

**TECHNICAL ADVISORY COMMITTEE TO THE  
VICTOR VALLEY ECONOMIC DEVELOPMENT AUTHORITY  
REGULAR MEETING AGENDA**

Southern California Logistics Airport  
18374 Phantom Street, Theater Room  
Victorville, CA 92394  
Wednesday September 19, 2012

**3:30 P.M.**

**CALL TO ORDER**

ITEM 1 PUBLIC COMMENT

**DISCUSSION AGENDA**

- ITEM 2 APPROVE MINUTES OF THE VICTOR VALLEY ECONOMIC DEVELOPMENT AUTHORITY OF JUNE 20, 2012 REGULAR MEETING
- ITEM 3 TRANSMITTAL OF SCLAA 12/13 BUDGET
- ITEM 4 DISCUSSION AND POSSIBLE DIRECTION REGARDING THE 2012 GRAND JURY REPORT
- ITEM 5 BUSINESS AND COMMENTS
- ITEM 6 NEXT SCHEDULED MEETING: OCTOBER 17, 2012 – REGULAR MEETING

**CLOSED SESSION**

- ITEM 7 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 8 ADJOURNMENT

VICTOR VALLEY ECONOMIC DEVELOPMENT AUTHORITY  
TECHNICAL ADVISORY COMMITTEE

**REGULAR MEETING MINUTES**

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

Wednesday, June 20, 2012  
**3:30 P.M**

**PRESENT:**

Sophie Escobar, City of Victorville  
Juli Peterson, City of Hesperia  
Frank Robinson, Town of Apple Valley  
Jim Hart, City of Adelanto  
Gary Hallen, County of San Bernardino (3:36)

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:**

Orlando Acevedo, Town of Apple Valley

**CALL TO ORDER**

Executive Director Metzler called the meeting of the Victor Valley Economic Development Authority Technical Advisory Committee to order at 3:33 p.m.

**PUBLIC COMMENT**

None

**DISCUSSION AGENDA**

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

**Motion: That the Technical Advisory Committee approve the minutes as presented.**

**MOTION: HART SECOND: ROBINSON**  
**AYES: HART, ROBINSON, PETERSON, ESCOBAR**  
**NOES: NONE**  
**ABSENT: HALLEN**  
**ABSTAIN: NONE**

**FINAL TAX INCREMENT DISTRIBUTION 2011-2012 FISCAL YEAR**

Keith Metzler – This item was prepared by the Treasurer and Controller’s office. I will go ahead and turn it over to Marc and Robbeyn at this time.

Marc Puckett – Thank you Mr. Chair, the item before you is for the final tax increment distribution for 11-12 fiscal year and this item had been delayed because we had an issue with the County Auditor Controller’s office in terms of how they had calculated the collections for amendment area 8 and that was complicated by the dissolution activities that occurred this fiscal year. The amendment area 8 in total is negative in terms of the tax increment collected for amendment area 8. This past year however, the County Auditor Controller’s office distributed, I think it was roughly \$780,000 to VVEDA for tax increment related to amendment area 8 which prompted us to ask why we did we receive these funds? We had to contact the County Auditor Controller’s office and determine what the source of the funds were and as it turned out the funds were actually related to collections for the past 4 tax years and in addition to that there was an amount of an overpayment of roughly \$248,000 that we received from the County that we should not have received. There is still a remaining dispute with the County related to roughly about \$68,000 of that amount received which is related to supplemental refunds or supplemental refunds due to a change of ownership over the last year. Whenever a change of ownership occurs there is either a supplemental billing sent to the new property owner or a supplemental refund based upon the market sales price of the home. As it turned out there’s an unusual quirk within the State property tax code that provides the County Treasurer Tax Collector’s office the flexibility of calculating the supplemental refund on a property-by-property basis. Effectively if the taxable value is \$200, the base value is \$100 they sell the property for \$150 the Auditor, Treasurer, Tax Collector’s office calculates a refund for that \$50 in captured value related to that one individual property, however, there is no point in the process where the Auditor, Treasurer, Tax Collector’s office goes back and determines if that property that would otherwise receive the supplemental refund falls within an amendment area that is positive or negative as a whole. In this case, amendment area 8 is negative as a whole even though some of the properties within that are positive and some are negative. As it turns out they have processed supplemental refunds against amendment area 8 totaling about \$68,000 which is netted against property tax increment that VVEDA has never received. That is still in dispute with the County. They’re statement was, they are authorized to make that calculation on a property-by-property basis under the State tax code because the circumstance of an amendment area being negative as a whole wasn’t anticipated in the redevelopment law when it was written. It is kind of an unusual situation that creates a net loss to VVEDA of \$68,000. The remaining amount to be distributed as it turns out is roughly \$555,000 to VVEDA for amendment area 8 and then in addition to that there were budgetary savings related to the 2010-2011 year which we have not yet distributed and interest earnings in the amount of roughly \$57,000. All totaled the amount of the distribution is \$731,000 which is highlighted in the schedule sent out. I am not sure how legible that schedule is, if it is not legible I have an additional copy which is only slightly more legible. If you brought readers and a magnified glass you might be able to read that. If you can read the attachment, you can determine what the individual amounts are to be received by each of the agencies. They are listed in the right column; in the far right column will be the amount, total amount to be distributed. Again it is \$731,000 and that concludes my staff report. I am happy to answer any questions.

