



AGENDA

Finance and Administration Committee Meeting

Committee Members

Andrew Do, Chairman
Richard Murphy, Vice Chairman
Michael Hennessey
Steve Jones
Todd Spitzer
Michelle Steel

Orange County Transportation Authority
Headquarters
550 South Main Street
Board Room – Conf. Room 07
Orange, California

Wednesday, April 25, 2018 at 10:30 a.m.

Any person with a disability who requires a modification or accommodation in order to participate in this meeting should contact the OCTA Clerk of the Board, telephone (714) 560-5676, no less than two (2) business days prior to this meeting to enable OCTA to make reasonable arrangements to assure accessibility to this meeting.

Agenda descriptions are intended to give members of the public a general summary of items of business to be transacted or discussed. The posting of the recommended actions does not indicate what action will be taken. The Committee may take any action which it deems to be appropriate on the agenda item and is not limited in any way by the notice of the recommended action.

All documents relative to the items referenced in this agenda are available for public inspection at www.octa.net or through the Clerk of the Board's office at the OCTA Headquarters, 600 South Main Street, Orange, California.

Call to Order

Pledge of Allegiance

Director Steel

1. Public Comments

Special Calendar

2. Proposed Fiscal Year 2018-19 Southern California Regional Rail Authority Budget

Jennifer Bergener/James G. Beil

Metrolink staff will present a verbal overview of the draft Southern California Regional Rail Authority Fiscal Year 2018-19 Budget, including the Orange County Transportation Authority's proposed share of operating, rehabilitation, and capital expenses for Metrolink's commuter rail service.



Consent Calendar (Items 3 through 12)

All items on the Consent Calendar are to be approved in one motion unless a Committee Member or a member of the public requests separate action or discussion on a specific item.

3. Approval of Minutes

Approve the minutes of the Finance and Administration Committee meeting of April 11, 2018.

4. Fleetwatch Fluid Management System, Internal Audit Report No. 18-506

Ricco Bonelli/Janet Sutter

Overview

The Internal Audit Department has completed an audit of the Fleetwatch Fluid Management System. Based on the audit, controls in place over the dispensing of fuel and other consumables are adequate; however, one recommendation was made to enhance system access controls.

Recommendation

Direct staff to implement the recommendation provided in Fleetwatch Fluid Management System, Internal Audit Report No. 18-506.

5. Fiscal Year 2017-18 Internal Audit Plan, Third Quarter Update

Janet Sutter

Overview

The Orange County Transportation Authority Board of Directors adopted the Orange County Transportation Authority Internal Audit Department Fiscal Year 2017-18 Internal Audit Plan on August 14, 2017. This update is for the third quarter of the fiscal year.

Recommendation

Receive and file the third quarter update to the Orange County Transportation Authority Internal Audit Department Fiscal Year 2017-18 Internal Audit Plan as an information item.



6. Investigation and Limited Scope Review of Take-Home Vehicle Assignment

Janet Sutter

Overview

The Internal Audit Department of the Orange County Transportation Authority has completed an investigation of a complaint alleging that a Transit Division manager used an agency-issued transponder for personal commuting and participated in the Commuter Club rideshare program, in violation of policy. The allegations were confirmed, and the details provided to management. During the investigation, control weaknesses related to the assignment of take-home vehicles and oversight of transponder use, as well as areas where oversight controls could be strengthened to better enforce compliance with policies and procedures, were identified and are reported herewith.

Recommendation

Direct staff to implement four recommendations provided in the Investigation and Limited Scope Review of Take-Home Vehicle Assignment.

7. Local Agency Investment Fund - March 2018

Rodney Johnson/Andrew Oftelie

Overview

The Orange County Transportation Authority invests a portion of its liquid portfolio in the State of California Local Agency Investment Fund. Each month, the State Treasurer's office publishes a report detailing the composition of the pool. The attached summary statements from the report are for the month ending March 31, 2018. The report has been reviewed and is consistent with the investment practices of the State Treasurer's Office.

Recommendation

Receive and file as an information item.



8. Orange County Treasurer's Management Report - March 2018
Rodney Johnson/Andrew Oftelie

Overview

The Orange County Transportation Authority invests a portion of its liquid portfolio in the Orange County Investment Pool. Each month, the Orange County Treasurer publishes a comprehensive report detailing the composition of the pool and the prevailing economic and market conditions. The attached Treasurer's Management Report for the Orange County Investment Pool is for the month ending March 31, 2018. The report has been reviewed and is consistent with the investment practices of the Orange County Treasurer.

Recommendation

Receive and file as an information item.

9. Orange County Transportation Authority Investment and Debt Programs - March 2018
Rodney Johnson/Andrew Oftelie

Overview

The Orange County Transportation Authority has a comprehensive investment and debt program to fund its immediate and long-term cash flow demands. Each month, the Treasurer submits a report detailing investment allocation, performance, compliance, outstanding debt balances, and credit ratings for the Orange County Transportation Authority's debt program. This report is for the month ending March 31, 2018. The report has been reviewed and is consistent with the investment practices contained in the Investment Policy.

Recommendation

Receive and file as an information item.

10. Agreement for Commercial Banking Services

Benjamin Torres/Andrew Oftelie

Overview

The Orange County Transportation Authority uses banking services for the deposit, disbursement, and safekeeping of public funds. On January 22, 2018, a request for proposals for commercial banking services was issued. Offers were received and evaluated in accordance with the Orange County Transportation Authority's procurement procedures for professional and technical services. The evaluation process has been completed, and recommendations are presented for the Board of Directors' approval.

Recommendations

- A. Approve the selection of Bank of the West as the firm to provide commercial banking services.
- B. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-7-2159 between the Orange County Transportation Authority and Bank of the West, in the amount of \$277,000, for a five-year initial term effective September 1, 2018 through August 31, 2023, with one, three-year option term, to provide commercial banking services.

11. Third Quarter Fiscal Year 2017-2018 Procurement Status Report

Virginia Abadessa/Andrew Oftelie

Overview

The third quarter procurement status report summarizes the procurement activities for information purposes to the Orange County Transportation Authority Board of Directors. This report focuses on procurement activity from January 1 through March 31, 2018, that were approved by the Board of Directors during this period. The third quarter procurement status report also projects future procurement activity for the fourth quarter as identified in the fiscal year 2017-18 budget.

Recommendation

Receive and file as an information item.

12. 91 Express Lanes Corona Customer Service Center Relocation
Christina Runge Haidl/Kenneth Phipps

Overview

The current lease for the 91 Express Lanes Customer Service Center in Corona expires September 30, 2018. The leased space accommodates the walk-in customer service center and the call center, and the facility is shared with the Riverside County Transportation Commission. Staff has retained the brokerage services of CBRE, Inc., and has researched various relocation opportunities for the customer service center. The terms of the proposed relocation include a ten-year lease for a total of 5,009 square feet, as well as tenant improvements, at a facility owned by the Riverside County Transportation Commission.

Recommendations

- A. Authorize the Chief Executive Officer to execute Agreement No. C-8-1660 with Riverside County Transportation Commission, to cover the ten-year lease, as well as tenant improvements for the 91 Express Lanes Corona Office, located at 301 Corporate Terrace Circle, Corona, California, in an amount not to exceed \$999,000, which represents Orange County Transportation Authority's share of the costs.
- B. Authorize the Chief Executive Officer to execute Amendment No. 3 to Agreement C-4-0384 with CPI Properties, LLC, to cover a six-month extension to the current lease, in an amount not to exceed \$55,000. This amount reflects the total lease cost and will be shared equally with the Riverside County Transportation Commission.
- C. Authorize the Chief Executive Officer to execute Amendment No. 1 to Agreement C-6-1349 with CBRE, Inc., to cover real estate brokerage fees, in an amount not to exceed \$14,700.



Regular Calendar

13. Adopt Resolution Approving the Updated Real Property Policies and Procedures Manual

Joe Gallardo/James G. Beil

Overview

The Orange County Transportation Authority is currently acquiring and managing numerous properties required for the construction and delivery of capital improvement projects. As part of the acquisition and management process, the Orange County Transportation Authority must, by general resolution, authorize certain policies and procedures to implement this process in compliance with federal and state laws. The current Real Property Policies and Procedures Manual of May 2013 was approved by the Board of Directors on June 10, 2013. An update of the Real Property Policies and Procedures Manual is required.

Recommendation

Adopt Resolution No. 2018-050 approving the Real Property Policies and Procedures Manual, dated April 2018, to replace the current Real Property Policies and Procedures Manual of May 2013, previously adopted by the Board of Directors.

14. Orange County Transportation Authority Fiscal Year 2018-19 Budget Workshop Preview

Victor Velasquez/Andrew Oftelie

Overview

The Orange County Transportation Authority is developing the fiscal year 2018-19 budget, which identifies available revenues and the costs associated with providing transportation services and programs for Orange County. The proposed budget will be reviewed in detail in a two-hour informal workshop following the May 14, 2018, Orange County Transportation Authority Board of Directors' meeting.

Recommendation

Review the fiscal year 2018-19 proposed budget in a workshop setting following the regularly scheduled Orange County Transportation Authority Board of Directors' meeting on May 14, 2018.



Discussion Items

15. Update: Senior Mobility Program Operated by Korean American Senior Association

Janet Sutter

Staff will provide an update on the status of corrective actions taken by the Korean American Senior Association related to their senior mobility program.

16. Chief Executive Officer's Report

17. Committee Members' Reports

18. Closed Session

There are no Closed Session items scheduled.

19. Adjournment

The next regularly scheduled meeting of this Committee will be held at **10:30 a.m. on Wednesday, May 23, 2018**, at the Orange County Transportation Authority Headquarters, 550 South Main Street, Board Room - Conference Room 07, Orange, California.



Proposed Fiscal Year 2018-19 Southern California Regional Rail Authority Budget



Fiscal Year (FY) 2018-19 Budget Priorities

- Continued emphasis on safe operations, with the implementation of Positive Train Control (PTC) interoperability with all host railroads as our goal.
- Improved reliability and on-time performance, through employment of Tier 4 locomotives on our lines.
- Investment in existing assets to maintain a state of good repair, by funding critical infrastructure rehabilitation projects and continuing to improve processes to accelerate project delivery.
- Increase of Farebox Revenue through advertising efforts, increasing farebox recovery ratio and reducing Member Agency funding through cost containment.
- Enhanced customer experience, by implementing upgrades to the mobile ticketing application, the installation of a modernized ticket vending system, and rehabilitation of aging passenger cars.
- Ongoing workforce development, by training and engaging employees.



Revenue Allocation by Member Agency

(\$000s)	Metro Share	OCTA Share	RCTC Share	SBCTA Share	VCTC Share	Total FY2018-19
Operating Revenue						
Farebox Revenue	\$ 42,204	\$ 22,684	\$ 7,778	\$ 10,567	\$ 2,402	\$ 85,636
Dispatching	1,099	696	12	58	256	2,120
Other Revenues	237	108	56	62	27	490
MOW Revenues	7,377	2,523	660	1,526	475	12,561
Total FY2018-19	\$ 50,917	\$ 26,010	\$ 8,507	\$ 12,213	\$ 3,159	\$ 100,806
Total FY2017-18	\$ 51,219	\$ 25,671	\$ 8,433	\$ 12,124	\$ 3,199	\$ 100,646
Over/(Under) Prior Year	\$ (302)	\$ 339	\$ 74	\$ 89	\$ (39)	\$ 160
Percentage Change	(0.6%)	1.3%	0.9%	0.7%	(1.2%)	0.2%

Note: Amounts may not foot or cross foot due to rounding



FY 2018-19 Proposed Expenditures

(\$ million)

FY2017-18 Adopted Budget	\$ 243.0	
FY2018-19 Proposed Budget	\$ 251.4	
Year Over Year Change In Expenditures	\$ 8.3	3.4%

Variance Drivers:

Train Operations & Services		\$ 8.8 M	Maintenance-of-Way		\$ (0.3 M)
Fuel	\$	(0.9 M)	Extraordinary	\$	(0.4 M)
Big Five Train Operation & Maint	\$	2.9 M	Other	\$	0.1 M
Car Maintenance	\$	0.4 M			
TVM/Revenue Collection	\$	1.5 M			
Marketing	\$	4.0 M			
Wabtec and PTC Upgrades	\$	0.4 M			
Amtrak Transfers	\$	0.2 M			
Other	\$	0.3 M			
			Administration & Services		\$ 0.8 M
			COLA & Merit- Ops	\$	0.9 M
			Other	\$	(0.1 M)
			Insurance Expense		\$ (1.0 M)
			Insurance Premiums	\$	(1.1 M)
			Other	\$	0.1 M

Note: Amounts may not foot or cross foot due to rounding



Expense Allocation by Member Agency

(\$000s)	Metro Share	OCTA Share	RCTC Share	SBCTA Share	VCTC Share	Total FY2018-19
Expenses						
Train Operations & Services	\$ 76,199	\$ 35,577	\$ 17,564	\$ 16,443	\$ 6,549	\$ 152,333
Maintenance-of-Way	21,524	8,447	3,118	5,759	2,453	41,301
Administration & Services	19,638	7,464	5,840	4,282	3,870	41,093
Insurance	8,677	3,925	1,645	1,840	543	16,629
Total FY2018-19	\$ 126,037	\$ 55,413	\$ 28,167	\$ 28,324	\$ 13,415	\$ 251,356
Total FY2017-18	\$ 122,877	\$ 53,910	\$ 26,139	\$ 27,084	\$ 13,035	\$ 243,045
Over/(Under) Prior Year	\$ 3,159	\$ 1,503	\$ 2,028	\$ 1,240	\$ 381	\$ 8,311
Percentage Change	2.6%	2.8%	7.8%	4.6%	2.9%	3.4%

Note: Amounts may not foot or cross foot due to rounding



Subsidy by Member Agency

(\$000s)	Metro Share	OCTA Share	RCTC Share	SBCTA Share	VCTC Share	Total FY2018-19
Revenues	\$ 50,917	\$ 26,010	\$ 8,507	\$ 12,213	\$ 3,159	\$ 100,806
Expenses	\$ 126,037	\$ 55,413	\$ 28,167	\$ 28,324	\$ 13,415	\$ 251,356
FY2018-19 Member Subsidy	\$ 75,120	\$ 29,403	\$ 19,660	\$ 16,111	\$ 10,256	\$ 150,550
FY2017-18 Member Subsidy	\$ 71,659	\$ 28,239	\$ 17,705	\$ 14,960	\$ 9,836	\$ 142,399
Over/(Under) Prior Year	\$ 3,461	\$ 1,164	\$ 1,954	\$ 1,151	\$ 420	\$ 8,151
Percentage Change	4.8%	4.1%	11.0%	7.7%	4.3%	5.7%

Note: Amounts may not foot or cross foot due to rounding



FY 2018-19 Rehabilitation Budget

FY2018-19 Rehabilitation Project Allocation by Funding Source

Asset / Funding Source (\$000s)	Metro Share	OCTA Share	RCTC Share	SBCTA Share	VCTC Share	OTHER Share	Total FY2018-19
Business Systems	\$ 864	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 864
Communications	1,465	544	234	231	458	44	2,975
Facilities	3,054	798	447	580	1,888	-	6,768
Fleet Vehicles	770	91	51	66	33	-	1,011
Grade Crossing	6,779	1,030	-	185	2,046	-	10,040
Information Technology	119	49	28	36	18	-	250
Rolling Stock	3,820	1,374	770	1,000	500	-	7,464
Signals	15,900	1,234	422	1,417	189	472	19,634
Stations	273	131	55	87	55	-	601
Structures	20,447	1,247	139	490	1,610	-	23,933
System - TVM	95	40	22	29	14	-	200
Track	36,909	7,560	1,193	3,631	774	-	50,067
Subtotal	\$ 90,495	\$ 14,098	\$ 3,361	\$ 7,752	\$ 7,585	\$ 516	\$ 123,807
Member Requested Special Projects							
Rolling Stock	\$ 24,118	\$ 4,009	\$ 2,248	\$ 2,916	\$ 1,458	\$ -	\$ 34,749
Signals	572	-	-	-	-	-	572
Structures	-	38,262	-	-	-	-	38,262
Track	-	-	3,456	-	-	-	3,456
Subtotal	\$ 24,690	\$ 42,271	\$ 5,704	\$ 2,916	\$ 1,458	\$ -	\$ 77,039
Total	\$ 115,185	\$ 56,369	\$ 9,065	\$ 10,668	\$ 9,043	\$ 516	\$ 200,846

Note: Amounts may not foot or cross foot due to rounding

FY 2018-19 New Capital Budget

FY2018-19 Capital Project Allocation by Funding Source

Asset / Funding Source (\$000s)	Metro Share	OCTA Share	RCTC Share	SBCTA Share	VCTC Share	OTHER Share	Total FY2018-19
Business Systems	\$ 99	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 99
Facilities	4,989	2,280	1,166	1,512	756	-	10,703
PTC Systems	1,458	-	-	-	-	-	1,458
Track	2,188	99	56	72	36	-	2,450
Total	\$ 8,733	\$ 2,379	\$ 1,221	\$ 1,584	\$ 792	\$ -	\$ 14,710

Note: Amounts may not foot or cross foot due to rounding

Timeline – Next Steps

May – June, 2018 Member Agencies Consider and Approve FY 2018-19 Budget

June 6, 2018 Required Public Posting of FY 2018-19 Budget

June 22, 2018 Request Board Approval of FY 2018-19 Budget



METROLINK MISSION

**TO PROVIDE SAFE, EFFICIENT, DEPENDABLE AND ON-TIME
TRANSPORTATION SERVICE THAT OFFERS OUTSTANDING
CUSTOMER EXPERIENCE AND ENHANCES QUALITY OF LIFE.**



SAFETY | PEOPLE | GROWTH | QUALITY | EFFICIENCY



Committee Members Present

Richard Murphy, Vice Chairman
Michael Hennessey
Steve Jones
Michelle Steel

Committee Members Absent

Andrew Do, Chairman
Lori Donchak
Todd Spitzer

Staff Present

Darrell E. Johnson, Chief Executive Officer
Ken Phipps, Deputy Chief Executive Officer
Laurena Weinert, Clerk of the Board
Gina Ramirez, Deputy Clerk of the Board
James Donich, General Counsel
OCTA Staff and Members of the General Public

Call to Order

The April 11, 2018 regular meeting of the Finance and Administration Committee was called to order by Committee Vice Chairman R. Murphy at 10:36 a.m.

Pledge of Allegiance

Director Steel led in the Pledge of Allegiance.

1. Public Comments

No public comments were received.

Special Calendar

There were no Special Calendar matters.

Consent Calendar (Items 2 through 9)

2. Approval of Minutes

A motion was made by Director Steel, seconded by Director Hennessey, and declared passed by those present, to approve the minutes of the Finance and Administration Committee meeting of February 28, 2018.

3. Approval of Minutes

A motion was made by Director Steel, seconded by Director Hennessey, and declared passed by those present, to approve the minutes of the Finance and Administration Committee meeting of March 28, 2018.



4. Orange County Treasurer's Management Report - February 2018

A motion was made by Director Steel, seconded by Director Hennessey, and declared passed by those present, to receive and file as an information item.

5. Orange County Transportation Authority Investment and Debt Programs Report - February 2018

A motion was made by Director Steel, seconded by Director Hennessey, and declared passed by those present, to receive and file as an information item.

6. Local Agency Investment Fund - February 2018

A motion was made by Director Steel, seconded by Director Hennessey, and declared passed by those present, to receive and file as an information item.

7. Agreement for Financial Advisory Services

A motion was made by Director Steel, seconded by Director Hennessey, and declared passed by those present, to:

- A. Approve the selection of Sperry Capital Inc., as the firm to provide financial advisory services.
- B. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-7-2137 between the Orange County Transportation Authority and Sperry Capital Inc., in the amount of \$495,500, for a three-year initial term through April 30, 2021, with one, two-year option term, to provide financial advisory services.

8. Amendment to Agreement for Health Insurance Brokerage Services

A motion was made by Director Steel, seconded by Director Hennessey, and declared passed by those present, to authorize the Chief Executive Officer to negotiate and execute Amendment No. 3 to Agreement C-5-3799 between the Orange County Transportation Authority and Burnham Benefits Insurance Services in the amount of \$192,500, for additional brokerage services for coach operator employee benefits, and to extend the current agreement term for an additional 12 months through March 31, 2020. This will increase the maximum obligation of the agreement to a total contract value of \$403,500.



9. Agreements for Health Insurance Services for Coach Operators

A motion was made by Director Steel, seconded by Director Hennessey, and declared passed by those present, to:

- A. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-8-1618 between the Orange County Transportation Authority and Kaiser Permanente Health Plan, Inc., on a cost per employee basis, for prepaid medical services from July 1, 2018 through December 31, 2018. The 2018 Kaiser Permanente Health Plan, Inc., premium cost will vary in accordance with actual enrollment.
- B. Authorize the Chief Executive Officer to negotiate and execute Amendment No. 7 to Agreement No. C-1-2995 between the Orange County Transportation Authority and Delta Dental, on a cost per employee basis, for health maintenance organization dental services from July 1, 2018 through December 31, 2018. The 2018 Delta Dental health maintenance organization premium costs will vary in accordance with actual enrollment.
- C. Authorize the Chief Executive Officer to negotiate and execute Amendment No. 7 to Agreement No. C-1-2996 between the Orange County Transportation Authority and California State Association of Counties - Excess Insurance Authority for Delta Dental, on a cost per employee basis, for preferred provider organization dental services from July 1, 2018 through December 31, 2018. The 2018 Delta Dental preferred provider organization premium costs will vary in accordance with actual enrollment.
- D. Authorize the Chief Executive Officer to negotiate and execute Amendment No. 5 to Agreement No. C-1-2997 between the Orange County Transportation Authority and California State Association of Counties - Excess Insurance Authority for Vision Service Plan, on a cost per employee basis, for vision services from July 1, 2018 through December 31, 2018. The 2018 vision services premium costs will vary in accordance with actual enrollment.
- E. Authorize the Chief Executive Officer to negotiate and execute Amendment No. 1 to Purchase Order No. C-7-1897 between the Orange County Transportation Authority and California State Association of Counties - Excess Insurance Authority for VOYA for life insurance from July 1, 2018 through December 31, 2018. The life insurance premium costs will vary in accordance with actual volume in the plan.



