

GRAND JURY REPORT
ECONOMIC DEVELOPMENT AGENCY
CITY OF BLYTHE AIRPORT

I. **FINDINGS.**

Finding 1:

"1. The City of Blythe entered into a sublease agreement and a Community Benefits Agreement with US Solar dated November 10, 2009. The sublease is in violation of terms of the lease agreement dated May 20, 1997, between the County of Riverside and the City of Blythe."

Response 1:

The respondent disagrees partially with the finding.

The City of Blythe also entered into an option agreement in addition to the first of many proposed sublease agreements and a community benefits agreement for the transaction with US Solar. These agreements collectively are contrary to that certain Lease Agreement ("Master Lease") between the County of Riverside and the City of Blythe dated May 20, 1997.

Finding 2:

"2. The EDA holds that this sublease is unacceptable to the county and in violation of the existing lease agreement between the County of Riverside and the City of Blythe. The EDA is in favor of the project and desirous of proceeding with a proper lease arrangement with the legal entities."

Response 2:

The respondent agrees with the finding.

EDA's position has been that if any subleases for a portion of any Blythe Airport property are to be executed, they need to be done in accordance to the Master Lease and all applicable local, state and federal laws.

II. RECOMMENDATIONS.

Recommendation 1:

"1. The City of Blythe should cancel all not proposed sublease agreements and the Community Benefits Agreement between the City of Blythe and Southwest Land Holdings, LLC (a wholly owned affiliate of US Solar) for the airport property. The EDA should assume the role as sole leasing agency for all lease agreements between the County of Riverside and Southwest Land Holdings, LLC."

Response 1:

The recommendation requires further analysis.

Due to the complexity of the issues and the number of parties involved, staff from the Aviation Division of EDA has been reviewing the situation at hand and discussing the multitude of issues with representatives from the City of Blythe as well as US Solar. Certain decisions would have to be made by the City of Blythe and US Solar in order to move forward with any part or all of the recommendations. EDA has consistently asserted that all agreements involving or derived from the airport property must be in the best interest of the Blythe Airport and in compliance of the federal regulations and grant assurances. For EDA to assume the role as sole leasing agency for all lease agreements would require a change or termination of the Master Lease.

The County has notified the City in writing that the Community Benefits Agreement needs to be cancelled and that either: 1) the Option Agreement and Sublease Agreement undergo substantial modifications so that they conform to the Master Lease; or 2) the Master Lease should be terminated and the County would be able to negotiate a new option agreement and sublease agreement directly with Southwest Land holdings (US Solar). A draft termination agreement has been proposed and submitted to the City for review and comment. To date, EDA is not aware whether a decision has been made by the City of Blythe. Recently the City of Blythe conducted a study session regarding the Master Lease to hear City staff recommendations and receive input from Riverside County EDA/Aviation staff. Although the City has not informed the County of its formal decision, it has been made known to the County that City staff has been directed to work with the County on a termination agreement.

Recommendation 2:

"2. The EDA should proceed with creating a lease between the County of Riverside and Southwest Land Holding, LLC, a wholly owned affiliate of U.S. Solar, for the 829 acres and comply with the covenants imposed by the Federal Aviation Administration's (FAA). Public Law 80-289 states in part "the income from such property must be used to support the maintenance, operation, or development costs of the aeronautical property."

Response 2:

The recommendation requires further analysis.

Once a direction has been determined, then the details and logistics would have to be set forth for the parties. While it might be best that the Economic Development Agency proceed with creating a lease between the County of Riverside and Southwest Land Holdings, a wholly owned affiliate of U.S. Solar, it is not possible unless and until the Master Lease between the County of Riverside and the City of Blythe is terminated and the County takes back the responsibilities for operating and managing the Blythe Airport.