Keith Metzler – Any questions or comments from members of TAC? With respect to the distribution of these monies to the member jurisdictions, these would be monies that predated the February 1<sup>st</sup> dissolution.

Marc Puckett – Right, absolutely.

Keith Metzler – Any other question or comments? It appears that the recommendation to the TAC is that the TAC recommend to the Board of Commissioners that we approve this final distribution of taxes to its member jurisdictions and affected taxing entities. I will entertain a motion to approve.

**Motion: That TAC recommend that the Board approve the final distribution of taxes to its member jurisdictions and affected taxing entities.**

**MOTION: HART SECOND: HALLEN**  
**AYES: HART, HALLEN, ESCOBAR, PETERSON, ROBINSON**  
**NOES: NONE**  
**ABSENT: NONE**  
**ABSTAIN: NONE**

#### **FISCAL YEAR 2012-2013 BUDGET**

Keith Metzler – This item is also prepared by the Treasurer and Controller’s office. I will go ahead and turn back over to you Marc.

Marc Puckett – Thank you Mr. Chair the item before you is consideration of a budget for VVEDA for fiscal year 2012-2013. The total amount of the budget is \$162,305 and this amount was calculated based on the amounts that were withheld and set aside from the tax increment distributions to member agencies for the fiscal year 2011-2012 budget. This amount is comprised of budgetary savings for the 2011-2012 year. In terms of the budget itself, it is outlined in the attached document, provides funding for our insurance payment which is the actual premium cost of \$16,126, \$5,000 for attendance at meetings or travel or whatever else might be required, miscellaneous contingency which is simply the difference in this \$162,305 and the other line items that are budgeted for auditing fees, professional services and legal services that may be required. The professional services are the RSG costs that are anticipated that we may need over the course of the next fiscal year. The miscellaneous contingencies does provide some flexibility within the budget to provide future funding for marketing promotion if that is a desire of the member agencies. That concludes my staff report and I am happy to answer any questions.

Keith Metzler – Marc the amount of \$162, that is not a part of the previous item we just dealt with, this is actually cash in addition to?

Marc Puckett – Correct, the previous item is distributing budgetary savings related to the 2010-2011 fiscal year. The proposed 2012-2013 budget is funded from budgetary savings related to the 2011-2012 fiscal year. Previously VVEDA had approved a budget of \$280,941 for the 2011-2012 fiscal year and this is the remaining budgetary savings that existed prior to February 1<sup>st</sup> of this year.

Keith Metzler – It is my understanding that the concept we are going to have to get our mind around at least for this near term especially with the dissolution we are dealing with is that we are going to have to budget more or less under the concept of two separate funds. There are going to be two different funding units.

Marc Puckett – Correct

Keith Metzler – A fund for just the JPA and addressing the needs of the organization as the JPA and funding for that is actually prescribed to where all of the member jurisdictions share equally in what that operating budget is. What we have done over the years is drawn from the tax increment received to fund that organizational budget. What we are going to do now until we get more clarity going forward is have a separate fund, a second fund serving as the successor agency fund and that successor agency fund more or less is going to be responsible for the collection, for example we just got a check for the ROPS2. Those are monies that will eventually have to be deposited to the successor agency fund and from there a distribution would have to occur. I am generally saying that correct?

Marc Puckett – Yes, Mr. Chairman that is my oversight in mentioning that. We effectively, going forward, as VVEDA continues to exist we will have to adopt a budget for the member agencies for the operation of VVEDA and then the successor agency will have to also adopt a budget so we will have a budget for both VVEDA as an organization and the successor agency for its operations related to winding down the RDA, if in fact there is...

