



TOWN OF APPLE VALLEY

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council Date: March 27, 2012

From: Joseph Moon Item No: 3
Municipal Operations & Contract Services

Subject: AMENDMENT TO THE JOINT POWERS AGREEMENT FOR THE
VICTOR VALLEY TRANSIT AUTHORITY

T.M. Approval: _____ Budgeted Item: Yes No N/A

RECOMMENDED ACTION:

That the Town Council approve the Amendment to the Joint Powers Agreement for the Victor Valley Transit Authority which allows for the functions of the Treasurer and Auditor/Controller to be conducted "in house".

SUMMARY:

A May 2010 VVTA Administrative Division Analysis report to the Victor Valley Transit Authority (VVTA) Board recommended VVTA take the Treasurer and Auditor/Controller function "in house" to save the cost of paying the City of Victorville for those services. Furthermore, on August 8, 2010 VVTA received an email from the City of Victorville stating in essence the City was changing to new accounting software and VVTA could no longer be set up as a separate business unit with its own chart of accounts and checks but instead would become a fund within the City. There was also going to be an increase in the fee.

VVTA had just hired its first Finance and Accounting Manager and the timing for bringing the Treasurer and Auditor/Controller functions "in house" appeared to be appropriate.

The current JPA stipulates under **Section D Officers**. "*The treasurer and auditor/comptroller of the Authority shall be the Finance Director of one of the Cities or County as designated by the Board. S/he shall be depositary and have custody of all money of the Authority from whatever sources and shall draw all warrants to pay demands against the Authority approved by the Board.*"

As such, initiating the recommended change requires an amendment to the current VVTA Joint Powers Agreement. Any amendment to the JPA requires approval by the VVTA

Board and then individual approval by each member jurisdiction. However, before such an action could be brought forward, VVTA staff researched the legality of such an action.

The 2009 California Government Code - Section 6500-6536 : Article 1. Joint Powers Agreements - Section 6505.6 states that an Agency, i.e. its Board could appoint employees of the agency to the positions of Treasurer and Auditor/Controller providing an annual independent audit of the agency is conducted.

6505.6. *In lieu of the designation of a treasurer and auditor asset forth in Section 6505.5, the agency or entity may appoint one of its officers or employees to either or both of such positions.*

Since VVTA already has an independent audit every year, section of 6505.6 adds no additional financial burden onto VVTA.

The newly hired VVTA Finance/Accounting Manager made a suggestion to the VVTA Executive Director that different employees be appointed treasurer and auditor/controller positions for the following reasons:

“The JPA identifies the Treasurer (JPA section 10) and the Controller (JPA section 11) as two separate positions with separate functions. The separation of these functions is a standard practice in most organizations and is critical to maintaining reasonable internal controls to protect the organization’s funds from fraudulent abuse by one person. In general, treasury functions (receiving, maintaining and expending cash) are always separated from accounting functions (issuing disbursement vouchers (checks), bank reconciliations, keeping the books of account, etc.) even in small organizations such as VVTA. This control would thus prevent any one person from having access to a “loop” of transactions that would allow them to hide a fraudulent transaction from which they would personally benefit. Since Nancie Goff is the Deputy Director it would make sense that she be designated signature authority and you would be assigned to the Treasurer position. Since I already am assigned to oversee the accounting functions, then I would be a reasonable choice for the Controller position.”

The attached amendment was unanimously approved by the VVTA Board at its November 15, 2010 meeting. Once approved by all member jurisdictions, VVTA will file the amendment with the Secretary of State.

**AMENDMENT TO JOINT POWERS AGREEMENT BETWEEN THE
COUNTY OF SAN BERNARDINO AND THE CITIES OF
VICTORVILLE, ADELANTO, HESPERIA, AND THE TOWN OF APPLE VALLEY
CREATING THE VICTOR VALLEY TRANSIT AUTHORITY**

This AGREEMENT AMENDMENT, dated for convenience on the 1st day of December, 2010, by and between the COUNTY OF SAN BERNARDINO and the Cities of Victorville, Adelanto, and Hesperia, and the Town of Apple Valley (collectively, "parties"), all of which are bodies politic in the STATE OF CALIFORNIA.

WITNESSETH

WHEREAS, the parties entered into a revised Joint Powers Agreement dated August 21, 2006; and

WHEREAS, the parties desire to amend the provisions covering the appointment of the positions of the Treasurer and Auditor-Controller of the Authority.

NOW THEREFORE, the County and the Cities above-mentioned, for and in consideration of the mutual promises and agreements herein contained, do agree as follows:

1. **SECTION 3. Authority.**, subsection D. shall be amended to read as follows:

D. Officers. The Board shall select a Chairman, a Vice-Chairman, a Secretary, and other necessary officials. The Board shall determine the terms of office for each officer of the VVTA. The secretary need not be a member of the Board. The Executive Director of the Authority shall act as the Treasurer. The Finance/Accounting Manager of the Authority shall act as the Controller of the Authority. The Executive Director, acting as the Treasurer shall be depositary and have custody of all money of the Authority from whatever sources and shall draw all warrants to pay demands against the Authority approved by the Board. The Attorney for the Authority shall be the County Counsel or the City Attorney of any of the member jurisdictions as designated by the Board. The public officers or persons who have charge of, handle or have access to any property of the Authority shall file an official bond in an amount determined by the governing board.

2. Except as amended herein, all of the provisions of the Joint Powers Agreement dated the 21st day of August, 2006, shall remain in full force and effect.

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As such, initiating the recommended change requires an amendment to the current VVTA Joint Powers Agreement. Any amendment to the JPA requires approval by the VVTA Board and then individual approval by each member jurisdiction.

However, before such an action could be brought forward, VVTA staff researched the legality of such an action.

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IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT AMENDMENT to be executed and attested to by their proper officers thereunto duly authorized, as of the day herein first above written.

IN WITNESS THEREOF, the parties executed this AGREEMENT AMENDMENT.

THE CITY OF VICTORVILLE

By:

Mayor, City of Victorville

ATTEST:

By:

City Clerk, City of Victorville

THE CITY OF ADELANTO

By:

Mike Thomas

Mayor, City of Adelanto

ATTEST:

By:

Cindy Hew

City Clerk, City of Adelanto

THE CITY OF HESPERIA

By:

[Signature]

Mayor, City of Hesperia

ATTEST:

By:

Melinda Solito

City Clerk, City of Hesperia

THE TOWN OF APPLE VALLEY

By:

Mayor, Town of Apple Valley

ATTEST:

By:

Town Clerk, Town of Apple Valley

COUNTY OF SAN BERNARDINO:

By

Gary C. Ovitt, Chairman
Board of Supervisors

Date

SIGNED AND CERTIFIED THAT A COPY OF
THIS DOCUMENT HAS BEEN DELIVERED
TO THE CHAIRMAN OF THE BOARD

LAURA H. WELCH,
Clerk of the Board of Supervisors
of the County of San Bernardino

By _____
Deputy

Date _____

APPROVED AS TO LEGAL FORM:

RUTH E. STRINGER, County Counsel
San Bernardino County, California

By _____
Deputy

Date _____