Regular Calendar

There were no Regular Calendar items scheduled.

Discussion Items

10. 91 Express Lanes Shifting Patterns with Riverside County Transportation Commission Expansion

Darrell E. Johnson, Chief Executive Officer (CEO), provided opening comments and introduced Kirk Avila, General Manager of Express Lanes Programs, who provided a PowerPoint on the following:

- Background,
- Riverside County Transportation Commission's (RCTC) Traffic Volumes Surpass Projections,
- Orange County Transportation Authority's (OCTA) Traffic Volumes also Increase,
- OCTA's Growth Occurs after RCTC Opening,
- Comparison Between Agencies,
- Traffic Volume Change by Month/Direction,
- State Route 91 (SR-91) Mainline Changes in Orange County,
- Other impacts to Operations, and
- Conclusions.

A lengthy discussion ensued regarding:

- Interstate 405 ramp-up period,
- Traffic pattern changes seen since the opening of RCTC's SR-91 Corridor Improvement Project,
- RCTC is evaluating options to improve westbound corridor traffic, and
- The extension of express lanes to the Interstate 15 by RCTC.

Mr. Johnson, CEO, stated that staff will provide regular updates to the Finance and Administration Committee regarding any impacts on the 91 Express Lanes.



11. Chief Executive Officer's Report

Mr. Johnson, CEO, reported on the following:

- On April 10th, the Taxpayer Oversight Committee (TOC) held their annual Measure M public hearing. The 11-member committee found OCTA in compliance with the ordinance for the 27th year in a row. Staff does not take the finding for granted and pleased that the TOC determined that OCTA is keeping its promises to the voters of Orange County.
- The Angels are off to a strong start this season and so is the Angels Express special Metrolink train service to the weeknight home games. The first three home games train service brought just over 2,800 riders to the game, which is up 10 percent compared to the first three games last year. The Angels Express returns on April 17th, when the Angels begin a three-game series against their rivals from the east, the Boston Red Sox, which should be well-attended games.

12. Committee Members' Reports

There were no Committee Member's reports.

13. Closed Session

There were no Closed Session items scheduled.

14. Adjournment

The meeting was adjourned at 11:03 a.m.

The next regularly scheduled meeting of this Committee will be held at **10:30 a.m. on Wednesday, April 25, 2018**, at the Orange County Transportation Authority Headquarters, 550 South Main Street, Board Room - Conference Room 07, Orange, California.

ATTEST

Gina Ramirez
Deputy Clerk of the Board

Richard Murphy
Committee Vice Chairman



April 25, 2018

To: Finance and Administration Committee

From: Darrell E. Johnson, Chief Executive Officer

Janet Sutter, Executive Director
Internal Audit

Subject: Fleetwatch Fluid Management System, Internal Audit
Report No. 18-506

Overview

The Internal Audit Department has completed an audit of the Fleetwatch Fluid Management System. Based on the audit, controls in place over the dispensing of fuel and other consumables are adequate; however, one recommendation was made to enhance system access controls.

Recommendation

Direct staff to implement the recommendation provided in Fleetwatch Fluid Management System, Internal Audit Report No. 18-506.

Background

In 2014, the Orange County Transportation Authority (OCTA) purchased and implemented the Fleetwatch Fluid Management System (Fleetwatch), which controls and tracks the dispensing of fuels and consumables at the various OCTA base locations. Fuels and consumables are dispensed at five base locations, by both OCTA employees and third-party contractors. The Maintenance Resource Management Department within the Transit Division is responsible for Fleetwatch administration, including assignment of user access to the system and authorization of personnel and vehicles for fueling.

Discussion

The audit identified eight Fleetwatch users designated as system administrators and another 13 designated as power users. The audit also identified 13 users that are no longer employed at OCTA. To enhance controls over access to

Fleetwatch, the Internal Audit Department (Internal Audit) recommends that management reduce the number of administrators and power users in the system. In addition, management should implement procedures for periodic review of user access rights to ensure only active employees are assigned access and to assess the reasonableness of the access level assignments. Management agreed and indicated that procedures will be developed.


Summary

Internal Audit has completed an audit of Fleetwatch and offered one recommendation for improvement.

Attachment

- A. Fleetwatch Fluid Management System, Internal Audit Report No. 18-506

Prepared by:



Ricco Bonelli
Principal Internal Auditor
714-560-5384

Approved by:



Janet Sutter
Executive Director, Internal Audit
714-560-5591

ORANGE COUNTY TRANSPORTATION AUTHORITY INTERNAL AUDIT DEPARTMENT



Fleetwatch Fluid Management System

Internal Audit Report No. 18-506

April 16, 2018



Performed by: Ricco Bonelli, CIA, Principal Internal Auditor
Janet Sutter, CIA, Executive Director

Distributed to: Beth McCormick, General Manager, Transit
Cliff Thorne, Director, Maintenance and Motorist Services

**ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT
Fleetwatch Fluid Management System
April 16, 2018**

Table of Contents

Conclusion	1
Background	1
Objectives, Scope, and Methodology	2
Audit Comment, Recommendation and Management Response.....	3
System User Access Rights	3

ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT
Fleetwatch Fluid Management System
April 16, 2018

Conclusion

The Internal Audit Department (Internal Audit) has completed an audit of the Fleetwatch Fluid Management System (Fleetwatch). Based on the audit, controls in place over the dispensing of fuel and other consumables are adequate; however, Internal Audit made one recommendation to enhance system access controls.

Background

In 2014, the Orange County Transportation Authority (OCTA) purchased and implemented Fleetwatch, which controls and tracks the dispensing of fuels and consumables at the various OCTA base locations. Fuels and consumables are dispensed at five base locations, by both OCTA employees and third-party contractors. Fleetwatch tracks all fuel types, including liquified natural gas, compressed natural gas, diesel, and unleaded gasoline, as well as, oil, coolant, and transmission fluid. Fleetwatch also facilitates the tracking of vehicle mileage, monitoring of fuel and fluid usage, scheduling of preventative maintenance, and reconciliation of fluid inventories.

The Maintenance Resource Management Department within the Transit Division (Tranist) is responsible for system administration, including assignment of user access to the system and authorization of vehicles for fueling. The system requires two-factor authentication to fuel a vehicle. The first step involves validation that the employee is authorized as a fueller in the system. To initiate the fueling process, an employee must tap their identification badge on a device at the fuel island. The second step involves verification of the vehicle to be fueled. OCTA vehicles are equipped with devices that interface with the fuel islands. Through the interface, Fleetwatch will verify that the vehicle is an authorized OCTA vehicle and automatically unlock that vehicle's required fuel type and related consumables, such as oil, coolant, and other fluids.

ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT
Fleetwatch Fluid Management System
April 16, 2018

Objectives, Scope, and Methodology

The objectives were to assess the adequacy and effectiveness of controls in place over the dispensing of fuel and other consumables at OCTA.

The methodology consisted of evaluating system access to Fleetwatch for reasonableness, testing of controls over the authorizing of fuelers in the Fleetwatch system, and testing fueling activity and alert notifications during system interruptions or manual events. Detailed analytical testing and data mining on Fleetwatch system data was also performed to detect missing or unusual data, anomalies such as abnormal fuel consumption, and unauthorized fuelers or fueling activity.

The scope is limited to fueling transactions at OCTA facilities and related data captured and maintained by the Fleetwatch fluid management system. The scope was limited to fueling transactions for calendar years 2016 and 2017, with an emphasis on 2017 activity.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

**ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT
Fleetwatch Fluid Management System
April 16, 2018**

Audit Comment, Recommendation and Management Response

System User Access Rights

Internal Audit identified eight users designated as system administrators and another 13 employees designated as power users. In addition, 13 users were no longer employed at OCTA.

Per the National Institute of Standards and Technology (NIST) Principles and Practices, organizations should periodically review user account management on a system. These reviews should examine the levels of access for each user, conformity with the concept of least privilege, and whether all accounts are still active. The concept of least-privilege advocates limiting rights to levels consistent with assigned functions and activities of the user.

Recommendation:

Internal Audit recommends that management reduce the number of administrators and power users in the system. In addition, management should implement procedures for periodic review of user access rights to ensure only active employees are assigned access and to assess the reasonableness of the access level assignments.

Management Response:

Transit management will develop procedures as outlined in the recommendation made by Internal Audit regarding access rights. Along with this activity, Transit management will evaluate the current number of administrators and power users in the system, identify positions that are essential as system administrators and power users, and work to adjust the list of those currently identified as system administrators and power users to match the results of the evaluation.





April 25, 2018

To: Finance and Administration Committee

From: Darrell Johnson, Chief Executive Officer

Janet Sutter, Executive Director
Internal Audit Department

Subject: Fiscal Year 2017-18 Internal Audit Plan, Third Quarter Update

Overview

The Orange County Transportation Authority Board of Directors adopted the Orange County Transportation Authority Internal Audit Department Fiscal Year 2017-18 Internal Audit Plan on August 14, 2017. This update is for the third quarter of the fiscal year.

Recommendation

Receive and file the third quarter update to the Orange County Transportation Authority Internal Audit Department Fiscal Year 2017-18 Internal Audit Plan as an information item.

Background

The Internal Audit Department (Internal Audit) is an independent appraisal function, the purpose of which is to examine and evaluate the Orange County Transportation Authority's (OCTA) operations and activities to assist management in the discharge of its duties and responsibilities.

Internal Audit performs a wide range of auditing services that include overseeing the annual financial and compliance audits, conducting operational and contract compliance reviews, investigations, pre-award price reviews, and Buy America reviews. Audits initiated by entities outside of OCTA are coordinated through Internal Audit.

Discussion

The OCTA Internal Audit Fiscal Year 2017-18 Internal Audit Plan (Plan) (Attachment A) reflects all planned audits and the status of each project.

During the quarter, Internal Audit issued the results of an audit of purchasing cards and found that controls to ensure transactions are valid, authorized, and in compliance with policies and procedures are generally adequate. Three recommendations were offered to improve oversight of compliance with the policies and procedures. Management agreed with the recommendations and indicated that enhancements would be implemented.

Internal Audit also issued the semi-annual audit of investments for the period July 1 through December 31, 2017, and concluded that OCTA complied with its debt, investment, and reporting policies and procedures for the period.

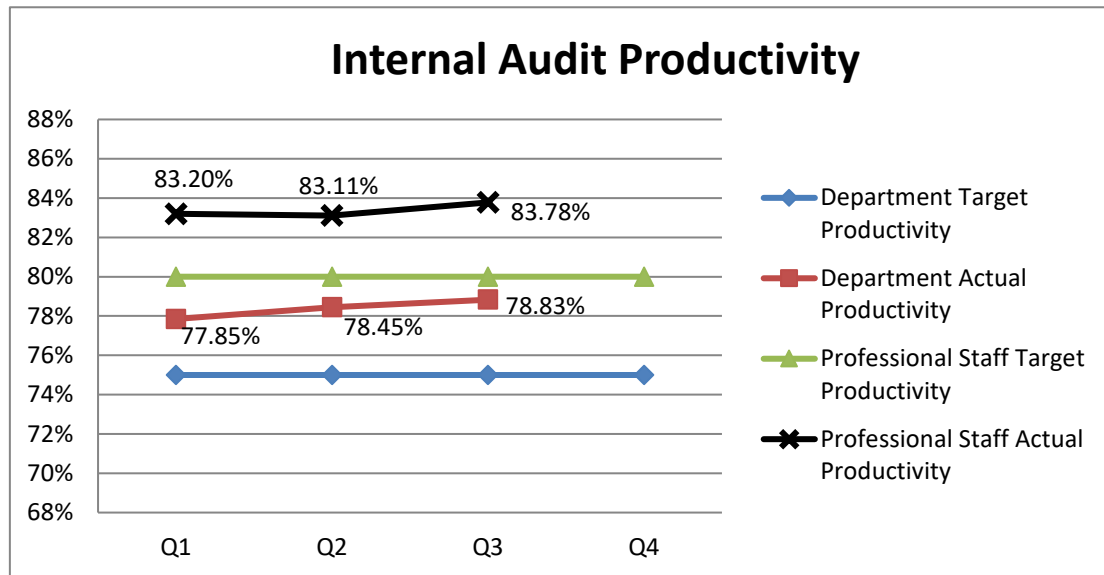
An audit of the cooperative agreement with Metrolink for the Control Point Fourth Project was also completed and identified weaknesses in procurement processes by Metrolink. Internal Audit recommended that OCTA project managers exercise additional oversight to ensure proper procurement procedures are employed for OCTA projects. Management agreed and indicated that additional steps will be taken going forward.

Also during the quarter, OCTA's independent financial statement auditor, Vavrinek, Trine, Day & Company, LLP (VTD), issued results of the annual Measure M Agreed-Upon Procedures (AUP) reviews. The AUP were applied to the cities of Cypress, Irvine, Laguna Beach, Los Alamitos, Rancho Santa Margarita, San Clemente, San Juan Capistrano, and Villa Park in relation to Local Fair Share (LFS) funding, and the cities of Buena Park, Costa Mesa, Laguna Niguel, Laguna Woods, San Clemente, and San Juan Capistrano in relation to Senior Mobility Program (SMP) funding. Observations were made relating to the classification of Maintenance of Effort expenditures, indirect charges not properly supported, errors in reporting of amounts on required activity reports and annual expenditure reports, and service contractor procurement. OCTA program management staff will perform follow-up with the cities to ensure corrective action is taken, as applicable.

Internal Audit Productivity

Internal Audit measures the productivity of the department by calculating a productivity ratio. The ratio, used broadly throughout the audit industry, measures the amount of time auditors spend on audit projects versus time spent on administrative duties. Productivity goals are established for both the professional staff and for the department as a whole. Because the Executive Director regularly participates in non-audit management activities such as planning and committee meetings, the department-wide target is set at 75 percent. The target for internal audit professional staff, not including the Executive Director, is 80 percent.

For the second quarter ended March 31, 2018, Internal Audit achieved productivity of 79 percent, and the professional staff achieved productivity of 84 percent.



Price Reviews

At the request of the Contracts Administration and Materials Management Department (CAMP), and consistent with OCTA procurement policy, Internal Audit conducts reviews of single bid procurements to ensure that CAMP handled the procurement in a fair and competitive manner. Internal Audit also reviews prices proposed by architectural and engineering firms and sole source contractors to ensure that the prices are fair and reasonable. Internal Audit makes recommendations to adjust proposed rates where they exceed the rates per review. When the value of recommended adjustments can be estimated, Internal Audit tracks and reports the potential savings, as noted below. During the quarter ended March 31, 2018, Internal Audit conducted five pre-award agreed-upon procedures reviews and recommended price adjustments, as indicated below:

Quarter	Recommended Price Adjustments
1st	\$ 4,069
2nd	538,528
3rd	51,072
4th	
Total	\$ 593,669

Fraud Hotline

During the quarter ended March 31, 2018, Internal Audit received eight reports through OCTA's Fraud Hotline, www.ethicspoint.com. Of the reports received, five were referred to management and/or customer service and three reports were investigated by Internal Audit. For two of the three reports, allegations made were not substantiated. The last investigation is still underway at quarter end.

Internal Audit is committed to responding to all hotline complaints within eight business days. During the quarter ended March 31, 2018, Internal Audit made initial contact within two business days.

Outstanding Audit Recommendations Tracking

At the request of the Finance and Administration Committee, a listing of outstanding audit recommendations is included with the quarterly updates to the Plan as Attachment B.

For the quarter ended March 31, 2018, Internal Audit completed follow-up reviews of 17 outstanding audit recommendations. Fourteen recommendations had been appropriately addressed by management and are reflected at Attachment C. Three recommendations from the audit of budget development, monitoring and reporting have been partially addressed, but will remain open pending completion of the current year budget process and additional testing by Internal Audit. Follow-up of another eight recommendations is in-process at quarter end.

Five recommendations from the audit of purchasing cards, the cooperative agreement with Metrolink for Control Point Fourth Project, and audits by VTD of selected cities' LFS and SMP were added to the list.

Summary

Internal Audit will continue to implement the Plan, report on performance metrics, follow-up on outstanding audit recommendations, and report progress on a quarterly basis.

Attachments

- A. Orange County Transportation Authority Internal Audit Department Fiscal Year 2017-18 Internal Audit Plan, Third Quarter Update
- B. Outstanding Audit Recommendations (Audit Reports Issued Through March 31, 2018)
- C. Audit Recommendations Closed During Third Quarter, Fiscal Year 2017-18

Prepared by:



Janet Sutter
Executive Director, Internal Audit
714-560-5591

**Orange County Transportation Authority
Internal Audit Department
Fiscal Year 2017-18 Internal Audit Plan
Third Quarter Update**

Audit Activity	Project Number	Description	Primary Audit Type	Planned Staff Hours	Staff Hours to Date	Under (Over)	Status (Date Issued)	External Auditor
Mandatory External Independent Audits								
Annual Financial Audits and Agreed-Upon Procedures Reviews	FY18-001 through FY18-004	Coordinate and report on annual financial and agreed-upon procedures reviews for fiscal year 2017-18.	Financial	375	346	29	Complete	
External Regulatory Audits	FY18-005	Coordinate and report on external audits by regulatory or funding agencies.	Compliance	60	45	15	Ongoing	
Internal Audit Department Projects								
Risk Assessment and Annual Audit Plan	FY18-100	Annual preparation of the audit plan, quarterly updates to the audit plan, periodic assessment of risk throughout the year, including the monitoring of audit results of related entities.	Audit Plan and Updates	200	55	145		
Information Systems Risk Assessment	FY18-104	Engage a firm to conduct an information systems risk assessment for the Orange County Transportation Authority (OCTA) environment. Review should include identification and evaluation of threats, vulnerabilities and safety characteristics of the OCTA information technology environment.	Audit Plan and Updates	120	34	86	In Process	
Quality Assurance and Self-Assessment	FY18-101	Update of Internal Audit Policies & Procedures. Annual self assessment of the Internal Audit Department's compliance with Government Auditing Standards.	Quality Control	160	163	(3)	Complete February 2018	
Fraud Hotline Activities	FY18-102	Administrative duties related to maintenance of the Fraud Hotline and work related to investigations of reports of fraud, waste, or abuse.	Fraud Hotline	320	257	63	25 Reports Received	1 Report Issued 12-26-17
Automated Workpaper Solution	FY18-103	System updates/training related to automated workpaper solution.	Workpaper System	80	41	39	Ongoing	
Internal Audits								
Clerk of the Board								
Public Meetings / Brown Act Compliance	FY18-508	Assess systems and controls in place to ensure compliance with the Brown Act.	Compliance	160	222	(62)	In Process	
Security and Emergency Preparedness								
Transit Police Services Contract	FY17-512	Review oversight controls and contract compliance with agreement for provision of Transit Police services.	Compliance	80	110	(30)	Complete 8-31-17	
Human Resources and Organizational Development								
Benefits: Health Insurance Plans and Health Savings Accounts	FY17-506	Review controls in place to ensure proper enrollment, accounting, and compliance with laws, regulations, policies, and procedures.	Operational	100	278	(178)	Complete 10-19-17	
Storm Water Pollution Prevention Plan	FY17-505	Review oversight controls, policies, and procedures to ensure compliance with Environmental Protection Agency regulations.	Compliance	32	18	14	Complete 8-23-17	

**Orange County Transportation Authority
Internal Audit Department
Fiscal Year 2017-18 Internal Audit Plan
Third Quarter Update**

Audit Activity	Project Number	Description	Primary Audit Type	Planned Staff Hours	Staff Hours to Date	Under (Over)	Status (Date Issued)	External Auditor
Capital Programs								
Interstate 405 (I-405) Improvement Project: Project Management Contract	FY18-505	Assess and test contract compliance and oversight controls of project management services provided for the I-405 Improvement Project.	Compliance	300	320	(20)	In Process	
Interstate 5 (I-5) Improvements: Pacific Coast Highway (PCH) to San Juan Creek (SJC) Road	FY18-512	Assess adequacy of contract compliance, oversight, and reporting controls related to the I-5 Improvement Project between PCH and SJC Road.	Internal Control	300	-	300		
Project K: Right-of-Way Acquisition Activities	FY18-502	Assess and test compliance with reporting requirements related to acquisition of property rights for the I-405 Project K.	Compliance	240	195	45	Complete 9-27-17	
Metrolink Cooperative Agreement for Control Point: 4th Street - Santa Ana	FY18-504	Review and testing of compliance with the cooperative agreement with Metrolink for design and construction of a control point at 4th Street in the City of Santa Ana and a new power turnout to the Union Pacific Railroad spur track.	Compliance	240	416	(176)	Complete 3-6-18	
Planning								
Comprehensive Transportation Funding Programs Projects	FY18-5XX	Review selected projects for compliance with Measure M Ordinance, policies, and procedures.	Compliance	240	-	240		
Transit Operations								
Contracted Fixed Route Operations	FY17-508	Assess adequacy of oversight controls and contract compliance with key provisions of the agreement with First Transit.	Internal Control/ Compliance	80	84	(4)	Complete 8-30-17	
Fleetwatch Fluid Management System	FY18-506	Assess adequacy of system controls and data reporting related to dispensing of fuel.	Operational	240	412	(172)	In Process	
ACCESS Service	FY18-5XX	Review and test compliance with key contract provisions, with consideration of program effectiveness and efficiency.	Internal Control/ Compliance	320	-	320		
Finance and Accounting								
Treasury	FY18-501	Semi-annual review of investments, compliance, controls, and reporting.	Compliance	200	278	(78)	2 Reports Issued 8-30-17	
Grant Closeouts	FY17-511	As-needed financial and compliance audits of grants at closeout to ensure propriety of expenditures.	Compliance	40	32	8	2-1-18 Complete 8-4-17	