Keith Metzler – Now the successor agency budget we have in here for the benefit of the TAC is a successor agency budget that we actually had prepared. We were not able to convene a Board meeting to approve it, but also the way that this law has been written we were not required to get the successor agency board approval. We were, however, required to get Oversight Board approval which did occur so the budget that Mr. Puckett has included for you is an Oversight Board approved budget and now with having gotten the ROPS approval, the ROPS2 approval just before June 1<sup>st</sup>, that was approved as the Oversight Board approved it. That effectively is the successor agency board budget.

Marc Puckett – Mr. Chairman if I could add to that the successor agency budget would effectively pay the administrative allowance that would be received for the successor agency which is 5% for the first 6-months and 3% thereafter.

Jim Hart – Would the lack of tax increment to pay for the JPA costs; then are we going to have to pick those costs up out of our general funds? Is there a reserve left to cover that?

Marc Puckett – At this point the idea is that we have a budgetary savings that would carry us through fiscal year 12-13 and hopefully at the conclusion of fiscal year 12-13 we will have some closure to the legal proceedings and we will know then what our course of action may be going forward. At that point, if in fact VVEDA is not successful then there would have to be some agreement among the parties in terms of how to fund the budget to continue VVEDA as an organization. If in fact we lose the argument....

Jim Hart – Would it make any sense to hold back some of the distribution that we just talked about to move you through 13-14 or something like that? I am just trying to think. Most of our general funds are not going to be able to put extra money in, so if you have got VVEDA money per say rather than making a distribution of all of it. I am the guy sitting here with \$223 coming to me, but the idea is rather than make that distribution, withhold that money to cover your administrative cost for maybe a year or two so therefore the issues can be resolved but also cities general funds or however we are going to fund it can get prepared to do that.

Keith Metzler - I think there is a couple of things that come to mind. I think generally the answer could be yes. The way the budget is prepared right now, we have a large contingency that we put it in there as a pace holder because it rounds out effectively what we have as remaining cash to be spent. We don't have any plans for it, we kind of called it contingency because we don't know the extent of the lawsuit that we are involved in and if we are going to require more monies above and beyond what we have actually got budgeted. In talking with Andre and developing the legal budget or the line item dealing with legal, we believe that is adequate to at least get us to a judgment on the lawsuit. In theory if we don't have to dip into the contingency then that could be carried over for that next fiscal year and that is also assuming that the Board doesn't decide to make decisions such as wanting to do regional marketing and using that to fund that type of a program. That could be available for future years however, the second thought with respect to I would guess would be the 13-14 fiscal year is if we get to that point and we are still dealing with these two different budgets we likely haven't prevailed in the lawsuit and we probably have much bigger issues to start discussing and that is likely with respect to just the overall continued existence of the organization.

Jim Hart – Ok

Andre de Bortnowsky – It depends on that the possibility is, by then you may have some other vehicles, some other legislation. There are attempts up there to try and salvage something that looks like tax increment financing through restructured districts or something like that. We haven't given up on maybe special legislation or there are so many unknowns right now. That is part of the problem.

Keith Metzler – Any other questions or comments?

Juli Peterson – So, for 12-13 it is completely being funded from savings from the previous fiscal year.

Keith Metzler – Correct

Marc Puckett – From the current fiscal year, from 11-12

Keith Metzler – We won't be going to the respective jurisdictions asking for a contribution out of your 12-13 budgets.

Juli Peterson – Ok

Gary Hallen – If jurisdictions did not have any ongoing obligations to put onto the VVEDA ROPS there isn't any money coming from successor agency funds to help assist for admin for other member agencies because that looks like it is going to staff successor agency staff for the VVEDA Oversight Board.

Marc Puckett – Right

Keith Metzler – That is how it is set up. Now speaking to the ROPS and the way it was approved, you might remember that ROPS1 we through everything we possibly could at the ROPS schedule so we had gone out and solicited from everybody, every single item that you thought was an enforceable obligation we put on that schedule. It was four or five pages maybe 100 or 200 items long. I don't remember the exact number. The point was, in the approval process, DOF found that there was just too much overlap and too much duplication between us and the member jurisdictions so we actually pleaded and were actually pleased with the outcome at least thus

far in them just recognizing the JPA as the enforceable obligation. Effectively what that means to us in our interpretation is, no matter what the tax increment or what was otherwise tax increment, no matter what that number is that that is bound as the enforceable obligation. We go through the same tax increment methodology that we had in the past and distribute it the member jurisdictions using the same exact methodology we have.

