	1,551,485
353 DIF PUBLIC SAFETY	0	0	69,784	69,784
354 DIF RECREATION SERVICE	0	0	894,288	894,288
355 DIF NISQUALLI OVERPASS	0	0	18,284	18,284
356 DIF GOODWILL OVERPASS	3,665	0	19,162	22,827
357 DIF STORM FEE NO & CENTRAL	19,029	0	146,173	165,202
358 DIF STREET LIGHTING DEV FEES	412	0	6,522	6,934
359 DIF FIRE HYDRANT DEV FEES	474	0	9,039	9,513
370 LMAD'S/DFAD'S DISTRICTS	3,131,663	190,000	0	3,321,663
400 GOLF COURSES	1,938,051	0	(0)	1,938,051
420 VICTORVILLE UTILITY	12,215,867	255,000	0	12,470,867
421 VV UTILITY-PUBLIC PURPOSE	240,000	0	387,195	627,195
425 WASTEWATER ENTERPRISE	10,617,322	1,757,780	288,263	12,663,365
426 SOLID WASTE MANAGEMENT	13,467,225	360,500	0	13,827,725
427 LANDFILL MITIGATION	60,010	0	39,990	100,000
610 CFD 90-01	846,273	0	0	846,273
611 CFD 01-01	306,555	50,000	0	356,555
612 CFD 07-01	158,569	0	0	158,569
613 CAHUENGA A.D. 07-01	0	0	0	0
620 SIDEWALK ASSESSMENT DIST	0	0	15,000	15,000
630 WID #2 - A.D. 2	605,000	0	0	605,000
	101,639,437	18,179,135	4,397,909	124,216,481

**SOUTHERN CALIFORNIA LOGISTICS AIRPORT AUTHORITY
ANNUAL OPERATING REVENUE BUDGET
FY 2012-2013**

450 AIRPORT OPERATION	7,031,009	542,000	89,473	7,662,482
452 OFF-AIRPORT OPERATIONS	110,400	0	18,600	129,000
	7,141,409	542,000	108,073	7,791,482

**VICTORVILLE WATER DISTRICT
ANNUAL OPERATING REVENUE BUDGET
FY 2012-2013**

410 WATER OPERATIONS	20,547,161	5,216,000	5,097,314	30,860,475
411 WATER DISTRICT #2	1,030,600	0	469,400	1,500,000
	21,577,761	5,216,000	5,566,714	32,360,475
TOTAL	130,358,607	23,937,135	10,072,696	164,368,438

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FY 2012-2013**

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ANNUAL OPERATING REVENUE BUDGET
FY 2012-2013**

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TOTAL	130,358,607	23,937,135	10,072,696	164,368,438