**Orange County Transportation Authority
Internal Audit Department
Fiscal Year 2017-18 Internal Audit Plan
Third Quarter Update**

Audit Activity	Project Number	Description	Primary Audit Type	Planned Staff Hours	Staff Hours to Date	Under (Over)	Status (Date Issued)	External Auditor
Contract Administration and Materials Management (Camm)								
Price Reviews	PR18-XXX	Cost and price analyses as requested by OCTA's CAMM Department.	Agreed Upon Procedures	1,000	591	409	17 Reports Issued	
Buy America	FY18-507	Pre-award and post-delivery reviews to ensure vendors and OCTA are in compliance with federal Buy America requirements.	Compliance	280	130	151	Complete 12-7-17	
Warranty Administration	FY18-510	Assess adequacy of controls in place for tracking and recording of warranty repairs and credits.	Internal Control	240	5	235		
Purchasing Cards	FY18-503	Assess and test controls over purchasing cards.	Internal Control	240	497	(257)	Complete 1-15-18	
Unscheduled Reviews and Special Requests								
Unscheduled Reviews and Special Requests	FY18-8XX	Time allowed for unplanned audits, coordination of external agency audits, and requests from the Board of Directors and management.	Varies	320	10	310		
Monitoring Activities								
Measure M Taxpayer Oversight Committee (TOC)	FY18-601	Coordination of audit activities on behalf of the Audit Subcommittee of the TOC.	Non-Audit Activities	80	28	52	Ongoing	
Metrolink Audit Activities	FY18-602	Obtain and review audit results of Metrolink activities.	Non-Audit Activities	40	29	11	Ongoing	
Bus Base Inspections	FY18-603	At the request of the Transit Division, participation on annual base inspection teams.	Non-Audit Activities	32	64	(32)	Complete	
Capital Asset Inventory Observation	FY18-604	At the request of the Finance and Administration Division, observe and apply limited procedures related to the bi-annual capital asset inventory counts.	Non-Audit Activities	80	-	80	As Requested	
Follow-up Reviews								
Follow-up Reviews and Reporting	FY17-7XX, FY18-7XX	Follow-up on audit findings and recommendations.	Follow-up	320	313	7		
Total Audit Project Planned Hours (A)				6,519	4,971	1,548		

Orange County Transportation Authority
Internal Audit Department
Fiscal Year 2017-18 Internal Audit Plan
Third Quarter Update

Audit Activity	Project Number	Description	Primary Audit Type	Planned Staff Hours	Staff Hours to Date	Under (Over)	Status (Date Issued)	External Auditor
Internal Audit Administration								
Board of Directors and Committee Meetings				260	122	138		
Executive Steering and Agenda Setting Meetings				180	118	63		
Internal Audit Staff Meetings				150	65	86		
Other Administration				1,500	1,031	469		
Total Hours (B)				8,609	6,306	2,303		
Department Target Efficiency				75%				
Target Efficiency - Professional Staff				80%				

Outstanding Audit Recommendations
Audit Reports Issued Through March 31, 2018

Audit Issue Date	Report Number	Division/ Department/ Agency	Audit Name	Recommendation	Initiate Next Update	Management Response	Status
1/4/17	17-502	Finance and Administration (F&A)	Payment Card Industry/Data Security Standard (PCI-DSS) Compliance	Management should evaluate resources and controls to ensure full compliance and develop a proposal to achieve compliance and/or provide a reasonable approach moving forward. Management should implement oversight controls to assess the accuracy, timeliness, and sufficiency of Cofiroute USA's (Cofiroute) PCI DSS compliance information.	Jan-18	Management will take the following actions: (1) engage a third party PCI Security Assessor to perform Self-Assessment Questionnaires (SAQ) going forward; (2) assess the remediation items identified in the SAQ and address items that fall into existing security improvement efforts; (3) perform a yearly assessment of Cofiroute's PCI DSS compliance information; (4) undergo a review to determine if OCTA should take the steps necessary to become fully PCI compliant; (5) continue to allocate and prioritize resources to cybersecurity risks while addressing PCI compliance concerns. <u>Update August 2017:</u> Management has not achieved compliance or fully implemented an approach to address non-compliance. <u>Management Response March 2018:</u> Management will make appropriate changes to the environment and be fully PCI compliant by September 30, 2018.	Management response under review by the Internal Audit Department (Internal Audit)
1/4/17	17-502	F&A	PCI-DSS Compliance	Management should implement procedures to ensure that quarterly network scans are performed and remediation efforts are identified and addressed accordingly. Management should also implement procedures for oversight and monitoring of Cofiroute's activities and incorporate their system scan results into submissions to American Express.	Jan-18	Management agrees with Internal Audit's recommendation and will implement procedures to ensure quarterly network scans are performed. Management will also identify items to be remediated and implement them based on risk and cost. Management will allocate resources to perform periodic assessments of Cofiroute's PCI DSS compliance information. <u>Update August 2017:</u> Quarterly scans are not performed and submitted as management continues to assign resources to areas of non-compliance. <u>Management Response March 2018:</u> Management will be fully compliant with PCI scan requirements by September 30, 2018.	Management response under review by Internal Audit

Outstanding Audit Recommendations
Audit Reports Issued Through March 31, 2018

Audit Issue Date	Report Number	Division/ Department/ Agency	Audit Name	Recommendation	Initiate Next Update	Management Response	Status
2/15/17	16-509	Human Resources and Organizational Development (HROD)	Budget Development, Monitoring, and Reporting	Management should implement procedures to ensure that changes to salary grade levels are based on reasonable and consistent methodologies and that documentation is maintained. Changes should also be communicated to management prior to seeking Board of Director (Board) approval.	Sep-18	Human Resources (HR) management will ensure that Personnel and Salary Resolution (P&SR) changes are communicated to management prior to seeking Board approval. Current methods for salary grade changes will be reviewed to determine the best practice for documenting these actions. HR is in the process of obtaining a compensation and market salary data system. This system will be utilized to enhance data collection, consistency, and documentation. <u>Update June 2017:</u> Internal Audit found that recommended upgrades to a job family were not supported by data collected and stated criteria and documentation supporting grade change recommendations requires improvement. As such, this recommendation will remain open. <u>Update March 2018:</u> Management has developed written procedures and procured a market salary survey system; however, proposed changes for Fiscal Year (FY) 2018-19 are still in process and the system has not yet been implemented. Internal Audit estimates management's progress toward addressing this recommendation is at 50%.	Initiate next update Sep 2018

Outstanding Audit Recommendations
Audit Reports Issued Through March 31, 2018

Audit Issue Date	Report Number	Division/ Department/ Agency	Audit Name	Recommendation	Initiate Next Update	Management Response	Status
2/15/17	16-509	HROD	Budget Development, Monitoring, and Reporting	Management should clarify the Position Control Policy (Policy) with regard to Board approved positions, develop procedures to ensure that the total number of employees does not exceed the Board-approved number, and obtain Chief Executive Officer (CEO)-approval for dual-filled positions. Management should also develop controls to ensure compliance with the Policy.	Sep-18	The Policy will be reviewed and revised to clarify the approval process by OCTA's Board. Current procedures will be reviewed to determine if further action is required to ensure the total number of employees do not exceed the Board-approved number. In addition, recruitments that will result in a dual-fill will require the authorization of the CEO. <u>Update October 2017:</u> Since revisions to the Policy have not been finalized, Internal Audit will keep this recommendation open and return by the end of the FY. <u>Update March 2018:</u> Management has revised and clarified the Policy and CEO approval is obtained for dual-filled positions; however, there is no evidence of review to ensure that the Board-approved number of positions is not exceeded. Internal Audit estimates management's progress toward addressing this recommendation is at 67%.	Initiate next update Sep 2018

Outstanding Audit Recommendations
Audit Reports Issued Through March 31, 2018

Audit Issue Date	Report Number	Division/ Department/ Agency	Audit Name	Recommendation	Initiate Next Update	Management Response	Status
2/15/17	16-509	F&A	Budget Development, Monitoring, and Reporting	Actual budgeted amounts should be shown on the Sole Source List. For services that could be performed by multiple vendors, the budget package should provide an explanation and justification for using the selected vendors.	Sep-18	Management agrees with Internal Audit's recommendation and will show the actual budgeted amount for software and hardware maintenance when the Sole Source List is presented to the Board for approval. Management also will develop a budget justification for emergency malware support in the budget package. Update October 2017: Management added the budget amounts to the Sole Source List in accordance with the first part of the recommendation. However, management did not address the second part of the recommendation, regarding the explanations and justifications for using the selected emergency malware support vendors. We will return at the end of the FY to follow-up on the second part of the recommendation. Update March 2018: The outstanding part of this recommendation will be addressed during the FY 2018-19 budget cycle. Internal Audit estimates management's progress toward addressing this recommendation is at 50%.	Initiate next update Sep 2018
8/30/17	17-508	F&A	Contracted Fixed-Route Operations	Internal Audit recommends that CAMM develop procedures for monitoring of performance bond requirements and certificates of insurance to ensure that performance bonds are appropriately adjusted with amendments and insurance requirements are met.	Feb-18	CAMM concurs with this recommendation and has taken steps proactively to review and track bond and insurance documentation for compliance to ensure contract requirements are met. OCTA's Risk Management Department recently procured insurance brokerage services and the scope of work includes a requirement for insurance review and certificate tracking system for all contracts. OCTA will seek to include an additional feature related to monitoring bond value adjustments as an enhancement to this service. Management Response March 2018: Management has been working with the provider to set up a new system to review and track bond and insurance documentation for compliance, with an anticipated go-live date in March 2018.	Management response under review by Internal Audit

Outstanding Audit Recommendations
Audit Reports Issued Through March 31, 2018

Audit Issue Date	Report Number	Division/ Department/ Agency	Audit Name	Recommendation	Initiate Next Update	Management Response	Status
8/30/17	17-508	Transit	Contracted Fixed-Route Operations	Internal Audit recommends management reconcile accident reports to monthly reports and develop procedures for progressive enforcement actions to be taken when contract requirements are not being met.	Feb-18	Management agrees to conduct a monthly reconciliation of accident reports. To ensure that contract language permits reimbursement regardless of when the work is initiated, management proposes a modification in the contract language to remove the requirement for OCTA's pre-approval and reflect the process used: "The contractor will not be reimbursed for the replacement or repair of any major mechanical components without the written approval of OCTA's project manager or his/her designee." For unclassified revenue, a process is already in place to monitor unclassified revenue on a weekly and monthly basis and management feels that including documentation related to the oversight including follow-up actions taken with the monthly invoice package would be a valuable addition. <u>Management Response March 2018:</u> Management has drafted an accident reporting policy that includes the reconciliation of accident reports to monthly summary reports, as well as an unclassified revenue policy that details the process used to monitor unclassified revenue. Management has also drafted a contract amendment to revise the language for major maintenance.	Management response under review by Internal Audit
8/30/17	17-508	Transit	Contracted Fixed-Route Operations	Internal Audit recommends that management consistently apply penalties as outlined in the contract. Any request to waive a penalty should be documented and accompanied by adequate documentation to support and justify how the failures could not have reasonably been prevented.	Feb-18	Management agrees with the finding and will amend the contract to allow for appropriate discretion with regard to penalty waivers. In the future, documentation, including a written request from the contractor and justification for the action, will be maintained. <u>Management Response March 2018:</u> Management has developed a penalty policy to be used when the contractor requests a waiver for penalties. Language regarding this process is also included in the draft contract amendment.	Management response under review by Internal Audit

Outstanding Audit Recommendations
Audit Reports Issued Through March 31, 2018

Audit Issue Date	Report Number	Division/ Department/ Agency	Audit Name	Recommendation	Initiate Next Update	Management Response	Status
8/30/17	17-508	Transit	Contracted Fixed-Route Operations	Internal Audit recommends that management consistently apply penalties and consider non-payment of revenue hours for vehicles that have exceeded preventive maintenance intervals. Penalties should only be waived at the request of First Transit and with adequate justification and documentation demonstrating that the failures could not have reasonably been prevented. Finally, management should implement a secondary review of incentives and penalties during the invoice review process to determine that they are consistent with the contract.	Feb-18	Management agrees with the finding and will implement more consistent application of penalties; however, the contract will also be amended to allow for appropriate discretion with regard to penalty waivers. In the future, documentation, including a written request from the contractor and justification for the action, will be maintained. Management will also coordinate a monthly meeting to review invoice penalty and incentive amounts for accuracy prior to payment. <u>Management Response March 2018:</u> Management had developed a penalty policy to be used when the contractor requests a waiver for penalties. Language regarding this process is also included in the draft contract amendment. Financial Planning and Analysis staff are assisting with the review and approval process for the monthly invoices, and the review includes verification of the back-up documentation for all penalties assessed.	Management response under review by Internal Audit

Outstanding Audit Recommendations
Audit Reports Issued Through March 31, 2018

Audit Issue Date	Report Number	Division/ Department/ Agency	Audit Name	Recommendation	Initiate Next Update	Management Response	Status
8/30/17	17-508	Transit	Contracted Fixed-Route Operations	Internal Audit recommends that contracted fixed route performance standards be measured consistent with the standards set forth in the contract. Management should implement procedures to ensure changes to performance standards are processed as formal contract amendments and that notice and justification for the changes is documented. Management should also consider implementing procedures that require Board notification and/or approval for changes to contracted fixed route performance standards. At a minimum, presentations and performance reports provided to the Board should clearly outline changes to the measurement standards and/or methodology.	Feb-18	Management agrees with the finding. The on-time performance window as measured and reported through the automated systems on-board all fixed route vehicles has been adjusted to reflect a zero to five minute window. This change has been made retroactive back to February 2016 when the change to five minutes, 30 seconds was implemented. Future quarterly performance measure reports will outline the methodologies used to collect data and if methodologies change, the report will identify the change. <u>Management Response March 2018: The on-time performance window was adjusted back to a zero to five minute window, consistent with the contract, with the adjustment retroactive to February 2016.</u>	Management response under review by Internal Audit

Outstanding Audit Recommendations
Audit Reports Issued Through March 31, 2018

Audit Issue Date	Report Number	Division/ Department/ Agency	Audit Name	Recommendation	Initiate Next Update	Management Response	Status
8/30/17	17-508	F&A	Contracted Fixed-Route Operations	<p>Internal Audit recommends that the Price Summary be amended as needed to accurately reflect the agreed-upon rates and costs that will be invoiced to the contract. If rates or costs increase due to additional service added in amendments, the amendments should include a revised Price Summary. Management should also ensure that the increases in maximum obligations be calculated correctly based only on additional costs that will be incurred, without double-counting of costs.</p> <p>Finally, Internal Audit recommends that CAMM review all RFP addendums to determine if there have been changes in attachments and exhibits, before finalizing contracts.</p>	Feb-18	<p>Management concurs that the Price Summary be amended to capture the agreed-upon rates associated with each added service to the contract. Management will ensure the Price Summary is revised to reflect any future costs for additional services.</p> <p>CAMM's standard practice when conforming agreements is to review all RFP addendums to ensure all technical and contractual changes are incorporated in the final agreement. For added quality assurance, conformed agreements are sent to the requesting departments for review and concurrence prior to contract final execution.</p> <p>Management Response March 2018: Management has drafted a contract amendment to revise the Price Summary to include costs associated with the additional services.</p>	Management response under review by Internal Audit

Outstanding Audit Recommendations
Audit Reports Issued Through March 31, 2018

Audit Issue Date	Report Number	Division/ Department/ Agency	Audit Name	Recommendation	Initiate Next Update	Management Response	Status
4/12/17	17-504	F&A	Investment Management Service Contracts	Management should ensure compliance with procurement policies and ensure that decisions to accept deviations from the Request for Proposals (RFP) are documented, along with the calculations and methodologies used when cost estimates are prepared by staff. Documentation on file should justify the reasons for changes to the RFP after proposals are received and the value of the cost proposal estimate should translate to the value of the contract issued. Finally, management should consider developing a policy with guidelines for the use of OCTA's logo by vendors, staff-provided testimonials, or staff participation in vendor case studies for marketing purposes.	Apr-18	The Contracts Administration and Materials Management Department (CAMP) will ensure an Independent Cost Estimate is provided as required and will re-enforce this requirement with staff. CAMP will also remind staff that project managers may not conduct direct negotiations. If the evaluation committee recommends a pricing model and methodology that differs from the RFP, the contract administrator will be required to clearly indicate such in the procurement memo along with the reason for the recommendation. CAMP management will ensure that staff understands the need for documentation to demonstrate the method for calculating pricing as well as how the pricing criteria was scored. Additionally, contracts will be issued consistent with the cost estimate on file. Lastly, management agrees to consider developing a policy with guidelines for the use of OCTA's logo by vendors, staff-provided testimonials, or staff participation in vendor case studies for marketing purposes. Update December 2017: CAMP has reviewed procedures and provided training as indicated and management has developed a policy on the use of OCTA's logo. HROD management plans to incorporate a policy on testimonials into the Code of Conduct in April 2018.	

Outstanding Audit Recommendations
Audit Reports Issued Through March 31, 2018

Audit Issue Date	Report Number	Division/ Department/ Agency	Audit Name	Recommendation	Initiate Next Update	Management Response	Status
9/27/17	18-502	Capital Programs	Right-of-Way Acquisition Activities for the Interstate 405 (I-405) Project K	Internal Audit recommends that management develop written procedures for the reporting of administrative settlements and contracts executed under the Incentive Payment Program (Program) for the I-405 Project. The procedures should identify the frequency and method of reporting.	Apr-18	The Real Property Department has drafted a written procedure for the reporting of administrative settlements and contracts executed under the Program for the I-405 Project. The procedure identifies the frequency and method of reporting and includes two exhibits illustrating the format of each report. The I-405 Modified Settlement Delegation Authority Administrative Settlements Authorized Report format will now reflect the appraisal amount, additional compensation amount, total contract amount, and the calculated percentage of the settlement.	
10/19/17	17-506	HROD	Employee Health Benefits	Management should develop and implement written procedures to ensure that all qualified Health Savings Account (HSA) enrollees receive their employer-paid contribution. Further, OCTA should make the required HSA contributions, plus reasonable interest, to the employees identified in the audit.	Apr-18	The contributions have been remediated and processed to the two employee HSA's. Reasonable interest will be calculated and deposited. As these transactions are processed as payroll earnings, benefits will work with payroll to establish written procedures.	
10/19/17	17-506	HROD	Employee Health Benefits	Management should develop a written policy and procedures for collection of premiums in arrears.	Apr-18	The participant that owed \$1,336.40 as of December 2016, has paid this amount to OCTA. Management will work on a written policy and procedure to collect unpaid medical premiums.	
10/19/17	17-506	HROD	Employee Health Benefits	Management should seek Board member input and clarify the policy to address benefits eligibility for Board members that receive cash payments in-lieu of health benefits from the public entity they serve.	Apr-18	Management will consider revisions to the FY 2018-2019 (FY19) P&SR to clarify the policy. The FY19 P&SR will be presented for Board of Directors approval in June 2018, along with the annual budget.	

Outstanding Audit Recommendations
Audit Reports Issued Through March 31, 2018

Audit Issue Date	Report Number	Division/ Department/ Agency	Audit Name	Recommendation	Initiate Next Update	Management Response	Status
12/26/17	N/A	Transit	Investigation and Limited Scope Review of the Senior Mobility Program (SMP) operated by the Korean American Senior Association (KASA)	KASA violated the SMP requirement to provide wheelchair-accessible vehicles. Internal Audit recommends management continue oversight activities and report any continued non-compliance to the Board for consideration as to future funding of this program.	Jun-18	Based on performance over the past year, contact with the program administrator on a variety of issues regarding compliance, as well as the current audit findings, staff is not confident that even with an enhanced level of oversight, compliance can be ensured. Management recommends that a 90-day termination notification be sent to KASA and funding be discontinued at the end of that period.	
12/26/17	N/A	Transit	Investigation and Limited Scope Review of the SMP operated by the KASA	Unallowable and unsupported costs are charged to the SMP, and costs reported for June 2017 did not agree to KASA's financial records. Internal Audit recommends that the OCTA coordinator review with KASA program guidelines for allowable direct and indirect costs. The coordinator should disallow all indirect costs charged directly to the SMP and any costs that are not adequately supported. The coordinator should also train KASA on monthly reporting requirements. Finally, any continued non-compliance should be reported to the Board for consideration as to future funding of this program.	Jun-18	Funds disbursed to KASA for service provided in 2018 will be adjusted, with the overstated \$1,564 deducted from the disbursement. If support for the program is discontinued as recommended by staff, KASA will receive a portion of the funds left for the current FY through the date of termination.	