Gary Hallen – The JPA agreement was used as the enforceable obligation?

Keith Metzler – As the enforceable obligation so now what we believe can be done is as that money then gets. The JPA required technically the distribution of its monies collected to the member jurisdictions redevelopment agencies so that is where it might be advantageous for you to go back if you haven't done it already or didn't presume it, look at your local successor agency ROPS and that would be where you would put the enforceable obligations. What effectively is going to happen is VVEDA will cut your RDA's a check and your successor agency is going to become in receipt of those monies and effectively it has got to spend those monies on the enforceable obligations you incurred at the local level. If there is money left over at the end of the day then that becomes the theory that that is what becomes subject to the sweep. Also to maybe speak to your point what we also believe because there was language in the law that allows admin cost to be incurred on a project basis is that there likely could be an argument, once that money is passed through to you that that could be treated as project related revenues because it is not considered RPTTF revenue.

Gary Hallen – Right because it is other revenue sources not trust fund revenue sources.

Sophie Escobar – Right.

Andre de Bortnowsky – So you deal with that in the administrative budget with respect to your individual existing obligation projects you might have.

Sophie Escobar – Yes, especially if you can tie them to a project, like a project delivery cost.

Gary Hallen – I guess that is the difficult thing is that if you didn't have a project with a third party committed with contracts it is tough to tie it back to a project delivery cost if you didn't have a valid contract.

Sophie Escobar – That's true

Gary Hallen – It might be swept

Sophie Escobar – Yes

Keith Metzler – But all the jurisdictions should look at that. If you have a contract, an enforceable obligation at the local level that was likely relying on revenues from this organization, we are going to do it in Victorville unless Sophie tells me different, but we are going to look towards peeling off an admin cost if we have to administer an OPA or a DDA and wind those things down, we think it is appropriate to look at.

Gary Hallen – In our back and forth with DOF they were ok with showing admin costs in the other funds as long as it did not hit the trust fund. If you can show that its, we said that disposing of our assets, monitoring other contracts that we ongoing projects, those even though DOF thought they were admin like costs because they were funding legal fees and other salaries they said as long as it is not hitting your trust and you are saying there are other funds are going to cover that whether that's fund balance or you know maybe a grant fund or something just

go ahead put that, we see it as enforceable but don't put it on your form A, put it on your form B if you have other funding so that could be a way that you try to show that.

Sophie Escobar – Right that is what we did for Victorville's ROPS2. Every cost that would ultimately be funded from revenues received from VVEDA was listed on form B with a different funding source.

Gary Hallen – Ok, I would hate to amend our ROPS 2 at this point, especially since we have already gotten the money.

Andre de Bortnowsky – You don't want to give them another bite at the apple.

Sophie Escobar – Right what happened in Victorville's case is the saw the overlap between the two and had us revise it so that there was a clear line between where the expenditure was made and they asked us the basic question, who is going to cut the check? If it is going to be your City of Victorville cutting the check for a specific obligation then it needs to be listed on your Victorville City's ROP, or your Successor Agency's ROP and identify other funding as the source and that decision came through from them the Wednesday before the letters were to come out.

Gary Hallen – You guys received an approval letter from DOF for VVEDA?

Keith Metzler – Right

Sophie Escobar – Yes on the last day that they were sent out.

Andre de Bortnowsky – Friday evening

Sophie Escobar – Absolutely

Gary Hallen – The 24<sup>th</sup>?

Sophie Escobar – The 25<sup>th</sup>.

Gary Hallen – How did you handle, in looking at the auditors distribution worksheets VVEDA had I think it was like \$12 million in revenue but then had obligations of like \$20 million. How did you deal with the shortage because the distribution of tax increment happens on a regular basis did you have fund balance? What was or did you have to notify the auditor that there was a shortage? Just looking at the auditor's worksheet it looked like VVEDA, I mean everybody was in a shortage basically and there was only like two or three that weren't.