**CITY OF VICTORVILLE
EXPENDITURES - AIRPORT OPERATIONS
FY 2012-2013**

ORG	Object	DESC	2011 Actuals	2012 Budget	2012 Actuals as of 4-23-12	2013 Budget
Airport Operations - Expenditures						
4500125	51100	FULL TIME WAGES	860,431	893,839	668,408	1,059,641
4500125	51110	OVERTIME WAGES	40,825	20,382	65,637	70,000
4500125	51120	PART TIME WAGES	48,056	120,264	55,197	72,066
4500125	51200	FRINGE BENEFITS	343,731	385,701	251,685	431,195
4500125	51220	RETIREE HEALTH CARE EXPENSE	3,050	8,763	6,174	8,763
4500125	51300	PAYROLL TAXES	38,328	48,185	11,838	54,888
4500125	52010	UTILITIES-ELECTRICITY	114,196	115,000	67,969	100,000
4500125	52020	UTILITIES-WATER USAGE	7,695	9,600	4,358	6,500
4500125	52030	UTILITIES-NATURAL GAS	32,256	28,000	23,088	28,000
4500125	52040	UTILITIES-SANITATION	3,300	3,000	2,988	3,500
4500125	52060	TELEPHONE	50,193	51,500	51,848	60,000
4500125	52110	SUPPLIES	14,869	13,322	7,618	12,000
4500125	52130	SUBS /PUBLICATIONS / DUES	655	1,225	2,269	2,500
4500125	52140	TRAINING AND EDUCATION	3,270	11,400	12,170	11,400
4500125	52150	TRAVEL & MEETINGS	4,090	10,500	13,498	12,000
4500125	52201	VEHICLE FUEL	-	23,100	21,543	25,000
4500125	52202	EQUIPMENT FUEL	-	17,000	21,987	25,000
4500125	52205	FUEL	27,900	-	-	-
4500125	52220	EQUIPMENT EXPENSE	22,337	22,500	29,856	30,000
4500125	52230	VEHICLE EXPENSE	14,855	15,000	22,534	25,000
4500125	52240	SMALL TOOLS & FURNITURE <\$5000	12,739	16,000	10,876	28,000
4500125	52250	RENTALS - EQUIP/STRUCT/GRNDS	2,713	3,500	5,055	35,000
4500125	52260	COMPUTER EQUIPMENT <\$5000	-	45,000	9,339	30,000
4500125	52300	CONTRACT SERVICES	145,826	1,242,452	917,322	732,680
4500125	52340	INSURANCE	199,957	210,000	202,125	215,000
4500125	52350	LEGAL	(507)	120,000	68,252	150,000
4500125	52360	FEDERAL/STATE /LOCAL FEES	25,344	28,000	27,135	30,000
4500125	52410	BUILDING MAINTENANCE	28,443	40,000	18,495	89,292
4500125	52420	GROUNDS MAINTENANCE	11,336	15,000	564	30,000
4500125	52440	INFRASTRUCTURE REPAIRS	112,812	193,000	42,903	308,000
4500125	52470	SAI LEASE PARTICIPATION	-	1,850	867	1,875
4500125	54010	TRANSFERS OUT	6,407	-	-	-
4500125	54020	COST ALLOCATIONS PAID	939,871	884,069	663,052	884,069
			3,114,979	4,597,153	3,306,650	4,571,369
Airport Business Development						
4500301A	52150	TRAVEL & MEETINGS	-	-	1,089	2,000
4500301A	52160	MARKETING & PROMOTION	-	-	1,450	82,700
4500301A	52300	CONTRACT SERVICES	48,414	50,000	33,092	13,500
			48,414	50,000	35,631	98,200
Foreign Trade Zone						
4500302A	52130	SUBS /PUBLICATIONS / DUES	1,500	1,500	-	1,500
4500302A	52300	CONTRACT SERVICES	-	12,000	-	12,000
			1,500	13,500	-	13,500
SBC Airport Fire Contract						
4501010A	52300	CONTRACT SERVICES	2,002,968	1,512,143	1,263,480	1,619,940
U.S. Customs						
4501013A	52060	TELEPHONE	20,778	20,500	16,393	20,500