Outstanding Audit Recommendations
Audit Reports Issued Through March 31, 2018

Audit Issue Date	Report Number	Division/ Department/ Agency	Audit Name	Recommendation	Initiate Next Update	Management Response	Status
12/26/17	N/A	Transit	Investigation and Limited Scope Review of the SMP operated by the KASA	The age requirement to join KASA is currently set at 55 years and older; however, the SMP program defines eligible participants as 60 years and older. Internal Audit recommends that management require KASA to develop procedures to ensure only qualified trips are charged to the SMP.	Jun-18	If support for the program is continued, OCTA staff will monitor this during the site visits.	
12/26/17	N/A	Transit	Investigation and Limited Scope Review of the SMP operated by the KASA	Documentation on file indicates that KASA provides some trips outside their approved service plan. Internal Audit recommends that the coordinator disallow costs related to trips outside the service plan. The coordinator should also instruct KASA to reconcile monthly reports to trips sheets prior to submittal. Any continued non compliance should be reported to the Board for consideration as to future funding of this program.	Jun-18	If support for the program is continued, OCTA staff will monitor this during the site visits.	

Outstanding Audit Recommendations
Audit Reports Issued Through March 31, 2018

Audit Issue Date	Report Number	Division/ Department/ Agency	Audit Name	Recommendation	Initiate Next Update	Management Response	Status
1/15/18	18-503	F&A	Purchasing Cards	The purchasing card administrator should enhance oversight procedures to include analysis of transaction activity and review of any transactions exceeding \$2,500.	Jul-18	The purchasing card administrator will enhance oversight procedures to include analysis of all cardholder's monthly transaction activity exceeding \$2,500.	
1/15/18	18-503	F&A	Purchasing Cards	Management should implement controls to ensure compliance with procedures or consider revising procedures to allow certain employees, who purchase food items on a regular basis, to do so without executive approval on each receipt.	Jul-18	Management agrees to revise the Business Expenses Policy to include modifications to the current procedure. The modifications will be as follows: require executive approval on each receipt for food item purchases, except for food purchased by the Clerk of the Board for Board and Committee meetings and new employee orientation conducted by HROD. Modifications to the Business Expenses Policy will be completed by March 31, 2018.	
1/15/18	18-503	F&A	Purchasing Cards	Four of the 24 designated approving officials are not department managers or directors, as required by procedures. Internal Audit recommends management replace these approving officials with either a department manager or a director, or revise procedures to reflect intended practices.	Jul-18	Management has reviewed the recommendation and agrees to update the Purchasing Card User Guide Policies and Procedures to include section managers as approving officials. The Purchasing Card User Guide Policies and Procedures will be updated and posted on OCTA Today no later than January 31, 2018.	

Outstanding Audit Recommendations
Audit Reports Issued Through March 31, 2018

Audit Issue Date	Report Number	Division/ Department/ Agency	Audit Name	Recommendation	Initiate Next Update	Management Response	Status
3/6/18	18-504	Capital Programs	Metrolink Control Point Fourth Project	Internal Audit recommends management review with Metrolink staff the process for procuring contractors for OCTA projects to ensure compliance with regulatory guidelines and best practices.	Sep-18	Management agrees. Metrolink should follow its internal policies and procedures to solicit requests for proposals to issue a Contract Task Order (CTO) from their on-call bench of consultants or contractors to obtain competitive proposals. Additionally, Metrolink should document how a CTO is determined to be the most appropriate procurement method and include records of negotiation. Metrolink also needs to verify the proposed work is allowable in the scope of work for the contract. OCTA will follow-up with Metrolink on OCTA projects to inquire how services will be procured prior to procurement activities.	
3/12/18	N/A	Planning & Transit	Measure M City Audits: Local Fair Share and Senior Mobility Program, Year Ended 2017	Observations were made relating to the classification of Maintenance of Effort expenditures, indirect charges not properly supported, errors in reporting of amounts on required activity reports and annual expenditure reports, and service contractor procurement. Internal Audit recommends management follow-up with the cities to ensure corrective action has been taken.	Sep-18	Management will follow-up with the cities to ensure appropriate actions have been taken to address observations.	

**Audit Recommendations Closed During
Third Quarter, Fiscal Year 2017-18**

Audit Issue Date	Report Number	Division/ Department/ Agency	Audit Name	Recommendation	Management Response
2/15/17	16-509	Finance and Administration (F&A)	Budget Development, Monitoring, and Reporting	Procedures should be developed and documented for the budget development and transfer processes. Management should also ensure project variances exceeding the threshold are investigated in accordance with the budget to actual reporting procedures, or alternatively clarify the investigation requirements in such procedures.	Management agrees with the recommendation and will re-evaluate and document all salary and benefit budget assumptions at a lower level of detail. Also, management will ensure project variances exceeding the threshold continue to be investigated in accordance with the budget to actual reporting procedures, and will clarify investigation requirements in such procedures. <u>Update October 2017:</u> Management has addressed the recommendations related to budget development and transfers. However, since changes to the budget to actual reporting procedures will be fully implemented in the first quarter, the Internal Audit Department (Internal Audit) will follow up on this part of the recommendation by the end of the fiscal year. <u>Update January 2018:</u> Management has revised the guidelines to eliminate the requirement to explain +/- 10% and +/- \$100k variances. Currently, the lead analyst selects high priority projects that account for approximately 85% of the overall program variance, and the analysts then explain approximately 90% of high priority projects.
3/9/17	17-507	F&A	OCTA Policies & Procedures	Management should update procedures to include a communications plan to ensure that employees expected to comply with policies are properly notified. Communication should occur, as appropriate, for both new and revised policies.	Management agrees with the recommendation and has taken steps to ensure communication is made to all employees when new policies are created or existing policies are updated. <u>Update October 2017:</u> Policy and procedure updates are being communicated to administrative employees via e-blasts; however, updates applicable to base personnel are not being properly communicated. Management indicated that there are future plans to communicate these policies via digital signage at the bus bases. <u>Update March 2018:</u> All policy and procedure updates are now announced to base personnel via digital signage at the bases.
3/9/17	17-507	F&A	OCTA Policies & Procedures	Management should implement controls to help ensure the accuracy and completeness of the master list of policies and procedures.	Management agrees with the recommendation and will implement procedures to ensure that the master list of policies and procedures is maintained with accuracy and completeness. <u>Update October 2017:</u> Management indicated that an automated system will be implemented to assist in the approval, distribution, and management of policies and procedures. <u>Update March 2018:</u> Management has implemented software to automate the process of tracking and update of all policies and procedures.

**Audit Recommendations Closed During
Third Quarter, Fiscal Year 2017-18**

8/1/17	17-505	Human Resources and Organizational Development (HROD)	Storm Water Pollution Prevention Plan (SWPPP)	Continue efforts to eliminate the unauthorized non-storm water discharges related to the bus washes.	Bus wash water track-out capturing systems are expected to be finished and operable by August 2017. <u>Update March 2018:</u> Bus wash water track-out capturing systems have been completed and are fully operational.
8/1/17	17-505	HROD	SWPPP	Continue efforts to expand the use of the Ellipse system to include additional storm water-related tasks.	Current Ellipse work orders related to storm water pollution prevention have been updated and modified. New expanded work orders will be established within Ellipse by August 2017. <u>Update March 2018:</u> Expanded work orders have been established in Ellipse for SW-related tasks.
8/1/17	17-505	Capital Programs	SWPPP	Enhance oversight of contractors and personnel carrying out SWPPP related monitoring activities, particularly related to site inspections, sampling, reporting, etc. OCTA should also ensure that agreements with contractors tasked with SWPPP activities include retention requirements.	Enhanced oversight of contractors and construction management teams will be implemented and monitored. OCTA will ensure current and future agreements with contractors include retention requirements. <u>Update March 2018:</u> Management has updated the Construction Management Manual to include the following language..."The Contractor shall retain all records on-site while construction is ongoing. Once construction has completed, the Contractor is to submit a copy of the SWPPP with all pertinent records and reports from the entire project to the CM for record retention. The CM will review this file for completeness." Per staff, this language will also be added to future contract agreements.
8/1/17	17-505	HROD	SWPPP	Ensure that a copy of the SWPPP is maintained at each bus base facility.	Hard copies of the SWPPP will be maintained at each bus base facility in addition to electronic copies. Each hard copy will be singularly identifiable and OCTA SWPPP members will be notified/trained of their locations. <u>Update March 2018:</u> Hard copies of SWPPP are maintained at each bus base facility in addition to electronic copies. Each hard copy is singularly identifiable and OCTA SWPPP team members have been trained on their locations.

**Audit Recommendations Closed During
Third Quarter, Fiscal Year 2017-18**

8/1/17	17-505	HROD	SWPPP	Increase the Health, Safety, and Environmental Compliance (HSEC) group's participation with construction projects and activities to help ensure compliance with the Construction General Permit (CGP).	HSEC will continue to participate in CGP compliance efforts and will identify/allocate necessary resources to ensure compliance with the CGP in partnership with OCTA's Capital Programs group via project planning efforts. Update March 2018: Project kick-off meeting agendas now reflect SWPPP related discussion items on the agenda. Additionally, HSEC staff can now view all OCTA CGP permits in the SMARTS system, and they're alerted via email when a new CGP gets submitted into SMARTS.
8/1/17	17-505	Capital Programs	SWPPP	Ensure cooperative agreements specifically clarify the roles and responsibilities of all individuals and entities associated with compliance with the CGP.	Management doesn't agree that the roles and responsibilities of all individuals and entities should be included in the cooperative agreements. However, management will implement a procedure to document these roles and responsibilities in a project memo. Update March 2018: The Construction Management manual has been updated to designate the roles and responsibilities of all parties with respect to SWPPP compliance.
8/1/17	17-505	HROD	SWPPP	Establish a formal process in which technicians maintain documentation supporting why samples could not be collected during a sampling period.	Monitoring forms used by technicians will be revised to provide supporting documentation/verbiage on why samples could not be collected during a qualified sampling event. Update March 2018: Updated monitoring forms now reflect evidence as to why a sample was not obtained during a qualified storm event. For each qualified storm event that doesn't result in sampling of rainwater discharge, the form is filled out and the reason why a sample was not collected is documented. Each form is reviewed and signed off by a supervisor and maintained in a booklet.
8/1/17	17-505	Capital Programs	SWPPP	Ensure contractors adhere to training required by the CGP by periodically requesting to review training records.	Periodic reviews of training records will be implemented. Update March 2018: Management will require the construction management consultant to perform monthly reviews of training records. In the updated Construction Management manual, the following language was added..."The CM is to review these reports and any Contractor training records on a monthly basis to ensure completeness and compliance with the State's Construction General Permit."
8/1/17	17-505	HROD	SWPPP	Document in the SWPPPs the time periods when the bus bases conduct any function related to industrial activity.	SWPPPs will be revised to describe time periods when bus bases conduct industrial activity. Maintenance staff will be included as SWPPP team members. Update March 2018: The updated SWPPP's now indicate that industrial activity occurs 24 hours a day, 365 days a year.

**Audit Recommendations Closed During
Third Quarter, Fiscal Year 2017-18**

8/1/17	17-505	HROD	SWPPP	Document the date that each SWPPP was initially prepared.	SWPPPs will be revised to include the date that each SWPPP was initially prepared. <u>Update March 2018:</u> Updated SWPPP's reflect the date of preparation.
8/30/17	18-501	F&A	Investments: Compliance, Controls, and Reporting	Internal Audit identified a discrepancy between the detailed investment portfolio listing and the investment summary report in the 2017 First Quarter Debt and Investment Report. Also, the Orange County Investment Pool balance reflected in the Second Quarter 2017 Debt and Investment Report was misstated by a minor amount. Internal Audit recommended management enhance review procedures to ensure line items are validated and schedules are reconciled before finalizing the report.	Management agreed and indicated that reconciliation procedures would be developed. <u>Update March 2018:</u> An 18-step verification checklist has been created and implemented as part of the review process for the Quarterly Debt and Investment Reports.



April 25, 2018

To: Finance and Administration Committee

From: Darrell E. Johnson, Chief Executive Officer
Janet Sutter, Executive Director
Internal Audit

Subject: Investigation and Limited Scope Review of Take-Home Vehicle Assignment

Overview

The Internal Audit Department of the Orange County Transportation Authority has completed an investigation of a complaint alleging that a Transit Division manager used an agency-issued transponder for personal commuting and participated in the Commuter Club rideshare program, in violation of policy. The allegations were confirmed, and the details provided to management. During the investigation, control weaknesses related to the assignment of take-home vehicles and oversight of transponder use, as well as areas where oversight controls could be strengthened to better enforce compliance with policies and procedures, were identified and are reported herewith.

Recommendation

Direct staff to implement four recommendations provided in the Investigation and Limited Scope Review of Take-Home Vehicle Assignment.

Background

On February 15, 2018, a report was received alleging that an employee assigned a take-home vehicle was using an agency-issued transponder for personal commute trips and was participating in the Orange County Transportation Authority (OCTA) Commuter Club rideshare program, in violation of policy.

In accordance with the Board of Directors-approved Personnel and Salary Resolution, designated employees are provided an assigned vehicle, along with all related expenses (e.g. gas, maintenance, and wash services). Per policy, employees assigned a take-home vehicle are not eligible to participate in OCTA's Commuter Club program or to use Commuter Club pool vehicles.

Employees with take-home vehicles are required to log daily vehicle usage for purposes of Internal Revenue Service (IRS) reporting.

The OCTA Commuter Club is a rideshare incentive program that allows employees who carpool, or use other means of alternative transportation, to earn points to be used for paid days off and/or gift check awards. OCTA maintains a fleet of commuter pool vehicles for use by employees who are members of the Commuter Club. These vehicles may be used during business hours by employees who use alternative transportation and/or carpool to work and have a need to attend an off-site meeting and/or business appointment.

Discussion

The Internal Audit Department (Internal Audit) found that staff did not maintain detailed records of take-home vehicle assignments or require employees to acknowledge the rules and responsibilities of the assignment. In addition, policies were not cross-referenced and did not include all relevant information about use of the vehicle. Internal Audit recommended management enhance policies and procedures to include all relevant rules and requirements, and ensure that employees assigned a take-home vehicle are properly informed. Management agreed and indicated that policies will be improved and expanded.

In addition, procedures for monitoring toll road charges assessed to OCTA were not adequate to detect unauthorized activity. OCTA maintains a Toll Roads account and issues transponders, as needed, to revenue and non-revenue vehicles that need to travel for business using the toll roads. An analyst in the Transit Division receives activity statements, segregates charges by division, and makes payment. Internal Audit recommended that management revise procedures and require responsible departments to review and validate toll road fee charges and transponder assignments for appropriateness. Management agreed with the recommendation and indicated that this change will be implemented.

The investigation also revealed weaknesses in the collection and reporting of mileage log activity from employees assigned a take-home vehicle. Instructions about how to complete the mileage logs and who is required to complete a log under IRS rules are not provided. Internal Audit recommended management develop and distribute procedures, provide training to employees, and scan the mileage logs for obvious mistakes. Management agreed to implement these recommendations.

Finally, since employees assigned a take-home vehicle are not allowed to participate in the Commuter Club rideshare program, Internal Audit

recommended management implement system controls to prevent these employees from accessing the related website. Management agreed and indicated that this recommendation has been implemented.

Summary

Internal Audit has completed a limited scope review of take-home vehicle assignments and offered recommendations to improve controls.

Attachment

- A. Investigation and Limited Scope Review of Take-Home Vehicle Assignment

Prepared by:



Janet Sutter
Executive Director
714-560-5591

ORANGE COUNTY TRANSPORTATION AUTHORITY INTERNAL AUDIT DEPARTMENT



Investigation and Limited Scope Review of Take-Home Vehicle Assignment

April 12, 2018



Performed by: Serena Ng, CPA, Senior Manager
Janet Sutter, CIA, Executive Director

Distributed to: Beth McCormick, General Manager, Transit
Andrew Oftelie, Executive Director, Finance and Administration
Sean Murdock, Director, Finance and Administration

**ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT
Investigation and Limited Scope Review of Take-Home Vehicle Assignment
April 12, 2018**

Table of Contents

Conclusion	1
Background	1
Observations, Recommendations, and Management Response	3
Procedures for Assignment of Vehicles Should be Improved	3
Responsible Departments Should Review and Validate Transponder Fee Activity	4
Training and Oversight of Mileage Log Reporting Should be Implemented	4
Additional Commuter Club System Access Controls Should be Implemented	5

ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT
Investigation and Limited Scope Review of Take-Home Vehicle Assignment
April 12, 2018

Conclusion

The Internal Audit Department (Internal Audit) of the Orange County Transportation Authority (OCTA) has completed an investigation of a complaint alleging that a Transit Division (Transit) manager used an agency-issued transponder for personal commuting and participated in the OCTA Commuter Club rideshare program, contrary to policy. Internal Audit confirmed the allegations and referred details to management. During the investigation, Internal Audit identified control weaknesses related to assignment of take-home vehicles and oversight of transponder use, as well as areas where oversight controls could be strengthened to better enforce compliance with policies and procedures.

Background

Complaints received either through the OCTA Fraud Hotline, or made directly to Internal Audit, are reviewed to determine whether an investigation can be performed and, if so, by whom. When appropriate, Internal Audit will investigate and determine whether the allegation can be substantiated. During the investigation, Internal Audit may identify control weaknesses or opportunities to enhance existing policies and procedures. Findings and recommendations resulting from these investigations are incorporated into limited scope review reports that include management's response and planned corrective actions. While these investigations are not considered audits, like internal audits, recommendations are tracked through to implementation.

On February 15, 2018, a report was received alleging that an employee assigned a take-home vehicle was using an agency-issued transponder for personal commute trips and participating in the OCTA Commuter Club rideshare program, in violation of policy.

In accordance with the Board of Directors (Board) approved Personnel and Salary Resolution, designated employees are provided an assigned vehicle, along with all related expenses (e.g. gas, maintenance, and wash services). Per policy, employees assigned a take-home vehicle are not eligible to participate in OCTA's Commuter Club rideshare program, may not use commuter pool vehicles, and are required to log daily vehicle usage for purposes of Internal Revenue Service (IRS) reporting.

The OCTA Commuter Club is a rideshare incentive program that allows employees who carpool, or use other means of alternative transportation, to earn points to be used for paid days off and/or gift check awards. OCTA maintains a fleet of commuter pool vehicles for use by employees who are members of the Commuter Club. These vehicles may be used during business hours by employees who use alternative transportation and/or carpool to work and have a need to attend an off-site meeting and/or business appointment.

**ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT
Investigation and Limited Scope Review of Take-Home Vehicle Assignment
April 12, 2018**

Objectives, Scope, and Methodology

The objective of the investigation and limited scope review was to determine whether the allegations could be substantiated. The scope was limited to activities in late 2015 through February 2018.

In conducting the investigation and limited scope review, Internal Audit employed the following methodology:

- Review of the Commuter Club Policy, 24-Hour Assignment of Non-Revenue Passenger Vehicles Policy, Administrative Commuter Pool Vehicles Policy, and the 24-Hour Assignment of Non-Revenue Passenger Vehicle Acknowledgement Form;
- Interview with applicable staff regarding assignment of vehicles, collection of mileage activity logs, review of fees related to OCTA-issued transponders, and monitoring of Commuter Club participation and use of commuter pool vehicles;
- Review of Toll Roads account statements for the period January 2017 through February 2018, for indications of personal use of selected transponder;
- Review of selected Mileage Log entries during the period January 2017 through February 2018;
- Review of Commuter Club system activity during the period January 2015 through November 2017, for selected employee;
- Review of IRS Publication 15B, Employer's Tax Guide to Fringe Benefits.

This report is the result of an investigation and limited review of an allegation received through the fraud hotline. It does not represent an audit conducted in accordance with Generally Accepted Government Auditing Standards.

ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT
Investigation and Limited Scope Review of Take-Home Vehicle Assignment
April 12, 2018

Observations, Recommendations, and Management Response

Procedures for Assignment of Vehicles Should be Improved

The assignment of the take-home vehicle to the employee under investigation was not documented and there was no evidence that the employee was informed of, and agreed to abide by, policies related to the assignment.

According to Transit staff responsible for vehicle assignments, a form was developed two years ago for employees assigned a take-home vehicle to sign and confirm their understanding of the rules and responsibilities associated with the assignment. Only two of 13 employees currently assigned a take-home vehicle have this signed acknowledgement form on file and there is no reference to the form in policies and procedures. The form being used does not reference all related policies, including the Commuter Club Policy and the Administrative Commuter Pool Vehicles Policy.

Additionally, the policy does not address whether take-home vehicles may be used to transport and/or commute with other OCTA employees and/or non-employees. IRS rules require all employees commuting in employer-provided vehicles be assessed the value of the fringe benefit, however, OCTA procedures do not address this situation and the value of the fringe benefit earned by the passenger employee(s) is not being assessed, as required.

Recommendation 1:

Internal Audit recommends management enhance policies and procedures to ensure that employees assigned a take-home vehicle are properly informed of related rules and requirements of the assignment and that documentation is prepared and maintained to evidence such. Also, management should include rules for use of the vehicle to provide transport to other employees and/or non-employees. If vehicles are used to provide commute trips to more than one employee, then the value of the benefit should be reported as income to the employee passengers.

Management Response (Transit):

Transit management will work with staff from Human Resources and Organizational Development (HROD) and Finance and Administration (F&A) to improve current policies and procedures as recommended. This could include incorporating the receipt of policies related to a 24-hour assigned vehicle into the Halogen process similar to other policies, developing an on-line training program to ensure that affected employees receive information regarding rules and requirements associated with a 24-hour vehicle assignment. For reporting purposes associated with the use of the vehicle as a fringe benefit, Transit management will

**ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT
Investigation and Limited Scope Review of Take-Home Vehicle Assignment
April 12, 2018**

work to identify a process that can be used to track this, including the transport of other employees.

Responsible Departments Should Review and Validate Transponder Fee Activity

Current procedures are not adequate to detect misuse of OCTA-issued transponders for personal commutes. Departments responsible for vehicles equipped with transponders do not receive or review the Toll Roads account statements to ensure transactions are valid and authorized.