Keith Metzler – We didn't notify them of the shortage. There were a lot of negatives that we saw that could potentially impact VVEDA. We were concerned that if we exercise that provision to say there was a shortage that they would then look at the pass through agreement, try to figure out who had subordination type language and then go to those taxing entities to help try to make up the shortage. The consequence of that, at least we were interpreting, was that it also required the use of any admin cost allocation money so that basically the obligations entirely got paid first or to the best level that it could be. Because we treated it as a JPA and got the ROPS really focusing on the JPA we didn't necessarily think that was applicable to us because from our perspective the JPA generates, the amount that it generates is the amount that it generates the shortfall, if there is such a thing as a shortfall in the obligations that is really happening at the local jurisdictional level. For example in Victorville's



case, we do have a shortfall in our debt. That is fairly well known but that's not VVEDA's shortfall that's in our case the Airport Authority's resulting from the pass through. We didn't make the notification at the VVEDA level because we thought it could actually do more harm than good.

Gary Hallen – Does VVEDA have whatever the gap was; the \$8 million? I can't remember the number exactly; I am just trying to remember.

Sophie Escobar – It was \$8 million. The dollar amount requested on ROPS2 for VVEDA was I believe \$20 or \$22 million and what that was, was an estimate of the entire fiscal years tax increment for VVEDA.

Gary Hallen – The ROPS 2 amount was...

Sophie Escobar – Trying to capture the whole year's worth.

Gary Hallen- Ok, so it was a little higher than what you actually needed?

Sophie Escobar – Right

Gary Hallen – Got ya

Sophie Escobar – Similar to what you put for your debt you try to claim the whole year's debt up front on December so that you can...

Gary Hallen – Some sort of reserve...

Sophie Escobar – Exactly and so the shortfall or that fact that we couldn't fully fund the \$20 million was fully expected and what it allowed us to do is draw down the full \$8.5 million that was sitting in the County's RPTT fund for VVEDA.

Gary Hallen – Ok, that makes sense.

Keith Metzler – Any other questions or comments from members of the TAC? That was item number for and the recommendation under item 4 is that the TAC recommend to the Board the approval of the 12-13 proposed budget totaling and appropriating \$162,305.

**Motion: That TAC recommend that the Board approve the 12-13 proposed budget totaling and appropriating \$162,305.**

**MOTION: ROBINSON SECOND: HART**  
**AYES: HART, HALLEN, ESCOBAR, PETERSON, ROBINSON**  
**NOES: NONE**  
**ABSENT: NONE**  
**ABSTAIN: NONE**

**BUSINESS AND COMMENT**

Marc Puckett – Mr. Chairman perhaps this would be the appropriate time to discuss that we did, in fact, receive

the check from the County from the RPTTF. I see that Sophie has copies of it, but previously whenever we would receive tax increment we would prepare a distribution which would then have approved by the Board. Perhaps we could get some special direction from the Board today to ensure that we could immediately cut the checks and pass those through to the member agencies this week.

Keith Metzler – ok

Andre de Bortnowsky – To get that done as part of the budget discussion, since it is technically not on the agenda, we could ask that it be part of the budget discussion because that would be appropriate to ask for that authorization since it is all related to the budget.

Marc Puckett – Absolutely

Frank Robinson – I could include that in the motion.

Sophie Escobar – Do we have the breakdown of the \$8.5 million yet?

Marc Puckett – No I don't anything at this point. I think you got a copy of the check; I neglected to make a copy of the check and bring it with me for the Board, perhaps if you have copies we could at least pass them out to the Board.

Sophie Escobar – Absolutely, we can make them for the Board. I think they sent it to me because I'm the contact for Oversight Board.

Keith Metzler – So if we went back to Item 4 the right place to suggest seeking the authorization to actually do the calculation and proceed with the distribution is what you are asking for and probably amend that motion on Item 4 to include that?

Marc Puckett – Absolutely.

Frank Robinson – Move to amend my original motion to include the....

**Motion: That TAC recommend that the Board approve the final distribution of taxes to its member jurisdictions and affected taxing entities and authorize the calculation and distribution of the \$8.5 million check just received from the County.**

**MOTION: ROBINSON SECOND: HART**  
**AYES: HART, HALLEN, ESCOBAR, PETERSON, ROBINSON**  
**NOES: NONE**  
**ABSENT: NONE**  
**ABSTAIN: NONE**

Keith Metzler – I don't think it hurts; do you want to do a legal update?