**CITY OF VICTORVILLE
EXPENDITURES - AIRPORT OPERATIONS
FY 2012-2013**

ORG	Object	DESC	2011 Actuals	2012 Budget	2012 Actuals as of 4-23-12	2013 Budget
4501013A	52110	SUPPLIES	276	400	26	100
4501013A	52201	VEHICLE FUEL	-	500	43	200
4501013A	52230	VEHICLE EXPENSE	-	500	22	10,000
4501013A	52300	CONTRACT SERVICES	97,551	140,000	128,152	138,000
			118,605	161,900	144,635	168,800
Airport Operations Standby						
4501014A	51100	FULL TIME WAGES	-	13,000	8,716	13,000
4501014A	51110	OVERTIME WAGES	7,726	6,000	563	-
4501014A	51200	FRINGE BENEFITS	3,576	-	1,495	2,000
4501014A	51300	PAYROLL TAXES	304	953	122	400
			11,607	19,953	10,895	15,400
Airport Bldgs 551 & 552						
4501101A	52410	BUILDING MAINTENANCE	714	1,000	449	1,000
			714	1,000	449	1,000
Bldg 676						
4501110A	52300	CONTRACT SERVICES	-	115,300	80,852	4,000
			-	115,300	80,852	4,000
Bldg 682						
4501116A	52010	UTILITIES-ELECTRICITY	17,551	17,700	14,412	21,600
4501116A	52410	BUILDING MAINTENANCE	4,019	1,500	747	1,500
4501116A	55060	BUILDINGS & BUILDING IMPRVMTS	-	-	-	-
			21,570	19,200	15,160	23,100
Bldg 683						
4501117A	52300	CONTRACT SERVICES	-	-	-	100,000
			-	-	-	100,000
Bldg 685						
4501119A	52010	UTILITIES-ELECTRICITY	24,661	23,000	25,036	33,500
4501119A	52410	BUILDING MAINTENANCE	2,766	1,500	838	1,500
			27,427	24,500	25,874	35,000
Bldg 700						
4501127A	52300	CONTRACT SERVICES	2,165	10,000	1,215	30,000
4501127A	52410	BUILDING MAINTENANCE	979	1,500	948	1,500
			3,144	11,500	2,163	31,500
Bldg 717						
4501133A	52010	UTILITIES-ELECTRICITY	58,007	77,500	43,257	60,000
4501133A	52040	UTILITIES-SANITATION	8,516	8,850	3,642	3,600
4501133A	52300	CONTRACT SERVICES	-	-	-	25,000
4501133A	52410	BUILDING MAINTENANCE	8,595	6,000	1,245	3,000
			75,118	92,350	48,143	91,600
Bldg 723						
4501140A	52010	UTILITIES-ELECTRICITY	11,801	12,200	9,320	14,000
4501140A	52410	BUILDING MAINTENANCE	1,661	2,000	2,115	12,000
			13,462	14,200	11,434	26,000
Bldg 724						
4501141A	52300	CONTRACT SERVICES	-	2,000	1,675	20,000
4501141A	52410	BUILDING MAINTENANCE	-	2,000	1,675	2,000
			-	2,000	1,675	22,000
Bldg 728						
4501145A	52010	UTILITIES-ELECTRICITY	51,316	66,000	35,998	50,000

**CITY OF VICTORVILLE
EXPENDITURES - AIRPORT OPERATIONS
FY 2012-2013**

ORG	Object	DESC	2011 Actuals	2012 Budget	2012 Actuals as of 4-23-12	2013 Budget
4501145A	52040	UTILITIES-SANITATION	4,580	4,800	3,599	4,800
4501145A	52410	BUILDING MAINTENANCE	8,428	6,500	3,346	4,000
Bldg 732			64,324	77,300	42,943	58,800
4501148A	52010	UTILITIES-ELECTRICITY	8,882	10,300	3,482	8,000
4501148A	52300	CONTRACT SERVICES	-	-	-	-
4501148A	52410	BUILDING MAINTENANCE	1,334	1,500	899	1,500
Bldg 733			10,216	11,800	4,381	9,500
4501149A	52410	BUILDING MAINTENANCE	-	500	21	-
Bldg 739			-	500	21	-
4501151A	52010	UTILITIES-ELECTRICITY	-	2,000	-	800
Bldg 746			-	2,000	-	800
4501155A	52300	CONTRACT SERVICES	22,088	-	-	-
4501155A	52410	BUILDING MAINTENANCE	7,871	750	680	750
Bldg 756			29,959	750	680	750
4501160A	52300	CONTRACT SERVICES	2,473	50,071	50,366	20,000
4501160A	52410	BUILDING MAINTENANCE	2,522	1,000	1,425	750
Bldg 761 & 771			4,995	51,071	51,791	20,750
4501165A	52300	CONTRACT SERVICES	5,296	3,000	43,983	15,000
4501165A	52410	BUILDING MAINTENANCE	5,259	4,500	2,966	7,500
Bldg 780			10,555	7,500	46,948	22,500
4501170A	52300	CONTRACT SERVICES	-	-	-	-
4501170A	52410	BUILDING MAINTENANCE	4,663	1,200	1,356	1,200
Bldg 868			4,663	1,200	1,356	1,200
4501175A	52010	UTILITIES-ELECTRICITY	28,882	35,400	28,279	40,000
Frontier Ground Lease			28,882	35,400	28,279	40,000
4501186A	52440	INFRASTRUCTURE REPAIRS	-	12,000	9,100	-
National Training Center			-	12,000	9,100	-
4501188A	52300	CONTRACT SERVICES	9,105	60,000	-	-
4501188A	52410	BUILDING MAINTENANCE	10,700	5,000	4,218	10,000
Nose Docks			19,805	65,000	4,218	10,000
4501189A	52010	UTILITIES-ELECTRICITY	276	300	213	300
Pump Houses 1 & 2			276	300	213	300
4501198A	52300	CONTRACT SERVICES	-	-	-	45,000
Total Expenditures			5,613,181	6,899,520	5,136,970	7,031,009