OCTA maintains a Toll Road account and issues transponders to revenue and non-revenue vehicles for business use. During 2017, a total of \$44,000 in toll road charges were incurred. The toll road account is linked to a purchasing card held by a senior analyst (analyst) within the Maintenance Department of Transit.

The analyst receives the Toll Roads statement of charges and spends approximately six hours each month reconciling the account and manually segregating amounts by charge code based on the department that incurred the charges. For example, some transponders are assigned to revenue vehicles that utilize the toll road and these charges are attributed to Bus Operations. Other transponders are assigned to Transit Police Services within the Security and Emergency Preparedness Department. Still other transponders are assigned to non-revenue vehicles, and the analyst responsible for reviewing the transactions is not in a position to scrutinize the appropriateness of these assignments or related usage. Managers responsible for the vehicles assigned the transponders do not receive or review any of the toll road fee data.

Recommendation 2:

Internal Audit recommends that management revise procedures and require responsible departments to review and validate toll road fee charges and transponder assignments for appropriateness.

Management Response (Transit):

Transit management will implement this recommendation.

Training and Oversight of Mileage Log Reporting Should be Implemented

OCTA did not begin reporting the value of the fringe benefit received by the employee under investigation, as required by IRS rules, until several months after the assignment of the vehicle.

Under IRS rules, employers must report the value of fringe benefits, such as take-home vehicles, as income to the employee. To comply with this requirement, OCTA uses the IRS Commuting Rule, which allows the employer to multiply each one-way commute by

**ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT
Investigation and Limited Scope Review of Take-Home Vehicle Assignment
April 12, 2018**

\$1.50 to arrive at a value for the benefit. To use this method, the employee must maintain a record of commute trips.

Employees assigned a take-home vehicle are provided a mileage log form on which to report daily trip activity; however, there is no corresponding written procedures and/or training as to how to properly complete the mileage log form. Review of a sample of mileage logs identified instances of employees not accurately recording commute activities.

Recommendation 3:

Internal Audit recommends management develop and distribute written procedures for mileage log reporting and offer training to employees required to report. Transit staff responsible for collecting the mileage logs should scan the logs for obvious mistakes.

Management Response (Transit):

Transit management will implement this recommendation.

Additional Commuter Club System Access Controls Should be Implemented

The Commuter Club system can be set to prevent access by employees who are not eligible to participate in the program; however, this feature is not currently used.

The Commuter Club is an OCTA employee benefit program that allows employees to earn cash rewards and/or paid days off for carpooling or using other, alternative modes of transportation to get to work. Commuter Club participants register and track commute activities through a web-based system. The Commuter Club Policy does not allow employees assigned take-home vehicles to participate in the program.

Recommendation 4:

Internal Audit recommends that management implement procedures to prevent system access by employees who are ineligible to participate in the Commuter Club.

Management Response (F&A):

Management agrees with the recommendation and has already implemented procedures to address this recommendation. The Commuter Club Administrator worked with the Information System Department and was able to use a function in the software that prevents specific employees from using the Commuter Club. As of March 22, 2018, employees assigned a take home vehicle are no longer able to access the Commuter Club.



April 25, 2018

To: Finance and Administration Committee
From: Darrell E. Johnson, Chief Executive Officer
Subject: Local Agency Investment Fund - March 2018

Overview

The Orange County Transportation Authority invests a portion of its liquid portfolio in the State of California Local Agency Investment Fund. Each month, the State Treasurer's office publishes a report detailing the composition of the pool. The attached summary statements from the report are for the month ending March 31, 2018. The report has been reviewed and is consistent with the investment practices of the State Treasurer's Office.

Recommendation

Receive and file as an information item.

Discussion

As of March 31, 2018, the fair value including accrued interest of the Pooled Money Investment Account (PMIA) was \$75,021,981,682 with an average monthly effective yield of 1.52 percent and a month-end weighted average maturity of 183 days. The Local Agency Investment Fund (LAIF) is a component of the State of California PMIA. The month-end balance of LAIF was \$21,204,531,421. The Orange County Transportation Authority's month-end balance in LAIF was \$10,336,469.

The average monthly effective Yield is the average of the daily yield for the month. The yield is the income return on an investment, such as the interest received from holding a particular security. The yield is usually expressed as an annual percentage rate based on the investment's cost and current market value.

Summary

The Orange County Transportation Authority is submitting a copy of the Local Agency Investment Fund statements and summary reports to the Finance and Administration Committee. The statements are for the month ending March 31, 2018.

Attachment

A. Local Agency Investment Fund – As of March 31, 2018

Prepared by:



Rodney Johnson
Deputy Treasurer
Treasury/Public Finance
(714) 560-5675

Approved by:



Andrew Oftelie
Executive Director,
Finance and Administration
(714) 560-5649

Local Agency Investment Fund
P.O. Box 942809
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www.treasurer.ca.gov/pmia-laif/laif.asp
April 13, 2018

ORANGE COUNTY TRANSPORTATION AUTHORITY

MANAGER, TREASURY/PUBLIC FINANCE
550 SOUTH MAIN STREET
P.O. BOX 14184
ORANGE, CA 92613-1584

PMIA Average Monthly Yields

Account Number:
80-30-001

Tran Type Definitions

March 2018 Statement

Account Summary

Total Deposit:	0.00	Beginning Balance:	10,336,469.36
Total Withdrawal:	0.00	Ending Balance:	10,336,469.36



**JOHN CHIANG
TREASURER
STATE OF CALIFORNIA**



PMIA Performance Report

Date	Daily Yield*	Quarter to Date Yield	Average Maturity (in days)
03/11/18	1.50	1.40	177
03/12/18	1.50	1.40	178
03/13/18	1.51	1.40	177
03/14/18	1.51	1.40	176
03/15/18	1.52	1.40	176
03/16/18	1.53	1.40	176
03/17/18	1.53	1.41	176
03/18/18	1.53	1.41	176
03/19/18	1.53	1.41	176
03/20/18	1.54	1.41	175
03/21/18	1.54	1.41	174
03/22/18	1.55	1.41	178
03/23/18	1.56	1.42	180
03/24/18	1.56	1.42	180
03/25/18	1.56	1.42	180
03/26/18	1.56	1.42	176
03/27/18	1.57	1.42	175
03/28/18	1.57	1.42	177
03/29/18	1.58	1.43	179
03/30/18	1.59	1.43	183
03/31/18	1.59	1.43	183
04/01/18	1.59	1.59	183
04/02/18	1.60	1.60	190
04/03/18	1.60	1.60	190
04/04/18	1.61	1.60	188
04/05/18	1.61	1.60	187
04/06/18	1.62	1.61	185
04/07/18	1.62	1.61	185
04/08/18	1.62	1.61	185
04/09/18	1.62	1.61	186
04/10/18	1.63	1.61	184

*Daily yield does not reflect capital gains or losses

[View Prior Month Daily Rates](#)

LAIF Performance Report

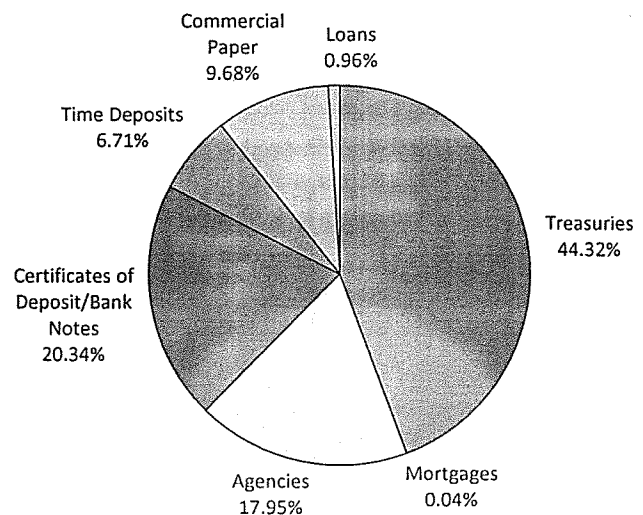
Quarter Ending 12/31/17

Apportionment Rate: 1.20%
 Earnings Ratio: .00003301121703481
 Fair Value Factor: 0.998093529
 Daily: 1.30%
 Quarter to Date: 1.18%
 Average Life: 186

**PMIA Average Monthly
Effective Yields**

Mar 2018 1.524
 Feb 2018 1.412
 Jan 2018 1.350

**Pooled Money Investment Account
Portfolio Composition
03/31/18
\$75.0 billion**



Based on data available as of 4/10/2018



State of California

Pooled Money Investment Account

Market Valuation

3/31/2018

Description		Carrying Cost Plus			Accrued Interest
		Accrued Interest Purch.	Amortized Cost	Fair Value	
1*	United States Treasury:				
	Bills	\$ 13,168,305,302.64	\$ 13,234,864,134.73	\$ 13,222,380,000.00	NA
	Notes	\$ 20,061,143,353.89	\$ 20,057,667,338.99	\$ 19,930,705,000.00	\$ 47,380,533.00
1*	Federal Agency:				
	SBA	\$ 867,145,314.00	\$ 867,088,008.74	\$ 856,981,629.70	\$ 1,270,724.33
	MBS-REMICs	\$ 31,003,570.83	\$ 31,003,570.83	\$ 31,753,574.99	\$ 145,081.69
	Debentures	\$ 1,363,946,135.19	\$ 1,363,919,399.07	\$ 1,353,611,900.00	\$ 2,644,921.75
	Debentures FR	\$ -	\$ -	\$ -	\$ -
	Debentures CL	\$ 350,000,000.00	\$ 350,000,000.00	\$ 345,893,500.00	\$ 689,278.50
	Discount Notes	\$ 10,376,049,638.66	\$ 10,419,274,485.93	\$ 10,413,696,000.00	NA
1*	Supranational Debentures	\$ 449,199,891.07	\$ 449,199,891.07	\$ 446,463,500.00	\$ 687,154.00
1*	Supranational Debentures FR	\$ 50,000,000.00	\$ 50,000,000.00	\$ 50,061,500.00	\$ 189,741.67
2*	CDs and YCDs FR	\$ 425,000,000.00	\$ 425,000,000.00	\$ 425,000,000.00	\$ 1,320,201.70
2*	Bank Notes	\$ 900,000,000.00	\$ 900,000,000.00	\$ 898,914,388.05	\$ 3,624,888.87
2*	CDs and YCDs	\$ 13,925,000,000.00	\$ 13,925,000,000.00	\$ 13,916,261,691.08	\$ 47,875,722.25
2*	Commercial Paper	\$ 7,257,225,888.87	\$ 7,279,648,291.66	\$ 7,276,043,749.97	NA
1*	Corporate:				
	Bonds FR	\$ -	\$ -	\$ -	\$ -
	Bonds	\$ -	\$ -	\$ -	\$ -
1*	Repurchase Agreements	\$ -	\$ -	\$ -	\$ -
1*	Reverse Repurchase	\$ -	\$ -	\$ -	\$ -
	Time Deposits	\$ 5,031,740,000.00	\$ 5,031,740,000.00	\$ 5,031,740,000.00	NA
	AB 55 & GF Loans	\$ 716,647,000.00	\$ 716,647,000.00	\$ 716,647,000.00	NA
	TOTAL	\$ 74,972,406,095.15	\$ 75,101,052,121.02	\$ 74,916,153,433.79	\$ 105,828,247.76

Fair Value Including Accrued Interest

\$ 75,021,981,681.55

* Governmental Accounting Standards Board (GASB) Statement #72

Repurchase Agreements, Time Deposits, AB 55 & General Fund loans, and Reverse Repurchase agreements are carried at portfolio book value (carrying cost).

The value of each participating dollar equals the fair value divided by the amortized cost (0.997538001). As an example: if an agency has an account balance of \$20,000,000.00, then the agency would report its participation in the LAIF valued at \$19,950,760.03 or \$20,000,000.00 x 0.997538001.



April 25, 2018

To: Finance and Administration Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Orange County Treasurer's Management Report March - 2018

Overview

The Orange County Transportation Authority invests a portion of its liquid portfolio in the Orange County Investment Pool. Each month, the Orange County Treasurer publishes a comprehensive report detailing the composition of the pool and the prevailing economic and market conditions. The attached Treasurer's Management Report for the Orange County Investment Pool is for the month ending March 31, 2018. The report has been reviewed and is consistent with the investment practices of the Orange County Treasurer.

Recommendation

Receive and file as an information item.

Discussion

As of March 31, 2018, the book value of the Orange County Investment Pool (OCIP) Money Market Fund was \$1,465,655,752 with a monthly gross yield of 1.41 percent and a month-end average days to maturity of 46 days. The OCIP Extended Fund book value was \$6,696,429,969 with a monthly gross yield of 1.40 percent and a month-end average days to maturity of 415 days. The Orange County Transportation Authority's month-end balance in the OCIP was \$21,530,142; the combined pool had a monthly gross yield of 1.40 percent and month-end average days to maturity of 301 days.

The monthly gross yield is the average of the Daily Yield for the month. The yield is the income return on an investment, such as the interest received from holding a particular security. The yield is usually expressed as an annual percentage rate based on the investment's cost and current market value.

During February there were no changes to the Treasurer's Approved Issuer List. Both the Money Market Fund and the Extended Fund were in compliance at

month-end. Pages 26 through 96 containing investment inventory are not included in the attachment. Copies of OCIP's investment inventory reports are available upon request.

Summary

The Orange County Transportation Authority is submitting a copy of the Orange County Treasurer's Management Report to the Finance and Administration Committee. The report is for the month ending March 31, 2018.

Attachment

A. Treasurer's Monthly Investment Report – March 31, 2018

Prepared by:



Rodney Johnson
Deputy Treasurer
Treasury/Public Finance
(714) 560-5675

Approved by:



Andrew Oftelie
Executive Director,
Finance and Administration
(714) 560-5649

Treasurer's Monthly **INVESTMENT** MARCH 2018 **REPORT**

From the Office of
SHARI L. FREIDENRICH, CPA, CCMT, CPFA, ACPFIM
Orange County Treasurer



COUNTY OF ORANGE

TREASURER'S INVESTMENT REPORT
For March 31, 2018

Table of Contents

I.	Memo to Board of Supervisors-Executive Summary	3
II.	Investment Pool Summary, Statistics and Charts, Fund Composition, Top Ten Participants	5
III.	Investment Objectives	12
	- <i>Safety - Investment Type/Credit Quality/Issuer Concentration/Issuer List</i>	
	- <i>Liquidity - Maturities Distribution</i>	
	- <i>Yield - Interest Rate Yield</i>	
IV.	Cash Availability Projection per California Government Code Section 53646(b)(3)	21
V.	Statement of Accountability	22
VI.	Investment Policy and Treasury Oversight Committee (TOC) Bylaws Compliance Summary	23
	- <i>Investment Policy Compliance Summary</i>	
	- <i>Investment Policy and TOC Bylaws Compliance Summary</i>	
	- <i>Noncompliance Detail</i>	
VII.	Portfolio Investment Inventory with Market Values	26
	- <i>Extended Fund, County and Educational Money Market Funds</i>	
	- <i>John Wayne Airport Investment Pool/Non-pooled Investments</i>	
	- <i>Investments with Trustees - CEO/Public Finance</i>	
	- <i>Investments with Trustees - John Wayne Airport</i>	
	- <i>Portfolio Holdings of Debt Issued by Pool Participants</i>	
	- <i>Temporary Transfers to School Districts</i>	
VIII.	Detailed Transaction Reports	72
	- <i>Transaction Report by Fund for all Funds</i>	
	- <i>Money Market Mutual Fund and LAIF Transactions</i>	
IX.	Audit Reports	97
	- <i>Report on Review of the Schedule of Assets Held by the County Treasury as of September 30, 2017</i>	
	- <i>Compliance Monitoring of the Treasurer's Investment Portfolio for the Quarter Ended December 31, 2017</i>	
X.	Distribution List	125




OFFICE OF THE TREASURER-TAX COLLECTOR
SHARI L. FREIDENRICH, CPA, CCMT, CPFA, ACPFIM



INTERDEPARTMENTAL COMMUNICATION

Date: April 17, 2018

To: Supervisor Andrew Do, Chairman
Supervisor Shawn Nelson, Vice-Chairman
Supervisor Michelle Steel
Supervisor Todd Spitzer
Supervisor Lisa Bartlett

From: Shari L. Freidenrich, CPA, CCMT, CPFA, ACPFIM 
Subject: Treasurer's Investment Report for the Month Ended March 31, 2018

Attached please find the Treasurer's Investment Report for the County of Orange for the month ended March 31, 2018. The County Treasurer provides this report in compliance with California Government Code Sections 53607, 53646, and 27134 and the County's Investment Policy Statement (IPS). We have included some charts and other data for your information including charts on fund composition and the top ten pool participants. This report is also publicly available on our website at ocgov.com/ocinvestments.

INVESTMENT POOL COMPOSITION

The investments contained within this report are as of March 31, 2018. The Investment Pool Statistics summary shows the total investment responsibility of the County Treasurer as delegated by the Board of Supervisors: the Orange County Investment Pool (OCIP) that includes the Voluntary Participants' funds, the Orange County Educational Investment Pool (OCEIP), the John Wayne Airport Investment Fund and various other non-Pooled investment funds. The investment practices and policies of the Treasurer are based on compliance with State law and prudent money management. The primary goal is to invest public funds in a manner which will provide maximum security of principal invested with secondary emphasis on providing adequate liquidity to Pool Participants and lastly to achieve a market rate of return within the parameters of prudent risk management while conforming to all applicable statutes and resolutions governing the investment of public funds. The County's IPS was certified by the California Municipal Treasurers Association (CMTA) on March 20, 2018 for meeting the standards set forth by CMTA.

The County Treasurer established three Money Market Funds, the Orange County Money Market Fund, the Orange County Educational Money Market Fund, and the John Wayne Airport Investment Fund, which all are invested in cash-equivalent securities and provide liquidity for immediate cash needs. Standard & Poor's, on March 6, 2017, reaffirmed their highest rating of AAAM on the Orange County and the Educational Money Market Funds. The County Treasurer also established the Extended Fund that is invested to meet cash needs between one and five years out. The Orange County Investment Pool is comprised of the Orange County Money Market Fund and portions of the Extended Fund. The Orange County Educational Investment Pool is comprised of the Orange County Educational Money Market Fund and portions of the Extended Fund.

The maximum maturity of investments for the Orange County and Educational Money Market Funds is 13 months, with a maximum weighted average maturity (WAM) of 60 days, and they have a current WAM of 46 and 49, respectively. The maximum maturity of investments for the John Wayne Airport Investment Fund is 15 months, with a maximum WAM of 90 days, and a current WAM of 86. The maximum maturity of the Extended Fund is five years, with duration not to exceed the Merrill Lynch 1-3 Year index +25% (2.31), and the duration is currently at 1.12. The investments in all of the funds are marked to market daily to determine the value of the funds. To further maintain safety, adherence to an investment strategy of only purchasing top-rated securities and diversification of instrument types and maturities is required.

ECONOMIC UPDATE

In March 2018, the job market added 103,000 new jobs, and February's job numbers were revised upward by 13,000 to 326,000. The U.S. unemployment rate for March remained unchanged at 4.1%. The U.S. Gross Domestic Product fourth

Mission: Ensure safe and timely receipt, deposit, collection and investment of public funds.

quarter rate increased from the prior reported rate of 2.5% to 2.9%. The Empire State Manufacturing Index increased to 22.5 from 13.1 in February, while the Philadelphia Fed Index decreased to 22.3 from 25.8 in February. The Federal Reserve uses these indexes as regional economic gauges, and a reading above zero signals economic expansion. With respect to housing, S&P/CaseShiller reported that housing prices continue to show positive momentum as year-over-year prices increased for the sixty-ninth consecutive month in January, up 6.18% from a year ago. The index for pending home sales decreased 4.4% on a year-over-year basis in February. On March 21, 2018, the Federal Open Markets Committee (FOMC) raised the benchmark Federal Funds rate by 0.25 percent resulting in a new target range of 1.50 percent to 1.75 percent.

The 10-year Treasury rate fell from 2.87% in February to 2.74% in March. The short-term 90-day T-bill ended the month at 1.73%, up from 1.65% in February. The rate on the 2-year Treasury note was 2.27% at the end of March, up from 2.25% in February.

INVESTMENT INTEREST YIELDS AND FORECAST

The current gross interest yield year-to-date for fiscal year 2017/2018 is 1.20% for both the OCIP and the OCEIP. The current net yield for fiscal year 2017/2018 for both OCIP and OCEIP is 1.14%. The revised forecasted gross and net yields for fiscal year 2017/2018 for both OCIP and OCEIP are 1.24% and 1.18%, respectively.

APPORTIONMENT OF COMMINGLED POOL INTEREST EARNINGS

Each month, the County Treasurer apportions the accrued interest earnings to each pool participant. As of the first business day of the following month accrued, but unpaid, interest earnings are added to pool participants' average balances in determining a participant's relative share of the pool's monthly earnings. The actual cash distribution will generally be paid in the month following. The March 2018 interest earnings are expected to be paid in May 2018. The investment administrative fee for fiscal year 2017/2018 is estimated at 6.0 basis points.

TEMPORARY TRANSFERS

The County Treasurer, as required by Constitution Article XVI, Section 6, and per the Board of Supervisor's Resolution 15-016, is authorized to make temporary transfers to school districts to address their short-term cash flow needs. The loans are secured by tax receipts to be received by the County Treasurer, as the banker for the school districts. There are no temporary transfers outstanding as of March 31, 2018.

PORTFOLIO HOLDINGS OF DEBT ISSUED BY POOL PARTICIPANTS

Under guidelines outlined in the current IPS, the County Treasurer may invest in "A" or above rated securities issued by municipalities. Municipal debt issued by the County of Orange is exempt from this credit rating requirement. The Investment Pools may invest no more than 5% of individual pool assets in any one issuer, with the exception of the County of Orange which has a 10% limit. The Investment Pools have a total market value of \$551 million in County of Orange debt, which represents approximately 5.9% of total pooled assets. Prior to purchasing any pool participant debt, a standardized credit analysis is performed.