Andre de Bortnowsky – Sure, unfortunately on the Board agenda the item is incorrectly agendized because as you all know we actually do have the case number now so I can't go into closed session with the Board but I plan to give them a very brief update as to where we are in the case. We filed the complaint for dec relief and writ of

mandate and on Monday received the first salvo from the State which was in the form of a demur. Essentially, pretty typical in litigation that a defendant will file a demur, a demur basically says that if you take the plaintiffs case and take the complaint and has the plaintiff alleged enough facts and circumstances to site a cause of action just on the complaint itself and the court has to assume that the facts and circumstances are in fact true does it give you on its face a cause of action. The State has challenged that on two grounds, one that we have named the State as a party in addition to obviously Matosantos, the Controller, the Department of Finance, etc. The State as a body may or may not be an appropriate defendant so they have submitted some citations as to why they believe the State is not an appropriate party. We have discussed this with the IVDA's counsel as well. We will probably concede on that issue and what that allows you to do is basically amend the complaint to then name the Governor as opposed to the State as an entity. The other issue that they have challenged us on really goes to the merits of the case which is whether or not we are a redevelopment agency and therefore subject to AB26. Totally inappropriate at this point for a demur hearing, that is really a motion for summary judgment type argument. At this early level we will challenge the demur on those grounds that it is a properly pled complaint. There is certainly issues of fact on what will be decided by a court, namely are we subject to AB26, are we a redevelopment agency, etc so we think we are going to overcome that. Probably the strategy is going to be initially to write a letter to them and indicate that we are willing to amend the complaint as to the State and name the Governor. We already have all of the other parties named and therefore the need to drop the demur because the other issues are issues of fact or what will need to be decided by a court. That is where it stands right now. The hearing on the demur is set for August 24<sup>th</sup>. We have to file our opposition papers by; I believe it is August 13<sup>th</sup>, so we have been working with IVDA. We have a weekly conference call with them strategically we are in this together. We have almost identical arguments, they have alleged a couple of other arguments namely that they had a validation action back in 1993 that validated their formation. The State has responded to that saying it doesn't matter if you were formed validly or not the dissolution bill eliminated redevelopment agencies regardless of whether they are validly formed so that is a non argument.

Gary Hallen – Did you file together or separate?

Andre de Bortnowsky – We filed separately but we are joining, there is a motion for joinder. We are before the same judge, but we are under a different judge then the Cerritos case is under so that is maybe encouraging. The problem is all these cases get filed in Sacramento per AB26 so whether or not you have an unbiased forum is very questionable. I don't think that at the trial court level we are going to get a lot of success. I think all of these cases are going to be on appeal when you get a body that is far more politically removed from Sacramento that you are going to get some relief. I think that is true for Cerritos and some of these other cases including ours. Filing the demur I think was just there for a salvo and it's a thinly guised attempt to a motion for summary judgment. We will be pointing that out to the court. Ultimately this case probably gets decided on a summary judgment motion because it is just before a judge, it is not a jury, there is not a lot of evidence it is basically arguing the statutes and the case law that supports different interpretations. Ultimately you will probably get a ruling on a motion of summary judgment that gets appealed one way or the other. That's where we are. The battle goes on. It could take awhile, certainly for the demur, this is the first salvo, the second will be a motion for summary judgment and we will probably come back to this board and instead of continually being on the defensive we will probably may ask for direction to file the motion for summary judgment ourselves saying that we have pled the case and based on the case law and the facts and circumstances rule in our favor period, speed the process up a little bit.

Keith Metzler – We have an appearance in court on August 24<sup>th</sup>. What is the date that we have to respond to their...

Andre de Bortnowsky – August 13<sup>th</sup> is the responsive pleading date. I know that they have about three or four days after that to respond to our response before we go to the judge for the hearing date. We will update you and keep the Board informed.

Keith Metzler – Any other questions or comments?

**ADJOURNMENT**

Executive Director Metzler adjourned the regular meeting of the Victor Valley Economic Development Authority Technical Advisory Committee at 4:10 p.m.

**MOTION: HART SECOND: ROBINSON**  
**AYES: HART, HALLEN, ESCOBAR, PETERSON, ROBINSON**  
**NOES: NONE**  
**ABSENT: NONE**  
**ABSTAIN: NONE**

STATE OF CALIFORNIA  
COUNTY OF SAN BERNARDINO

I, Jennifer Thompson, Secretary to the Commission of the Victor Valley Economic Development Authority, and the Successor Agency to 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)

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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 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 SLCAA 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 AB 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
	<b>101,639,437</b>	<b>18,179,135</b>	<b>4,397,909</b>	<b>124,216,481</b>

