

**TOWN OF  
APPLE VALLEY, CALIFORNIA**

**AGENDA MATTER**

**Subject Item:**

**AUTHORIZE MAYOR TO EXECUTE AMENDMENT TO VICTOR VALLEY TRANSIT AUTHORITY (VVTA) JOINT POWERS AGREEMENT.**

**Summary Statement:**

As the VVTA Board explored the possibility of bringing the administration function "in-house" and creating its own employee group, a report entitled *VVTA Administrative Division Analysis* recommended that 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 e-mail from the City of Victorville stating that the City was changing their accounting software and VVTA could no longer be set up as a separate business unit, but instead would become a fund within the City. This would also involve a fee increase. VVTA has since hired its first Finance and Accounting manager and the timing for bringing the Treasurer and Auditor/Controller functions in house appears to be appropriate.

The current JPA agreement stipulates under **Section D; Officers**. "*The treasurer and auditor/controller 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.*" Therefore, initiating the recommended change to the treasurer 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.

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 may appoint employees of the agency to the positions of Treasurer and Auditor/Controller, providing an annual independent audit of the agency is conducted. Since VVTA already has an independent audit performed every year, section 6505.6 places no additional financial burden onto VVTA.

**Recommended Action:**

Authorize Mayor to execute amendment to Victor Valley Transit Joint Powers Agreement.

**Proposed by** Councilwoman Coleman **Item Number** \_\_\_\_\_

**T. M. Approval:** \_\_\_\_\_ **Budgeted Item**  Yes  No  N/A

Summary Statement - Continued  
VVTA Amendment  
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The current 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. VVTA's recently hired Finance/Accounting Manager reviewed these sections of the JPA and suggested that different employees be appointed to the treasurer and auditor/controller positions. The Finance Manager would assume the duties of the Controller position, while the Executive Director (and/or his designee) would have the signature authority of the Treasurer position.

Attached is the VVTA staff report from its November 15, 2010 meeting at which the proposed amendment was unanimously approved. Once approved by all member jurisdictions, VVTA will file the amendment with the Secretary of State.

## AGENDA MATTER

**Amend the VVTA Joint Powers Agreement (JPA) Memorandum of Understanding (MOU) to Appoint the VVTA Finance/Accounting Manager as Auditor/Controller and the Executive Director as Treasurer.**

## SUMMARY STATEMENT

SANBAG consultant, Matt Dhillon, in his VVTA Administrative Division Analysis — FINAL REPORT (May 2010) stated that VVTA “pays \$34,732 for the City of Victorville to make ledger entries and cut checks for payables. All services provided by this contract should be brought in-house under the responsibility of the Finance Manager.”

Furthermore, on August 8, 2010 VVTA received an email from the City of Victorville (included) stating in essence they were changing to new accounting software and VVTA would no longer be able to be considered as a separate business unit with its own chart of accounts and checks and instead would become a fund within the City. There was also going to be an increased fee for the change.

In order to bring the financial functions “in house” as recommended by the SANBAG consultant and to discontinue the services of the City of Victorville which was acting as the VVTA Treasurer and Auditor/Controller VVTA staff reviewed the current JPA and found that it stipulated 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.*”

Staff further researched: **2009 California Government Code - Section 6500-6536 :: Article 1. Joint Powers Agreements** and found that the current JPA was following the Government code as underlined below:

6505.5. If a separate agency or entity is created by the agreement, the agreement shall designate the treasurer of one of the contracting parties, or in lieu thereof, the county treasurer of a county in which one of the contracting parties is situated, or a certified public accountant to be the depositary and have custody of all the money of the agency or entity, from whatever source.

The treasurer or certified public accountant so designated shall do all of the following:

(a) Receive and receipt for all money of the agency or entity and place it in the treasury of the treasurer so designated to the credit of the agency or entity.

(b) Be responsible, upon his or her official bond, for the safekeeping and disbursement of all agency or entity money so held by him or her.

(c) Pay, when due, out of money of the agency or entity held by him or her, all sums payable on outstanding bonds and coupons of the agency or entity.

(d) Pay any other sums due from the agency or entity from agency or entity money, or any portion thereof, only upon warrants of the public officer performing the functions of auditor or controller who has been designated by the agreement.

(e) Verify and report in writing on the first day of July, October, January, and April of each year to the agency or entity and to the contracting parties to the agreement the amount of money he or she holds for the agency or entity, the amount of receipts since his or her last report, and the amount paid out since his or her last report.

The officer performing the functions of auditor or controller shall be of the same public agency as the treasurer designated as depository pursuant to this section. However, where a certified public accountant has been designated as treasurer of the entity, the auditor of one of the contracting parties or of a county in which one of the contracting parties is located shall be designated as auditor of the entity. The auditor shall draw warrants to pay demands against the agency or entity when the demands have been approved by any person authorized to so approve in the agreement creating the agency or entity.

The governing body of the same public entity as the treasurer and auditor specified pursuant to this section shall determine charges to be made against the agency or entity for the services of the treasurer and auditor. However, where a certified public accountant has been designated as treasurer, the governing body of the same public entity as the auditor specified pursuant to this section shall determine charges to be made against the agency or entity for the services of the auditor.

However, staff also found in Section 6505.6 that VVTA, the entity (i.e. the Board) could appoint its employees to each or both of the offices of Treasurer and Auditor/Controller.

6505.6. In lieu of the designation of a treasurer and auditor as set forth in Section 6505.5, the agency or entity may appoint one of its officers or employees to either or both of such positions. Such offices may be held by separate officers or employees or combined and held by one officer or employee. Such person or persons shall comply with the duties and responsibilities of the office or offices as set forth in subdivisions (a) to (d), inclusive, of Section 6505.5.

In the event the agency or entity designates its officers or employees to fill the functions of treasurer or auditor, or both, pursuant to this section, such officers or employees shall cause an independent audit to be made by a certified public accountant, or public accountant, in compliance with Section 6505.

Since VVTA already has an independent audit every year that section of 65005.6 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 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.”

Additionally, the Board should bond both Mr. Kane and Mr. Riggs. After the amendment is approved by the Board, it will be forwarded to each of the participating agencies for signature. Once it is approved by all agencies, VVTA will need to file the amendment with the Secretary of State. In conclusion, County Counsel will have the master JPA revised to reflect the changes.

This item was discussed at the November 3, 2010 TAC meeting. TAC unanimously recommended forwarding this item to the Board for approval.

Continued

**RECOMMENDED ACTION**

To Amend the VVTA Joint Powers Agreement **Section D Officers** to no longer require the Authority’s Treasurer and Auditor/Controller to be the Finance Director of One of the Member Cities or the County and to Appoint the VVTA Finance/Accounting Manager as Auditor/Controller and the VVTA Executive Director as Treasurer.

PRESENTED BY Kevin Kane, General Manager	FISCAL IMPACT \$(34,732) annual savings	MEETING DATE November 15, 2010	ITEM NUMBER 8

**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 Auditor-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 of 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.

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:

\_\_\_\_\_  
Mayor, City of Adelanto

ATTEST:

By:

\_\_\_\_\_  
City Clerk, City of Adelanto

**THE CITY OF HESPERIA**

By:

\_\_\_\_\_  
Mayor, City of Hesperia

ATTEST:

By:

\_\_\_\_\_  
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 \_\_\_\_\_