COMPLIANCE SUMMARY

The investment portfolios had no compliance exceptions for the month of March 2018. The Auditor-Controller issued their report on Review of the Schedule of Assets Held by the County Treasury (Schedule) as of September 30, 2017 stating that they were not aware of any material modification that should be made to the Schedule prepared on a modified cash-basis of accounting except for the omission of all disclosures. The County Treasurer's current practice is to prepare all required disclosures only in the Schedule for each fiscal year-end and not for the quarterly reviews. Finally, the Auditor-Controller issued their report on Compliance Monitoring of the Treasurer's Investment Portfolio for the Quarter Ended December 31, 2017, which stated that no instances of noncompliance were identified.

CREDIT UPDATE

During March there were no changes to the Treasurer's Approved Issuer List. An ongoing credit analysis of all issuers owned in the Investment Pools is reviewed on a daily, monthly, quarterly, and annual basis.

I certify that this report includes all pooled and non-pooled investments as of March 31, 2018 and is in conformity with all State laws and the IPS approved by the Board of Supervisors on November 14, 2017. The investments herein shown provide adequate liquidity to meet the next six months of projected cash flow requirements. I am available if you have any questions on this Investment Report at (714) 834-7625.

Enclosures

cc: Distribution List

ORANGE COUNTY TREASURER-TAX COLLECTOR

SUMMARY OF INVESTMENT DATA

INVESTMENT TRENDS

	MARCH 2018	FEBRUARY 2018	INCREASE (DECREASE)	NET CHANGE %	MARCH 2017	INCREASE (DECREASE)	NET CHANGE %
<u>Orange County Investment Pool (OCIP)</u>							
End Of Month Market Value ¹	\$ 4,710,391,312	\$ 4,636,281,080	\$ 74,110,232	1.60%	\$ 4,618,257,699	\$ 92,133,613	1.99%
End Of Month Book Value ¹	\$ 4,731,135,231	\$ 4,657,503,841	\$ 73,631,390	1.58%	\$ 4,625,013,477	\$ 106,121,754	2.29%
Monthly Average Balance	\$ 4,567,508,436	\$ 4,521,249,420	\$ 46,259,016	1.02%	\$ 4,268,775,988	\$ 298,732,448	7.00%
Year-To-Date Average Balance	\$ 4,360,844,485	\$ 4,335,011,492	\$ 25,832,994	0.60%	\$ 4,017,941,038	\$ 342,903,447	8.53%
Monthly Accrued Earnings ³	\$ 5,430,359	\$ 4,923,407	\$ 506,952	10.30%	\$ 3,303,437	\$ 2,126,922	64.39%
Monthly Net Yield ³	1.34%	1.36%	-0.03%	-1.83%	0.85%	0.49%	58.34%
Year-To-Date Net Yield ³	1.14%	1.11%	0.03%	2.42%	0.76%	0.38%	50.49%
Annual Estimated Gross Yield ⁴	1.24%	1.24%	0.00%	0.00%	0.87%	0.37%	42.86%
Weighted Average Maturity (WAM) ⁵	301	313	(12)	-3.83%	333	(32)	-9.61%
<u>Orange County Educational Investment Pool (OCEIP)</u>							
End Of Month Market Value ¹	\$ 4,557,670,951	\$ 4,681,617,960	\$ (123,947,009)	-2.65%	\$ 4,277,435,171	\$ 280,235,780	6.55%
End Of Month Book Value ¹	\$ 4,580,244,594	\$ 4,704,350,049	\$ (124,105,455)	-2.84%	\$ 4,284,742,978	\$ 295,501,616	6.90%
Monthly Average Balance ²	\$ 4,697,032,453	\$ 4,822,854,870	\$ (125,822,417)	-2.61%	\$ 4,072,422,938	\$ 624,609,515	15.34%
Year-To-Date Average Balance ²	\$ 4,544,437,545	\$ 4,525,363,182	\$ 19,074,363	0.42%	\$ 4,000,160,993	\$ 544,276,552	13.61%
Monthly Accrued Earnings ³	\$ 5,664,112	\$ 5,299,430	\$ 364,682	6.88%	\$ 3,296,030	\$ 2,368,082	71.85%
Monthly Net Yield ³	1.35%	1.35%	0.00%	0.15%	0.89%	0.47%	52.65%
Year-To-Date Net Yield ³	1.14%	1.11%	0.03%	2.52%	0.76%	0.38%	50.33%
Annual Estimated Gross Yield ⁴	1.24%	1.24%	0.00%	0.00%	0.87%	0.37%	41.76%
Weighted Average Maturity (WAM) ⁵	323	324	(1)	-0.31%	375	(52)	-13.87%

¹ Market values provided by Bloomberg and Northern Trust. The OCIP and OCEIP market values in February 2018 and March 2018 are slightly lower than book values due to the recent Federal Reserve short-term rate increases, but both have a net asset value of 1.00 and have sufficient liquidity to meet projected cash flow needs.

² OCEIP monthly average balance and year-to-date average balance were higher than the prior year primarily due to the proceeds of school bond issuances totaling \$389M being received late in March 2017, plus a current year increase in school districts secured tax apportionments of \$227 million.

³ In March 2018, the OCIP monthly accrued earnings were higher than prior month primarily due to the Federal Reserve short-term rate increase of 0.25% in March 2018 and a higher pool balance from incoming secured property tax receipts. OCIP and OCEIP monthly accrued earnings, monthly net yields and year-to-date net yields were higher than the prior year primarily due to the three increases in the Federal Reserve short-term rates totaling 0.75% since March 31, 2017.

⁴ The OCIP and OCEIP annual estimated gross yields for March 2017 are reported at the actual annual gross yields for FY 16/17, and their annual estimated gross yields for March 2018 are reported at the revised gross yield forecast of 1.24%. The OCIP and OCEIP annual estimated gross yields for FY 17/18 are higher than FY 16/17 primarily due to increases in the Federal Reserve short-term rates of 0.75% since March 31, 2017.

⁵ The OCEIP WAMs in March 2018 were lower than in March 2017 primarily from purchases of shorter-term securities in the Extended Fund that added more value due to the flattening of the yield curve.

ORANGE COUNTY TREASURER-TAX COLLECTOR
INVESTMENT POOL STATISTICS
FOR THE MONTH AND QUARTER ENDED: March 31, 2018

INVESTMENT STATISTICS - By Investment Pool⁽¹⁾

DESCRIPTION	CURRENT BALANCES	Average Days to Maturity	Daily Yield as of 3/31/2018	MONTHLY Gross Yield	QUARTER Gross Yield	Current NAV
COMBINED POOL BALANCES (includes the Extended Fund)						
Orange County Investment Pool (OCIP)	MARKET Value \$ 4,710,391,312	301	1.47%	1.40%	1.35%	1.00
	COST (Capital) \$ 4,735,313,095					
	MONTHLY AVG Balance \$ 4,567,508,436					
	QUARTERLY AVG Balance \$ 4,587,825,752					
	BOOK Value \$ 4,731,135,231					
Orange County Educational Investment Pool (OCEIP)	MARKET Value \$ 4,557,670,951	323	1.47%	1.41%	1.37%	1.00
	COST (Capital) \$ 4,585,181,848					
	MONTHLY AVG Balance \$ 4,697,032,453					
	QUARTERLY AVG Balance \$ 4,878,623,932					
	BOOK Value \$ 4,580,244,594					

INVESTMENT STATISTICS - Non-Pooled Investments⁽²⁾

DESCRIPTION	CURRENT BALANCE	BOOK BALANCE BY SPECIFIC INVESTMENTS
Specific Investment		
Funds:	MARKET Value \$ 100,989,670	John Wayne Airport Investment Fund 45,951,560
283, 505, FVSD, CCCD	COST (Capital) \$ 101,686,858	Fountain Valley School District Fund 40 34,810,654
	MONTHLY AVG Balance \$ 103,677,213	Repurchase Agreement 1,081,500
	QUARTERLY AVG Balance \$ 96,878,829	CCCD Series 2017E Bonds 19,843,144
	BOOK Value \$ 101,629,550	
		\$ 101,686,858

MONTH END TOTALS

INVESTMENTS & CASH		FUND ACCOUNTING & SPECIFIC INVESTMENTS	
COUNTY MONEY MARKET FUND (OCMMF)			
County Money Market Fund	\$ 1,464,606,132	OCIP	\$ 4,804,890,655
County Cash	69,577,560	OCEIP	4,616,622,981
EXTENDED FUND	6,707,149,827	Specific Investment Funds	101,686,858
EDUCATIONAL MONEY MARKET FUND (OCEMMF)		Non-Pooled Cash	22,897,829
Educational Money Market Fund	1,148,738,984		
Educational Cash	31,441,133		
NON-POOLED INVESTMENTS			
Non-Pooled Investments @ Cost	101,686,858		
Non-Pooled Cash	22,897,829		
	\$ 9,546,098,322		\$ 9,546,098,322

KEY POOL STATISTICS

INTEREST RATE YIELD		WEIGHTED AVERAGE MATURITY (WAM)	
OCMMF - MONTHLY GROSS YIELD	1.41%	OCMMF	46
OCEMMF - MONTHLY GROSS YIELD	1.48%	OCEMMF	49
JOHN WAYNE AIRPORT - MONTHLY GROSS YIELD	1.54%	JOHN WAYNE AIRPORT WAM	86
OCIP - YTD NET YIELD ⁽³⁾	1.14%	LGIP WAM (Standard & Poors)	38
OCEIP - YTD NET YIELD ⁽³⁾	1.14%		
90-DAY T-BILL YIELD - MONTHLY AVERAGE	1.70%		

ORANGE COUNTY TREASURER-TAX COLLECTOR
INVESTMENT POOL STATISTICS
FOR THE MONTH AND QUARTER ENDED: March 31, 2018

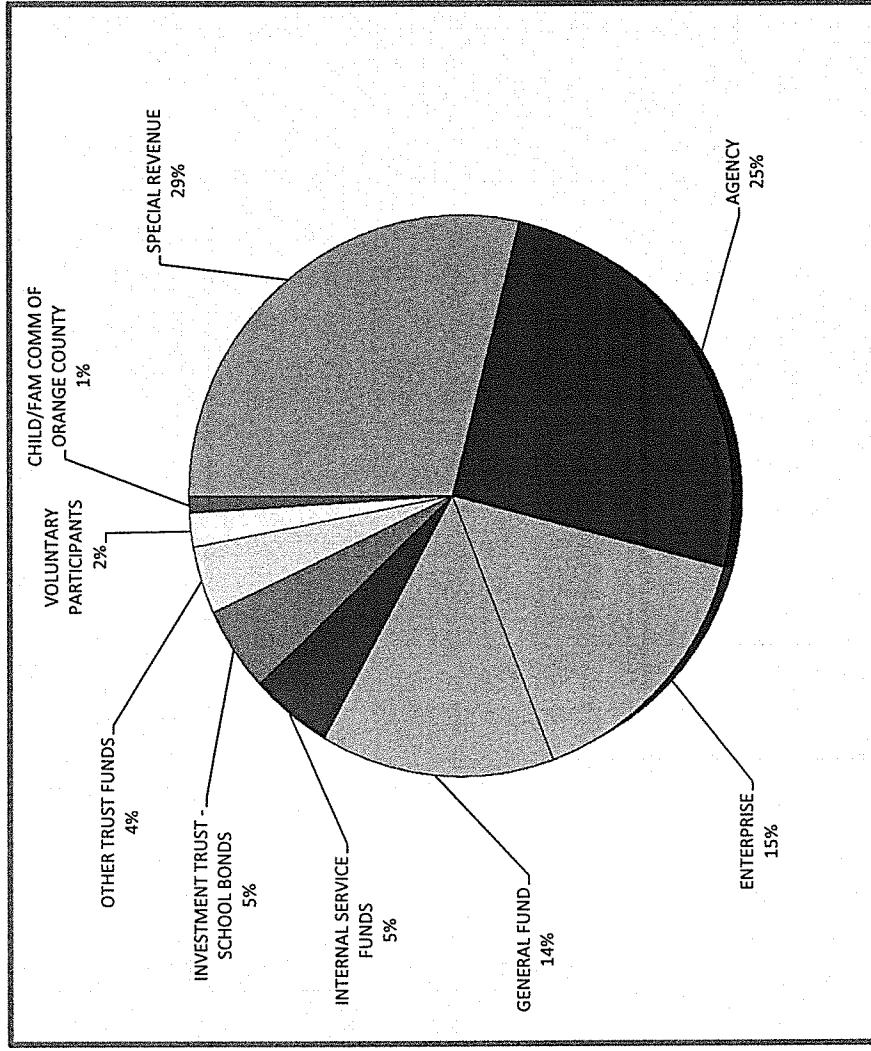
INVESTMENT STATISTICS - By Investment Fund⁽⁴⁾

DESCRIPTION	CURRENT BALANCES	Average Days to Maturity	Daily Yield as of 3/31/2018	MONTHLY Gross Yield	QUARTER Gross Yield	Current NAV
<u>County Money Market Fund (OCMMF)</u>	MARKET Value \$ 1,466,459,327 COST (Capital) \$ 1,464,606,132 MONTHLY AVG Balance \$ 1,299,857,979 QUARTERLY AVG Balance \$ 1,394,999,237 BOOK Value \$ 1,465,655,752	46	1.55%	1.41%	1.31%	1.00
<u>Educational Money Market Fund (OCEMMF)</u>	MARKET Value \$ 1,149,359,827 COST (Capital) \$ 1,148,738,984 MONTHLY AVG Balance \$ 1,260,589,588 QUARTERLY AVG Balance \$ 1,563,746,945 BOOK Value \$ 1,149,294,104	49	1.57%	1.48%	1.38%	1.00
<u>Extended Fund</u>	MARKET Value \$ 6,652,243,109 COST (Capital) \$ 6,707,149,827 MONTHLY AVG Balance \$ 6,704,093,322 QUARTERLY AVG Balance \$ 6,507,703,502 BOOK Value \$ 6,696,429,969	415	1.43%	1.40%	1.37%	0.99
ALLOCATION OF EXTENDED FUND						
<u>Extended Fund</u> <u>OCIP Share</u>	MARKET Value \$ 3,243,931,985 COST (Capital) \$ 3,270,706,963 MONTHLY AVG Balance \$ 3,267,650,457 QUARTERLY AVG Balance \$ 3,192,826,515 BOOK Value \$ 3,265,479,479	415	1.43%	1.40%	1.37%	0.99
<u>OCEIP Share</u>	MARKET Value \$ 3,408,311,124 COST (Capital) \$ 3,436,442,864 MONTHLY AVG Balance \$ 3,436,442,865 QUARTERLY AVG Balance \$ 3,314,876,987 BOOK Value \$ 3,430,950,490	415	1.43%	1.40%	1.37%	0.99
<u>Modified Duration</u>	1.12					

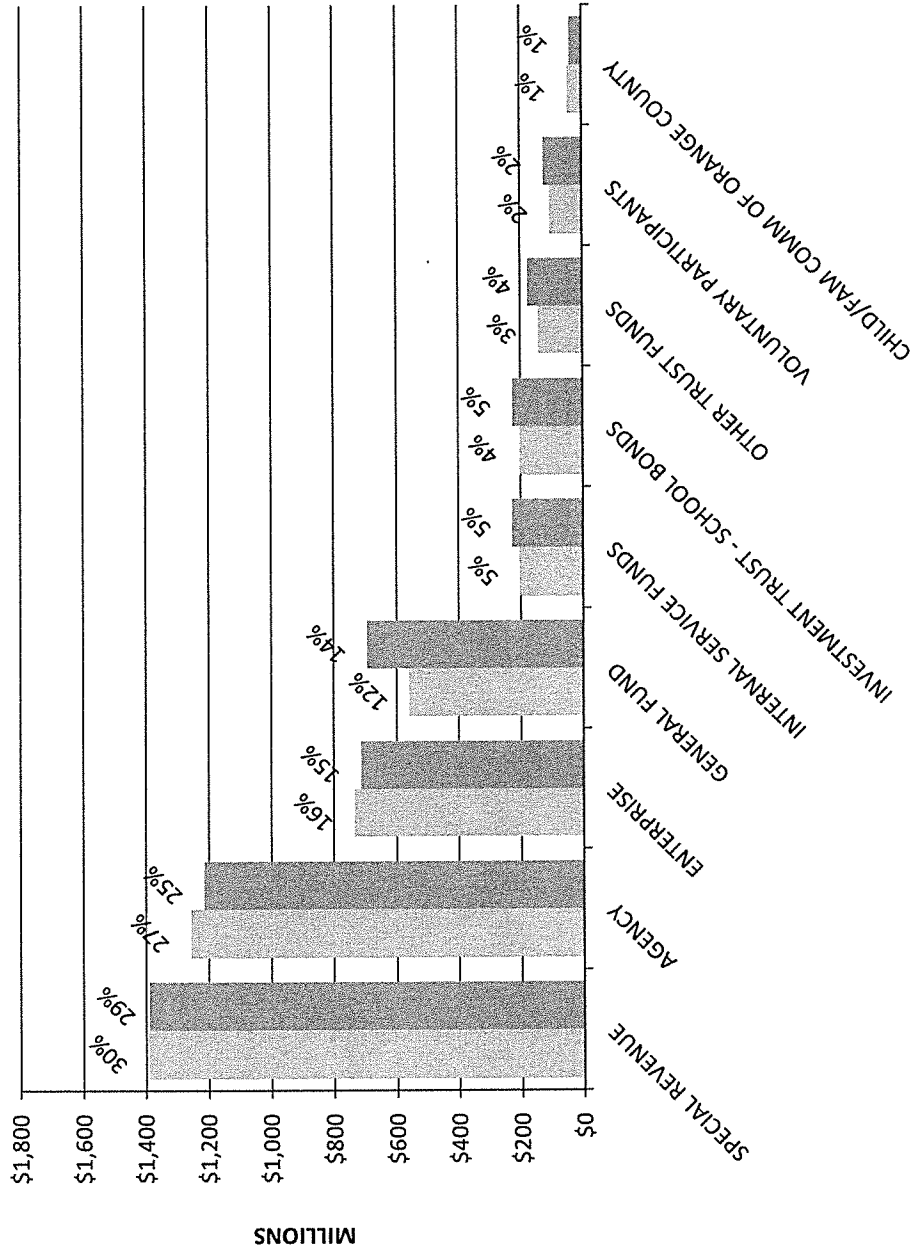
- (1) The Combined Pool Balances include the County and Educational Money Market Funds and their respective portions of the Extended Fund.
- (2) Specific non-pooled investments are reported in compliance with Government Code Section 53646 (b)(1). Detailed descriptions are included in the inventory listing in Section VII of this report.
- (3) The Net Yield differs from the Monthly Gross Yield as it includes the Treasury administrative fees.
- (4) Book Value is computed as Cost reduced by amortization of premium and increased by the accretion of discount of the Investment Portfolio. Net Asset Value (NAV) is equal to Market Value divided by Book Value. The Extended Fund Market Value is lower than Book Value causing the NAV to be lower than 1.00 due to the four Federal Reserve short-term rate increases of 1.00% since 2017. When the Extended Fund is combined with the OCMMF and OCEMMF, both OCIP and OCEIP have a NAV of 1.00.