**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
	<b>7,141,409</b>	<b>542,000</b>	<b>108,073</b>	<b>7,791,482</b>

**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
	<b>21,577,761</b>	<b>5,216,000</b>	<b>5,566,714</b>	<b>32,360,475</b>

<b>TOTAL</b>	<b>130,358,607</b>	<b>23,937,135</b>	<b>10,072,696</b>	<b>164,368,438</b>
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**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 AB 2928 TRAFFIC CONGSTN RLF	0	0	0	0
232 PROPOSITION 1B	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
	<b>101,639,437</b>	<b>18,179,135</b>	<b>4,397,909</b>	<b>124,216,481</b>

**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
	<b>7,141,409</b>	<b>542,000</b>	<b>108,073</b>	<b>7,791,482</b>

**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
	<b>21,577,761</b>	<b>5,216,000</b>	<b>5,566,714</b>	<b>32,360,475</b>

<b>TOTAL</b>	<b>130,358,607</b>	<b>23,937,135</b>	<b>10,072,696</b>	<b>164,368,438</b>
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**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
<b>Airport Operations - Expenditures</b>						
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	792,680
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
			<b>3,114,979</b>	<b>4,597,153</b>	<b>3,306,650</b>	<b>4,571,369</b>
<b>Airport Business Development</b>						
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
			<b>48,414</b>	<b>50,000</b>	<b>35,631</b>	<b>98,200</b>
<b>Foreign Trade Zone</b>						
4500302A	52130	SUBS /PUBLICATIONS / DUES	1,500	1,500	-	1,500
4500302A	52300	CONTRACT SERVICES	-	12,000	-	12,000
			<b>1,500</b>	<b>13,500</b>	<b>-</b>	<b>13,500</b>
<b>SBC Airport Fire Contract</b>						
4501010A	52300	CONTRACT SERVICES	2,002,968	1,512,143	1,263,480	1,619,940
<b>U.S. Customs</b>						
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
			<b>118,605</b>	<b>161,900</b>	<b>144,635</b>	<b>168,800</b>
<b>Airport Operations Standby</b>						
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
			<b>11,607</b>	<b>19,953</b>	<b>10,895</b>	<b>15,400</b>
<b>Airport Bldgs 551 &amp; 552</b>						
4501101A	52410	BUILDING MAINTENANCE	714	1,000	449	1,000
			<b>714</b>	<b>1,000</b>	<b>449</b>	<b>1,000</b>
<b>Bldg 676</b>						
4501110A	52300	CONTRACT SERVICES	-	115,300	80,852	4,000
			<b>-</b>	<b>115,300</b>	<b>80,852</b>	<b>4,000</b>
<b>Bldg 682</b>						
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	-	-	-	-
			<b>21,570</b>	<b>19,200</b>	<b>15,160</b>	<b>23,100</b>
<b>Bldg 683</b>						
4501117A	52300	CONTRACT SERVICES	-	-	-	100,000
			<b>-</b>	<b>-</b>	<b>-</b>	<b>100,000</b>
<b>Bldg 685</b>						
4501119A	52010	UTILITIES-ELECTRICITY	24,661	23,000	25,036	33,500
4501119A	52410	BUILDING MAINTENANCE	2,766	1,500	838	1,500
			<b>27,427</b>	<b>24,500</b>	<b>25,874</b>	<b>35,000</b>
<b>Bldg 700</b>						
4501127A	52300	CONTRACT SERVICES	2,165	10,000	1,215	30,000
4501127A	52410	BUILDING MAINTENANCE	979	1,500	948	1,500
			<b>3,144</b>	<b>11,500</b>	<b>2,163</b>	<b>31,500</b>
<b>Bldg 717</b>						
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
			<b>75,118</b>	<b>92,350</b>	<b>48,143</b>	<b>91,600</b>
<b>Bldg 723</b>						
4501140A	52010	UTILITIES-ELECTRICITY	11,801	12,200	9,320	14,000
4501140A	52410	BUILDING MAINTENANCE	1,661	2,000	2,115	12,000
			<b>13,462</b>	<b>14,200</b>	<b>11,434</b>	<b>26,000</b>
<b>Bldg 724</b>						
4501141A	52300	CONTRACT SERVICES	-	2,000	1,675	20,000
4501141A	52410	BUILDING MAINTENANCE	-	2,000	1,675	2,000
			<b>-</b>	<b>2,000</b>	<b>1,675</b>	<b>22,000</b>
<b>Bldg 728</b>						
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
<b>Bldg 732</b>			<b>64,324</b>	<b>77,300</b>	<b>42,943</b>	<b>58,800</b>
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
<b>Bldg 733</b>			<b>10,216</b>	<b>11,800</b>	<b>4,381</b>	<b>9,500</b>
4501149A	52410	BUILDING MAINTENANCE	-	500	21	-
<b>Bldg 739</b>			<b>-</b>	<b>500</b>	<b>21</b>	<b>-</b>
4501151A	52010	UTILITIES-ELECTRICITY	-	2,000	-	800
<b>Bldg 746</b>			<b>-</b>	<b>2,000</b>	<b>-</b>	<b>800</b>
4501155A	52300	CONTRACT SERVICES	22,088	-	-	-
4501155A	52410	BUILDING MAINTENANCE	7,871	750	680	750
<b>Bldg 756</b>			<b>29,959</b>	<b>750</b>	<b>680</b>	<b>750</b>
4501160A	52300	CONTRACT SERVICES	2,473	50,071	50,366	20,000
4501160A	52410	BUILDING MAINTENANCE	2,522	1,000	1,425	750
<b>Bldg 761 &amp; 771</b>			<b>4,995</b>	<b>51,071</b>	<b>51,791</b>	<b>20,750</b>
4501165A	52300	CONTRACT SERVICES	5,296	3,000	43,983	15,000
4501165A	52410	BUILDING MAINTENANCE	5,259	4,500	2,966	7,500
<b>Bldg 780</b>			<b>10,555</b>	<b>7,500</b>	<b>46,948</b>	<b>22,500</b>
4501170A	52300	CONTRACT SERVICES	-	-	-	-
4501170A	52410	BUILDING MAINTENANCE	4,663	1,200	1,356	1,200
<b>Bldg 868</b>			<b>4,663</b>	<b>1,200</b>	<b>1,356</b>	<b>1,200</b>
4501175A	52010	UTILITIES-ELECTRICITY	28,882	35,400	28,279	40,000
<b>Frontier Ground Lease</b>			<b>28,882</b>	<b>35,400</b>	<b>28,279</b>	<b>40,000</b>
4501186A	52440	INFRASTRUCTURE REPAIRS	-	12,000	9,100	-
<b>National Training Center</b>			<b>-</b>	<b>12,000</b>	<b>9,100</b>	<b>-</b>
4501188A	52300	CONTRACT SERVICES	9,105	60,000	-	-
4501188A	52410	BUILDING MAINTENANCE	10,700	5,000	4,218	10,000
<b>Nose Docks</b>			<b>19,805</b>	<b>65,000</b>	<b>4,218</b>	<b>10,000</b>
4501189A	52010	UTILITIES-ELECTRICITY	276	300	213	300
<b>Pump Houses 1 &amp; 2</b>			<b>276</b>	<b>300</b>	<b>213</b>	<b>300</b>
4501198A	52300	CONTRACT SERVICES	-	-	-	45,000
<b>Total Expenditures</b>			<b>5,613,181</b>	<b>6,899,520</b>	<b>5,136,970</b>	<b>7,031,009</b>