**CITY OF VICTORVILLE
EXPENDITURES - OFF AIRPORT OPERATIONS**

			FY 2012-2013				
ORG	Object	DESC	2011 Budget	2011 Actuals	2012 Budget	2012 Actuals as of 4-23-12	2013 Budget
Off-Airport - General							
4520145	52010	UTILITIES-ELECTRICITY	-	-	-	9,694	-
4520145	52300	CONTRACT SERVICES	-	-	10,000	1,390	23,100
4520145	52300	CONTRACT SERVICES	-	-	66,315	47,328	-
4520145	52410	BUILDING MAINTENANCE	-	-	-	1,680	2,000
4520145	52470	SAI LEASE PARTICIPATION	10,000	9,500	10,000	-	7,500
			10,000	9,500	86,315	60,092	32,600
Off-Airport - Bldg 280							
4521020	52470	SAI LEASE PARTICIPATION	3,000	3,000	6,000	4,475	6,000
Off-Airport - Kinder Morgan Ground Lease							
4521021	52470	SAI LEASE PARTICIPATION	5,600	5,600	16,800	12,529	16,800
Off-Airport - Bldg 686							
4521022	52410	BUILDING MAINTENANCE	-	-	19,885	34	50,000
Off-Airport - Bldg 553							
4521023	52410	BUILDING MAINTENANCE	-	-	5,000	-	5,000
			18,600	18,100	134,000	77,130	110,400

**VICTOR VALLEY ECONOMIC DEVELOPMENT AUTHORITY
BOARD MEETING OF: September 19, 2012**

SUBMITTED BY: Andre de Bortnowsky
VVEDA General Counsel

DATE: September 12, 2012

SUBJECT: 2012 Grand Jury Report

RECOMMENDATIONS: Any action that the Board may desire.

FISCAL IMPACT: None

DISCUSSION:

On June 29, 2012 the San Bernardino County Grand Jury distributed its Final Report for the 2011-2012 year, which included a Performance Audit dealing specifically with the City of Victorville ("Final Report"). The Performance Audit included a discussion of issues pertaining to the Southern California Logistics Airport Authority and, to a lesser extent, the Victor Valley Economic Development Authority ("VVEDA").

On the last page of the Performance Audit (specifically Page 5-12), the consultants hired by the Grand Jury made a recommendation that pertains to VVEDA, which provides as follows: "The VVEDA Commission should: consider a review of the delegated authority provided to the City of Victorville for governance and administration of the SCLAA to ensure representation of each individual jurisdiction's interests in the governance and administration of redevelopment activities."