**ORANGE COUNTY INVESTMENT POOL
COMPOSITION BY FUND
AS OF MARCH 31, 2018**

FUNDS	BALANCE
SPECIAL REVENUE	\$ 1,389,903,768
AGENCY	1,214,940,967
ENTERPRISE	712,986,228
GENERAL FUND	693,867,949
INTERNAL SERVICE FUNDS	226,640,526
INVESTMENT TRUST - SCHOOL BONDS	226,062,807
OTHER TRUST FUNDS	176,846,167
VOLUNTARY PARTICIPANTS	124,305,801
CHILD/FAM COMM OF ORANGE COUNTY	39,336,442
TOTAL	\$ 4,804,890,655



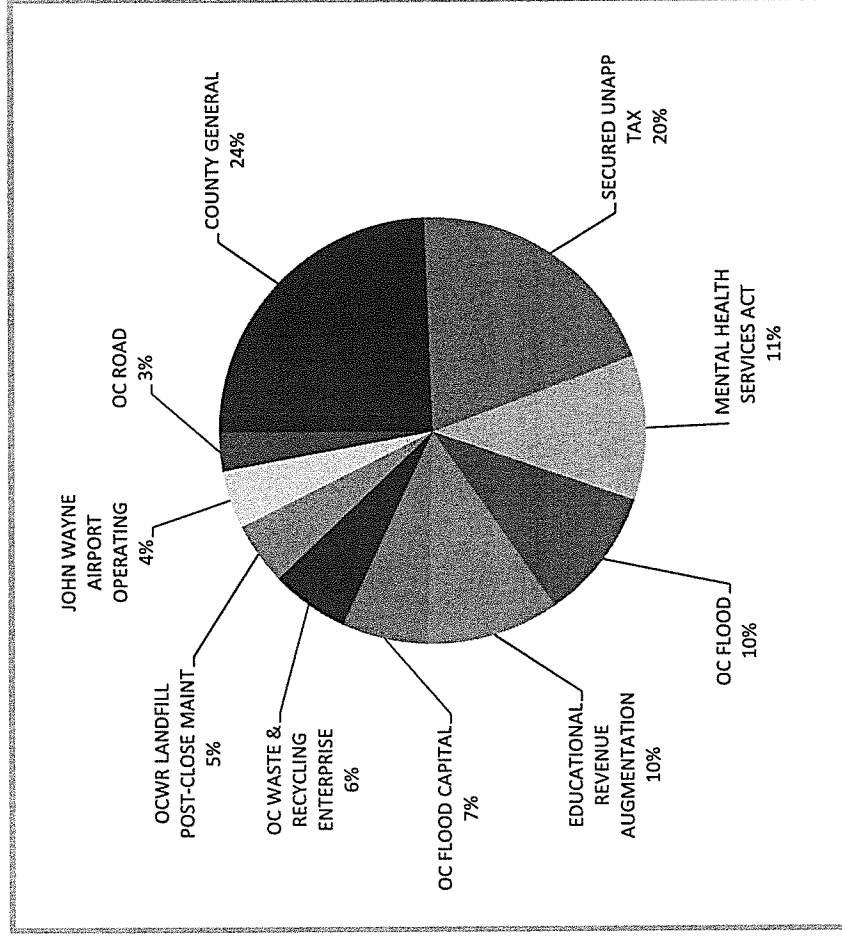
ORANGE COUNTY INVESTMENT POOL
COMPOSITION BY FUND
AS OF MARCH 31



Fund Class

Balance as of 3/31/2017 Balance as of 3/31/2018

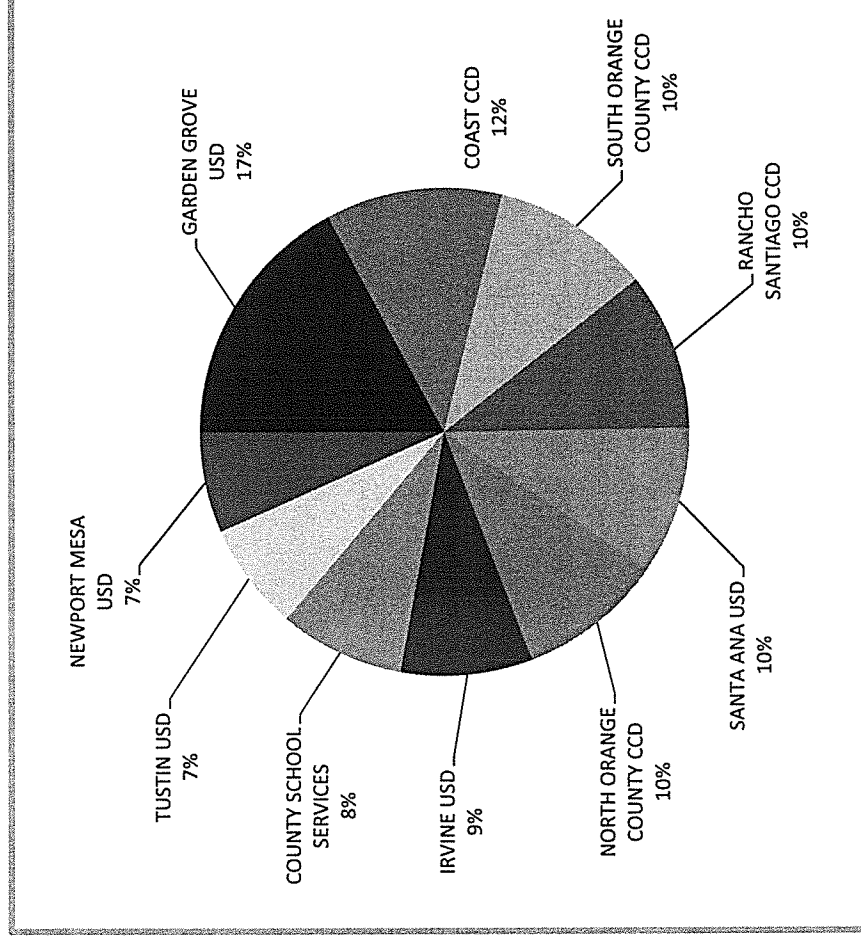
ORANGE COUNTY INVESTMENT POOL
TOP TEN POOL PARTICIPANTS
AS OF MARCH 31, 2018



FUND #	FUND NAME	BALANCE
100	COUNTY GENERAL	\$ 647,382,117
673	SECURED UNAPP TAX	526,756,662
13Y	MENTAL HEALTH SERVICES ACT	291,140,608
400	OC FLOOD	266,774,518
664	EDUCATIONAL REVENUE AUGMENTATION	266,084,648
404	OC FLOOD - CAPITAL	171,854,880
299	OC WASTE & RECYCLING ENTERPRISE	157,352,721
279	OCWR LANDFILL POST-CLOSE MAINT	125,742,913
280	JOHN WAYNE AIRPORT OPERATING	116,845,918
115	OC ROAD	79,557,863
TOTAL		\$ 2,649,472,848

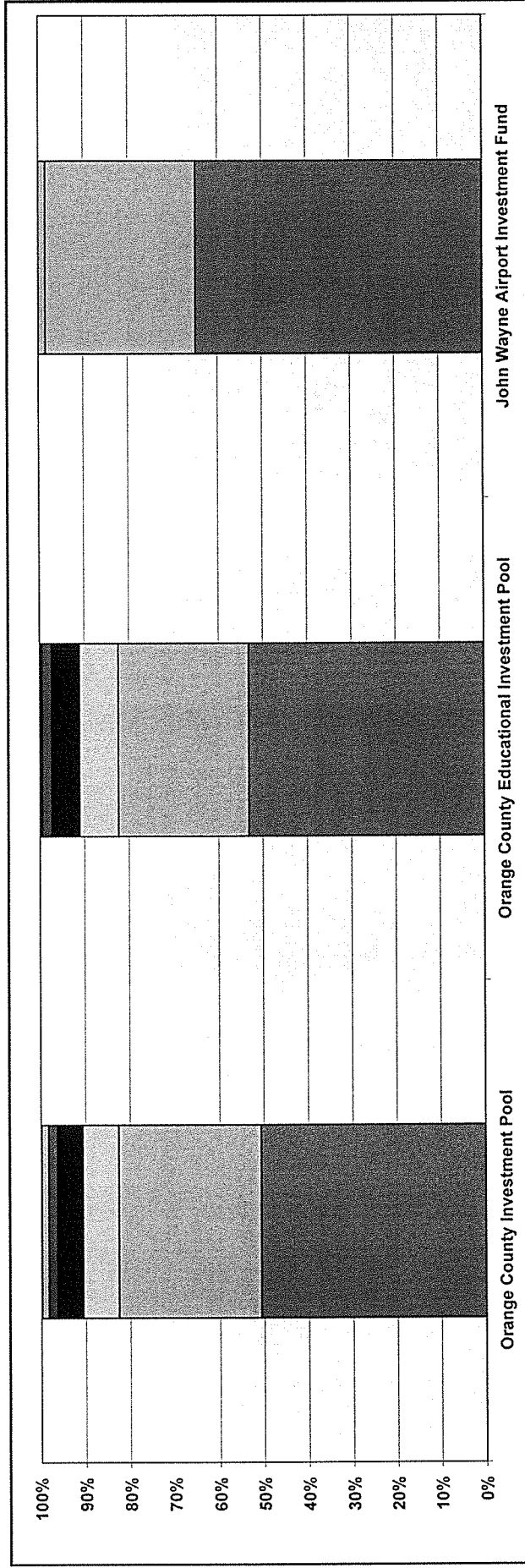
ORANGE COUNTY EDUCATIONAL INVESTMENT POOL TOP TEN POOL PARTICIPANTS AS OF MARCH 31, 2018

DISTRICT #	SCHOOL DISTRICT	BALANCE
72	GARDEN GROVE USD	\$ 505,859,109
90	COAST CCD	345,422,148
96	SOUTH ORANGE COUNTY CCD	309,009,601
92	RANCHO SANTIAGO CCD	306,826,067
84	SANTA ANA USD	287,115,256
88	NORTH ORANGE COUNTY CCD	284,788,133
75	IRVINE USD	257,527,683
94	COUNTY SCHOOL SERVICES	245,188,317
87	TUSTIN USD	211,553,708
78	NEWPORT MESA USD	195,326,578
TOTAL		\$ 2,948,616,600



ORANGE COUNTY TREASURER - TAX COLLECTOR BY INVESTMENT TYPE - By Percentage Holdings

March 31, 2018



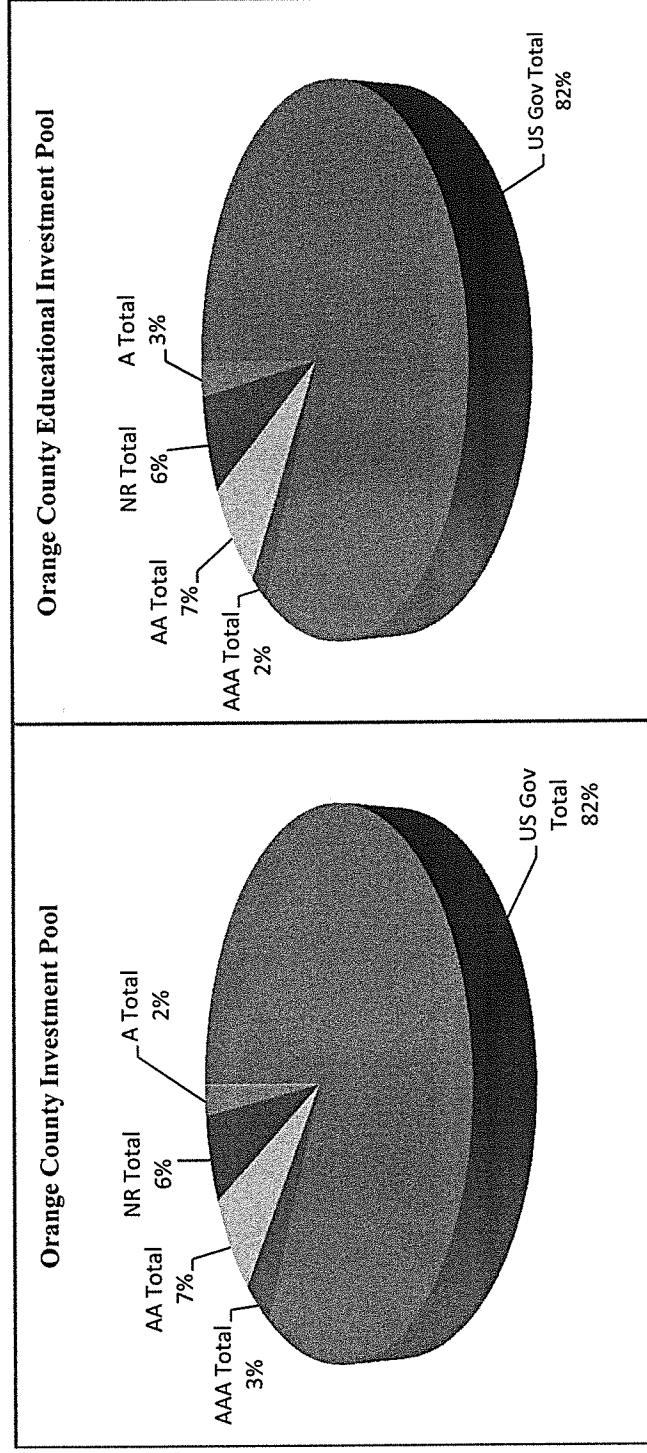
Orange County Investment Pool		
	In Thousands	%
U. S. GOVERNMENT AGENCIES	\$ 2,389,153	50.72%
U. S. TREASURIES	1,503,250	31.91%
MEDIUM-TERM NOTES	373,241	7.92%
MUNICIPAL DEBT	268,684	5.70%
CERTIFICATES OF DEPOSIT	96,680	2.05%
MONEY MARKET MUTUAL FUNDS	71,504	1.53%
LOCAL AGENCY INVESTMENT FUND	7,879	0.17%
	<u>\$ 4,710,391</u>	<u>100.00%</u>

Orange County Educational Investment Pool		
	In Thousands	%
U. S. GOVERNMENT AGENCIES	\$ 2,423,691	53.18%
U. S. TREASURIES	1,331,847	29.22%
MEDIUM-TERM NOTES	392,739	8.63%
MUNICIPAL DEBT	282,298	6.19%
CERTIFICATES OF DEPOSIT	101,579	2.22%
MONEY MARKET MUTUAL FUNDS	17,238	0.38%
LOCAL AGENCY INVESTMENT FUND	8,279	0.18%
	<u>\$ 4,557,671</u>	<u>100.00%</u>

John Wayne Airport Investment Fund		
	In Thousands	%
U. S. GOVERNMENT AGENCIES	\$ 29,830	64.90%
U. S. TREASURIES	15,382	33.47%
MONEY MARKET MUTUAL FUNDS	751	1.63%
	<u>\$ 45,963</u>	<u>100.00%</u>

Calculated Using Market Value at 3/31/2018

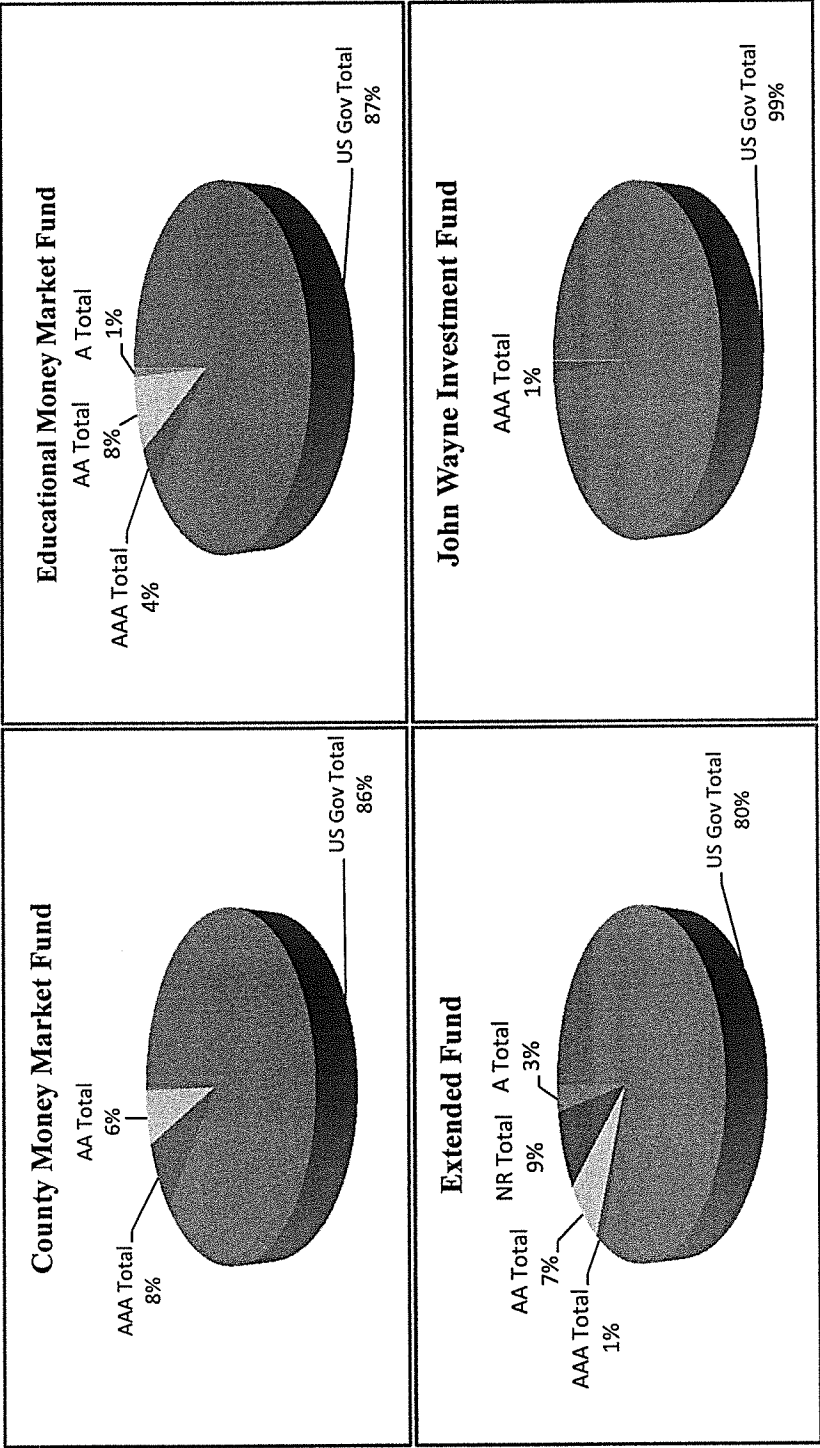
ORANGE COUNTY TREASURER - TAX COLLECTOR **CREDIT QUALITY BY MARKET VALUE** **March 31, 2018**



US GOV Includes Agency & Treasury Debt
 AA includes AA+, AA-, & AA
 A includes A+, A-, & A
 NR Includes LAIF and Orange County Pension Obligation Bonds

ORANGE COUNTY TREASURER - TAX COLLECTOR CREDIT QUALITY BY MARKET VALUE

March 31, 2018



US GOV Includes Agency & Treasury Debt

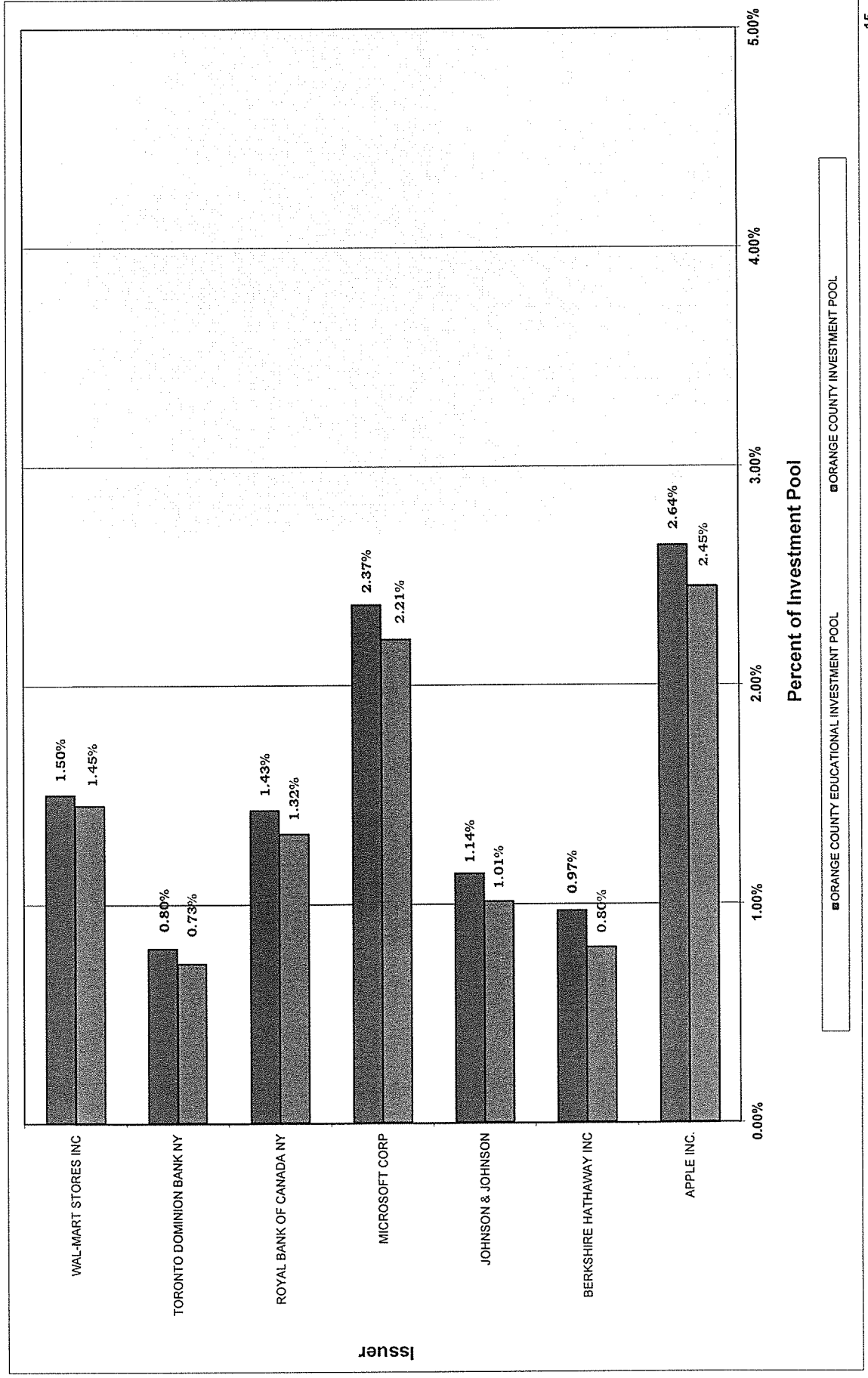
AA includes AA+, AA-, & AA

A includes A+, A-, & A

NR Includes LAIF and Orange County Pension Obligation Bonds

ORANGE COUNTY TREASURER - TAX COLLECTOR
MEDIUM-TERM NOTES / CERTIFICATES OF DEPOSIT
ISSUER CONCENTRATION-By Investment Pool

March 31, 2018



ORANGE COUNTY TREASURER-TAX COLLECTOR
APPROVED ISSUER LIST - OCIP, OCEIP, and JWA
 March 31, 2018

ISSUER	S/T RATINGS			L/T RATINGS		
	S&P	Moody's	Fitch	S&P	Moody's	Fitch
U.S. TREASURY SECURITIES						
U.S. GOVERNMENT	A-1+	P-1	F1+	AA+	Aaa	AAA
U.S. GOVERNMENT AGENCY SECURITIES						
FEDERAL NATIONAL MORTGAGE ASSOCIATION	A-1+	P-1	F1+	AA+	Aaa	AAA
FEDERAL HOME LOAN MORTGAGE CORPORATION	A-1+	P-1	F1+	AA+	Aaa	AAA
FEDERAL HOME LOAN BANKS	A-1+	P-1	NR	AA+	Aaa	NR
FEDERAL FARM CREDIT BANKS	A-1+	P-1	F1+	AA+	Aaa	AAA
MEDIUM-TERM NOTES						
APPLE INC	A-1+	P-1	NR	AA+	Aa1	NR
JOHNSON & JOHNSON	A-1+	P-1	F1+	AAA	Aaa	AAA
MICROSOFT CORPORATION	A-1+	P-1	F1+	AAA	Aaa	AA+
WAL-MART STORES INC	A-1+	P-1	F1+	AA	Aa2	AA
BERKSHIRE HATHAWAY INC *	A-1+	P-1	NR	AA	Aa2	A+
BERKSHIRE HATHAWAY FINANCE *	NR	NR	NR	NR	Aa2	A+
ISSUERS ON HOLD						
ROYAL BANK OF CANADA NY (JULY, 2016) **	A-1+	P-1	F1+	AA-	A1	AA
TORONTO DOMINION BANK NY (MARCH, 2017) ***	A-1+	P-1	F1+	AA-	Aa2	AA-
MUNICIPAL BONDS						
ORANGE CNTY CA PENSION OBLG 2017 A	NR	NR	NR	NR	NR	NR
ORANGE CNTY CA PENSION OBLG 2018 A	NR	NR	NR	NR	NR	NR
STATE POOL - LOCAL AGENCY INVESTMENT FUND						
LOCAL AGENCY INVESTMENT FUND	NR	NR	NR	NR	NR	NR
MONEY MARKET MUTUAL FUNDS ****						
NAME OF FUND	S & P	Moody's	Fitch			
INVESCO GOVERNMENT & AGENCY SHORT-TERM INVESTMENTS TRUST (AIM)	AAAm	Aaa-mf	AAAmf			
GOLDMAN SACHS FINANCIAL SQUARE GOVT FUND	AAAm	Aaa-mf	NR			
MORGAN STANLEY INSTITUTIONAL LIQUIDITY FUNDS - GOVT	AAAm	Aaa-mf	NR			
NORTHERN INSTITUTIONAL TREASURY PORTFOLIO	AAAm	NR	NR			

* Further purchase restrictions apply due to Investment Policy Statement rating limits.