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

<b>ORG</b>	<b>Object</b>	<b>DESC</b>	<b>2011 Budget</b>	<b>2011 Actuals</b>	<b>2012 Budget</b>	<b>2012 Actuals as of 4-23-12</b>	<b>2013 Budget</b>
<b>Off-Airport - General</b>							
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
			<b>10,000</b>	<b>9,500</b>	<b>86,315</b>	<b>60,092</b>	<b>32,600</b>
<b>Off-Airport - Bldg 280</b>							
4521020	52470	SAI LEASE PARTICIPATION	3,000	3,000	6,000	4,475	6,000
<b>Off-Airport - Kinder Morgan Ground Lease</b>							
4521021	52470	SAI LEASE PARTICIPATION	5,600	5,600	16,800	12,529	16,800
<b>Off-Airport - Bldg 686</b>							
4521022	52410	BUILDING MAINTENANCE	-	-	19,885	34	50,000
<b>Off-Airport - Bldg 553</b>							
4521023	52410	BUILDING MAINTENANCE	-	-	5,000	-	5,000
			<b>18,600</b>	<b>18,100</b>	<b>134,000</b>	<b>77,130</b>	<b>110,400</b>

**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 3<sup>rd</sup> Amendment to the VVEDA JPA was agreed upon by VVEDA and its individual Member Jurisdictions. Important to SCLA today is that the 3<sup>rd</sup> 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