While the City of Victorville has formally submitted a response to the Final Report, it is unclear as to whether or not VVEDA, as a separate legal entity, must also respond to the Final Report. The lack of clarity arises from the fact that the VVEDA Joint Powers Authority did not directly participate in the Grand Jury process and to the best of staff's knowledge VVEDA was not formally provided with a copy of the Final Report. While it is true that Mr. Metzler (to a limited extent) and I participated in the process, we did so in our roles

representing the City of Victorville and the Southern California Logistics Airport Authority. Moreover, the *Introduction* of the *Cities/Special Districts* portion of the Final Report indicates that VVEDA was not one of the agencies specifically investigated.

The Grand Jury process is governed by Section 933, *et seq.*, of the Penal Code. Subsection (c) of Section 933 provides that: "No later than 90 days after the Grand Jury submits the final report on the operations of any public agency subject to its reviewing authority, the governing board of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to the matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to the matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls....."

Subsection (f) of Section 933.05 in relevant part specifically provides: "A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after approval of the presiding judge...."

Since VVEDA never formally received a copy of the portion of the grand jury report related to it as required by Penal Code 933.05(f), nor a copy of the Final Report, and further was not involved in the investigatory process, it is unclear whether VVEDA as a body is legally required to respond. However, any requirement that VVEDA must respond to the Final Report would raise both procedural issues and due process questions as to how the Final Report affects VVEDA.

Notwithstanding the foregoing, in its response to the Grand Jury, the City of Victorville has addressed Recommendation 5.7 in a manner which the City believes adequately addresses the issues raised by the Final Report with respect to the VVEDA Recommendation. A copy of Victorville's response to Recommendation 5.7 is attached hereto.

At this point, it is up to the discretion of the VVEDA Board as to how it would like to respond to the Grand Jury. VVEDA's options appear to be (1) prepare its own formal response to Recommendation 5.7; (2) adopt and submit the responses prepared by the City of Victorville with respect to the VVEDA issues; (3) provide a formal response that it was not a participant in the Grand Jury proceedings and was not provided a copy of the report as required by Penal Code 955.05(f) and therefore does not believe it is required to respond; or (4) respond that it has reviewed the Recommendation and has essentially addressed these issues in 2011. It should be noted that any response to the Final Report needs to be made on or before September 29, 2012.

Staff makes no recommendation but awaits direction from the VVEDA Board as to how best to proceed.

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The VVEDA Commission should:

- 5.7. Consider a review of the delegated authority provided to the City of Victorville for governance and administration of the SCLAA to ensure representation of each individual jurisdiction's interests in the governance and administration of redevelopment activities.

City Response:

While not authorized to speak on behalf of VVEDA, the City points out that the delegation of authority to the City of Victorville was accomplished in 1997 at the request of the Town of Apple Valley and the City of Hesperia. As noted below, the history surrounding such delegation is important to understand. Before agreeing to such delegation, the City of Victorville had to consider the extent of the liabilities and obligations that it was to assume, especially given that it had been funding a significant portion of VVEDA's obligations up until such date. Accordingly, and in order to provide assurances to the City of Victorville that the delegation was going to provide the possibility of some long-term benefit if Victorville was willing to assume the risk, all of the VVEDA Members agreed to the delegation of authority by way of a binding contract. The Grand Jury Report fails to acknowledge the binding effect of this contract and other provisions of such contract which also provide for indemnification by Victorville to the VVEDA Members to the extent there is any liability associated with such delegation. The Grand Jury Report appears to question policy decisions made by the well-informed legislative bodies of several public agencies some fifteen years ago, while ignoring the reasoning, rationale and justification for such decisions.

As the largest financial contributing member to the VVEDA organization, Victorville finds it important for the Grand Jury to be familiar with the history surrounding the delegation of authority for SCLA to the City of Victorville. It is because of this history, notwithstanding the meaningful contractual provisions of the VVEDA JPA, that each Member Jurisdiction's interest in the governance and administration of SCLA is fairly limited.

Dating back to the summer of 1996, members of VVEDA, particularly the City of Hesperia and the Town of Apple Valley, introduced and began discussing the a realignment of the governance structure for the former GAFB. The purpose for realigning the governance structure was three-fold. First, VVEDA members wanted to get reimbursed for amounts it contributed to help lead the transition of GAFB to VVEDA control. Second, VVEDA members wanted to shift away from VVEDA, development responsibilities that VVEDA had established through the adoption of its original redevelopment plan and provide more autonomy to the Member Jurisdictions with respect to developments that were envisioned to occur within each respective Member Jurisdiction's portion of the VVEDA Project Area. Third, VVEDA members sought a more efficient method of implementing the redevelopment plan for GAFB including the operations, maintenance and business development responsibilities at GAFB.

Due to either the inability or the lack of desire of certain Member Jurisdictions to continue to make financial contributions from its own funds to operate the former GAFB and due to the fact that Victorville had already begun disproportionately shouldering the financial costs associated with maintaining the former GAFB, the 3rd Amendment to the VVEDA JPA was agreed upon by VVEDA and its individual Member Jurisdictions. Important to SCLA today is that the 3rd Amendment is the foundational document allowing Victorville to fulfill the reuse and redevelopment responsibilities envisioned from the delegation of authority provisions contained in the JPA (Section 8). This delegation of authority more specifically provides for the transfer of the former GAFB including all liabilities, obligations along with any benefits to be derived from the airport. Additionally, Victorville agreed to indemnify VVEDA from any liability realized in connection with this delegation of authority which is still provided for today. A thorough review of the VVEDA JPA will cause the reader to find that Victorville's contractual responsibility to VVEDA can be summarized with the following:

1. The governing board of SCLAA shall be comprised of the same persons who sit as the Victorville City Council (Section 8).
2. The meetings of SCLAA shall be held in accordance with the provisions of the Brown Act (Section 8).
3. Subject to Section 34, 38 and 45 of the JPA, VVEDA reserves to itself, the authority and power to make decisions relating to its redevelopment powers which concern all portions of the Project area, except for land contained within the GAFB Parcels (Section 8).
4. SCLAA will exercise its powers in accordance with the provisions of the VVEDA Redevelopment Plan (Section 8).
5. Victorville agrees to act in good faith and use prudent business techniques in connection with the development of the GAFB Parcels (Section 8).
6. The SCLAA shall adopt a budget pertaining to the properties comprising the GAFB Parcels and it shall distribute the budget to VVEDA for its information and non-binding recommendations, if any (Section 28).
7. The same provisions provided for in paragraph (ii) above.
8. The same provisions provided for in paragraph (iii) above.

Among the aforementioned interests, the most compelling of interest appears to be with respect to whether or not Victorville has administered the GAFB/SCLA share of tax increment in accord with Sections 34 and 38 of the JPA. To help further illustrate that Victorville has acted in accord with provisions of the JPA, Attachment #4 attached hereto provides the detail of expenditures from bond proceeds. As summarized in Chart 5-2 above, the Member Jurisdiction contribution toward SCLA has amounted to \$117,112,765 in bond proceeds. Excluding Victorville's contribution to SCLA, the remaining Member Jurisdiction contribution towards the bond proceeds amounted to \$30,847,782. The VVEDA Member Jurisdiction concern, excluding Victorville's contribution, can easily be satisfied by the expenditures extracted from Attachment #5 and provided for in Attachment #4.

Finally, it is important to recognize that this concern raised in the Grand Jury Final Report is identical in nature to the concern raised by certain VVEDA Member Jurisdictions in January 2011. Attachment #6 shall serve as summary as to the information requested and reviewed by

each of those Member Jurisdictions. Resulting from those Member Jurisdiction inquisitions, none of the VVEDA Member Jurisdictions were able to identify Victorville as having violated provisions comprising the VVEDA JPA