** Moody's downgraded its L/T Rating from Aa3 to A1 on May 10, 2017 and kept the issuer rating Outlook on Negative. On Negative Outlook (S&P - June 6, 2016).

*** Moody's downgraded its L/T Rating from Aa1 to Aa2 on May 10, 2017 and kept the issuer rating Outlook on Negative.

**** All money market funds are institutional money market funds investing in debt issued or guaranteed by the U.S. Government and its agencies.

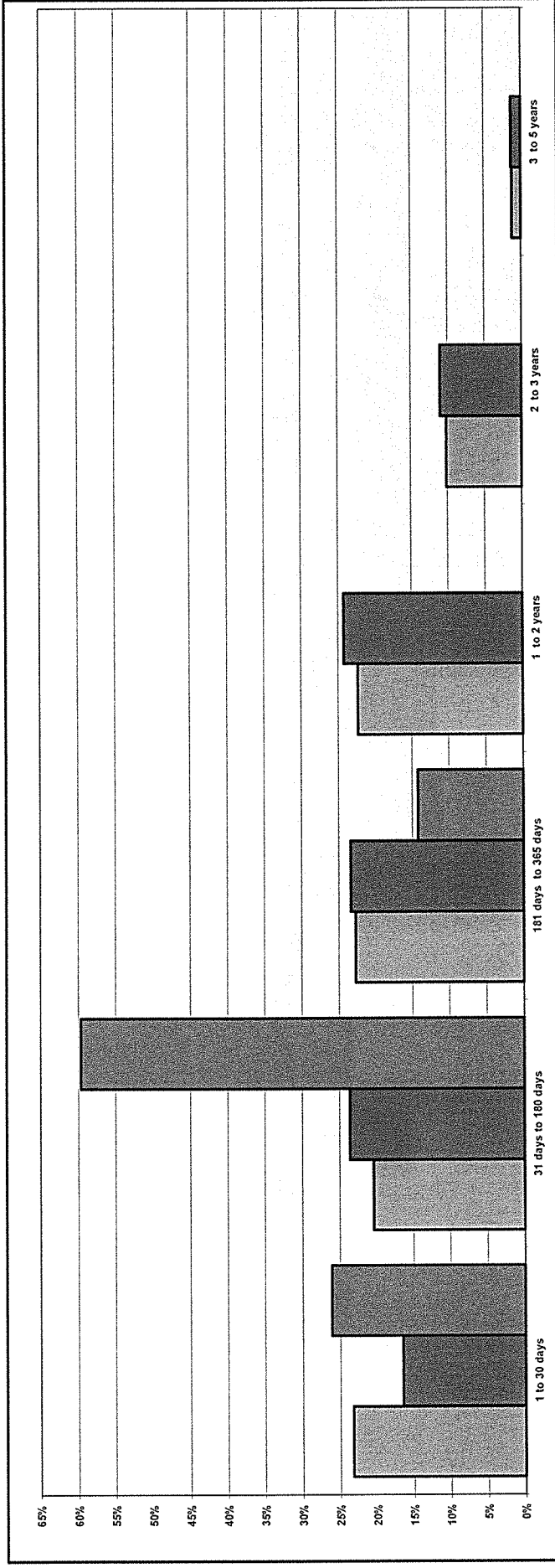
**Orange County Treasurer-Tax Collector
Changes in Approved Issuer's List
For the Month Ended March 31, 2018**

During March there were no changes to the Treasurer's Approved Issuer List.

An ongoing credit analysis of all issuers owned in the Investment Pools is reviewed on a daily, monthly, quarterly, and annual basis.

ORANGE COUNTY TREASURER - TAX COLLECTOR MATURITIES DISTRIBUTION

March 31, 2018

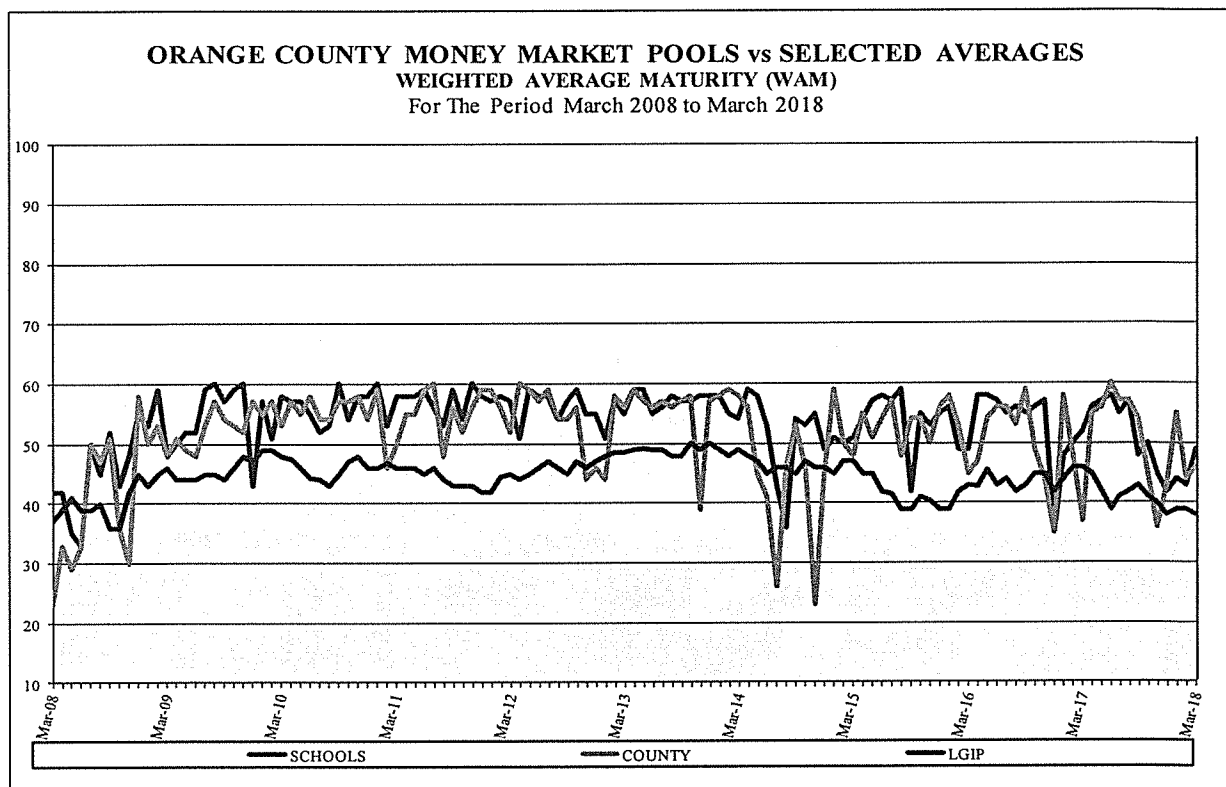
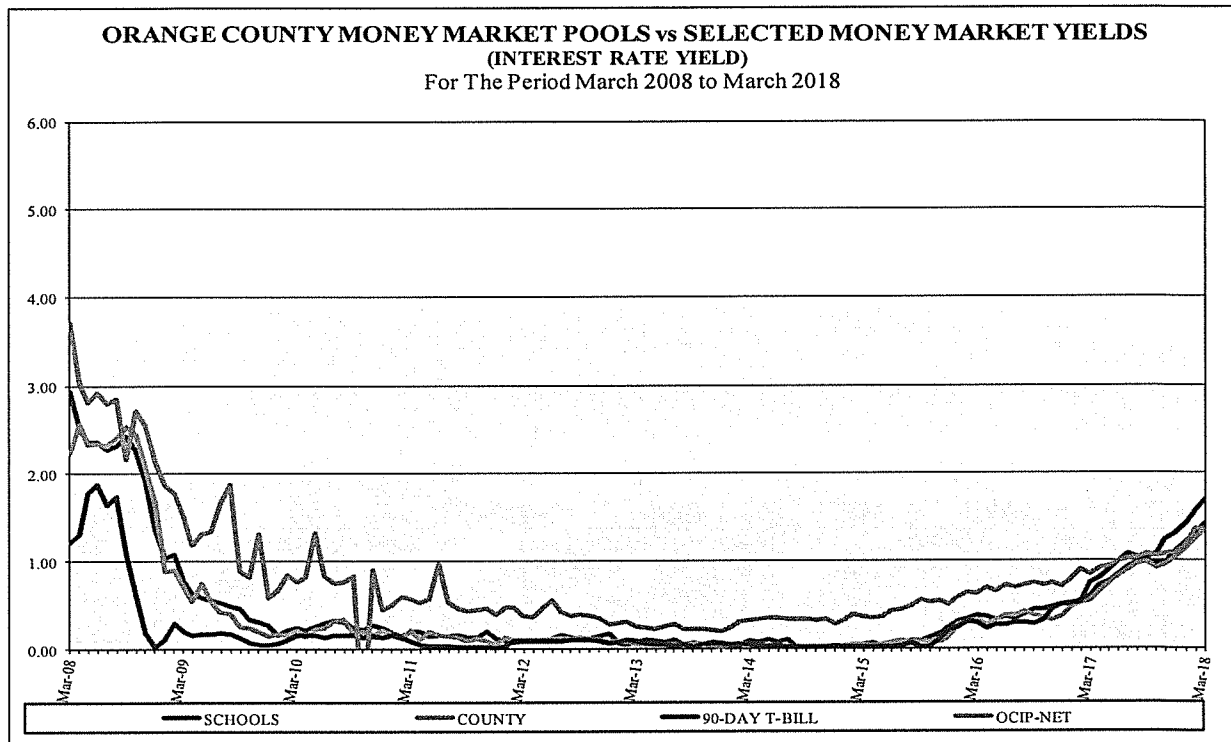


ORANGE COUNTY INVESTMENT POOL			
	In Thousands ^{1,2}	%	
1 TO 30 DAYS	\$ 1,099,984	23.23%	
31 TO 180 DAYS	966,212	20.40%	
181 TO 365 DAYS	1,075,687	22.71%	
1 YEAR TO 2 YEARS	1,056,989	22.32%	
2 YEARS TO 3 YEARS	480,620	10.15%	
3 YEARS TO 5 YEARS	56,567	1.19%	
TOTAL	\$ 4,736,059	100.00%	

ORANGE COUNTY EDUCATIONAL INVESTMENT POOL			
	In Thousands ^{1,2}	%	
1 TO 30 DAYS	\$ 755,739	16.49%	
31 TO 180 DAYS	1,082,277	23.61%	
181 TO 365 DAYS	1,070,817	23.36%	
1 YEAR TO 2 YEARS	1,110,549	24.23%	
2 YEARS TO 3 YEARS	504,975	11.01%	
3 YEARS TO 5 YEARS	59,433	1.30%	
TOTAL	\$ 4,583,790	100.00%	

JOHN WAYNE AIRPORT INVESTMENT FUND			
	In Thousands ^{1,2}	%	
1 TO 30 DAYS	\$ 11,991	26.08%	
31 TO 180 DAYS	27,440	59.68%	
181 TO 365 DAYS	6,545	14.24%	
1 YEAR TO 5 YEARS	-	0.00%	
TOTAL	\$ 45,976	100.00%	

1 Maturity Limits are calculated using face value. All final maturities are in compliance with the IPS during March.
2 Floating Rate Notes are deemed to have a maturity date equal to their next interest reset date. The Orange County Investment Pool, Orange County Educational Investment Pool and JWA Investment Fund did not hold any Floating Rate Notes as of 3/31/2018.



•For the Month Ended March 31, 2018, S&P LGIP – 1.43; S&P LGIP WAM -38; 90-Day T-Bill – 1.70; OCIP – Net – 1.34

ORANGE COUNTY TREASURER-TAX COLLECTOR

INVESTMENT POOL YIELDS

April 1, 2017 - March 31, 2018

PERIOD ENDING - MONTH / YEAR	MONTH END MARKET VALUE	EARNINGS FOR MONTH	GROSS AVERAGE YIELD FOR MONTH	MONTH END WAM
<i>Current Month March 2018</i>				
County Pool - Money Market Fund	\$ 1,466,459,327	\$ 1,551,676	1.41%	46
Educational Pool - Money Market Fund	\$ 1,149,359,827	\$ 1,585,016	1.48%	49
Extended Fund	\$ 6,652,243,109	\$ 7,957,780	1.40%	415
<i>February 2018</i>				
County Pool - Money Market Fund	\$ 1,396,683,700	\$ 1,284,889	1.32%	44
Educational Pool - Money Market Fund	\$ 1,273,494,829	\$ 1,464,904	1.37%	43
Extended Fund	\$ 6,647,720,511	\$ 7,473,044	1.46%	428
<i>January 2018</i>				
County Pool - Money Market Fund	\$ 1,245,291,533	\$ 1,659,517	1.21%	55
Educational Pool - Money Market Fund	\$ 1,594,050,298	\$ 2,213,711	1.28%	44
Extended Fund	\$ 6,595,804,419	\$ 6,473,087	1.24%	423
<i>December 2017</i>				
County Pool - Money Market Fund	\$ 2,128,947,374	\$ 2,182,701	1.10%	43
Educational Pool - Money Market Fund	\$ 2,136,417,171	\$ 1,446,683	1.17%	42
Extended Fund	\$ 5,906,097,678	\$ 6,050,707	1.18%	375
<i>November 2017</i>				
County Pool - Money Market Fund	\$ 1,459,897,098	\$ 1,124,024	1.02%	36
Educational Pool - Money Market Fund	\$ 1,154,471,530	\$ 889,369	1.03%	45
Extended Fund	\$ 5,996,926,512	\$ 5,910,266	1.19%	399
<i>October 2017</i>				
County Pool - Money Market Fund	\$ 1,387,117,541	\$ 938,038	0.97%	45
Educational Pool - Money Market Fund	\$ 1,008,484,106	\$ 1,026,340	1.03%	50
Extended Fund	\$ 5,975,091,002	\$ 5,972,076	1.17%	416
<i>September 2017</i>				
County Pool - Money Market Fund	\$ 885,572,484	\$ 752,100	1.05%	54
Educational Pool - Money Market Fund	\$ 1,319,525,808	\$ 1,129,853	1.06%	48
Extended Fund	\$ 5,974,063,472	\$ 5,798,039	1.18%	443
<i>August 2017</i>				
County Pool - Money Market Fund	\$ 912,746,691	\$ 748,603	1.03%	57
Educational Pool - Money Market Fund	\$ 1,342,259,072	\$ 1,320,805	1.04%	57
Extended Fund	\$ 5,975,786,893	\$ 5,754,302	1.13%	454
<i>July 2017</i>				
County Pool - Money Market Fund	\$ 925,588,577	\$ 869,951	0.96%	57
Educational Pool - Money Market Fund	\$ 1,625,874,675	\$ 1,449,778	0.99%	55
Extended Fund	\$ 5,820,623,739	\$ 5,661,871	1.13%	464
<i>June 2017</i>				
County Pool - Money Market Fund	\$ 1,127,901,842	\$ 1,015,069	0.90%	60
Educational Pool - Money Market Fund	\$ 1,821,324,948	\$ 1,188,057	0.91%	58
Extended Fund	\$ 5,876,238,402	\$ 5,545,780	1.14%	487
<i>May 2017</i>				
County Pool - Money Market Fund	\$ 1,559,912,721	\$ 1,190,993	0.81%	56
Educational Pool - Money Market Fund	\$ 1,631,429,543	\$ 1,157,267	0.82%	57
Extended Fund	\$ 5,888,812,000	\$ 5,545,463	1.10%	494
<i>April 2017</i>				
County Pool - Money Market Fund	\$ 1,928,898,078	\$ 1,427,058	0.72%	56
Educational Pool - Money Market Fund	\$ 1,810,058,617	\$ 946,118	0.78%	56
Extended Fund	\$ 5,884,169,552	\$ 5,396,950	1.11%	488
<i>Fiscal Year July 1, 2017 - June 30, 2018</i>	Average Month End Market Value Balance	YTD Interest Income	YTD Gross Yield	YTD Average
Orange County Investment Pool	\$ 4,354,125,879	\$ 39,334,434	1.20%	314
Orange County Educational Investment Pool	\$ 4,529,940,674	\$ 41,354,666	1.20%	310

ORANGE COUNTY TREASURER-TAX COLLECTOR

CASH AVAILABILITY PROJECTION

FOR THE SIX MONTHS ENDING SEPTEMBER 30, 2018

Government Code Section 53646 (b) (3), effective on January 1, 1996, requires the Treasurer-Tax Collector to include a statement in the investment report, denoting the ability of the Orange County Investment Pool (OCIP) and the Orange County Educational Investment Pool (OCEIP) to meet their expenditure requirements for the next six months.

The OCIP and OCEIP consist of funds in the treasury deposited by various entities required to do so by statute, as well as those entities voluntarily depositing monies in accordance with Government Code Section 53684.

The Treasurer-Tax Collector is required to disburse monies placed in the treasury as directed by the Auditor-Controller and the Department of Education, except for the making of legal investments, to the extent funds are transferred to one or more clearing funds in accordance with Government Code Section 29808.

The Treasurer-Tax Collector, in her projection of cash availability to disburse funds as directed by the Auditor-Controller and the Department of Education, is primarily relying on historical trends involving deposits and withdrawals and known future cash flows. No representation is made as to an individual depositor's ability to meet their anticipated expenditures with anticipated revenues.

The Cash Availability Projection for the six months ending September 30, 2018, indicates the ability of the pools to meet projected cash flow requirements. However, there will usually be differences between projected and actual results because events and circumstances frequently do not occur as expected and those differences may be material.

ORANGE COUNTY INVESTMENT POOL				
Month	Investment Maturities	Projected Deposits	Projected Disbursements	Cumulative Available Cash
March 2018 - Ending Cash				\$ 69,577,560
April	\$ 1,175,124,835	\$ 1,906,280,802	\$ 1,639,821,206	1,511,161,991
May	422,491,087	281,140,059	738,537,137	1,476,256,000
June	246,839,413	244,422,467	713,887,741	1,253,630,139
July	128,264,641	283,413,826	602,243,709	1,063,064,897
August	114,112,221	441,512,289	322,112,033	1,296,577,374
September	205,062,015	377,011,049	334,197,923	1,544,452,515

ORANGE COUNTY EDUCATIONAL INVESTMENT POOL				
Month	Investment Maturities	Projected Deposits	Projected Disbursements	Cumulative Available Cash
March 2018 - Ending Cash				\$ 31,441,133
April	\$ 784,563,803	\$ 984,398,462	\$ 730,948,603	1,069,454,795
May	509,408,197	383,245,588	734,286,821	1,227,821,759
June	275,943,787	701,515,298	679,813,841	1,525,467,003
July	110,850,311	211,481,841	549,212,278	1,298,586,877
August	109,768,060	264,553,363	595,215,690	1,077,692,610
September	235,023,733	525,974,481	607,365,625	1,231,325,199

ORANGE COUNTY TREASURER-TAX COLLECTOR

STATEMENT OF ACCOUNTABILITY

For the Month and Quarter Ended March 31, 2018

	Month	Quarter
Treasurer's Accountability at the Beginning of the Period:	\$ 9,493,191,445	\$10,386,275,795
Cash Receipts:		
County	841,471,565	2,047,965,827
School and Community College Districts	620,006,950	1,738,683,952
Total Cash Receipts	1,461,478,515	3,786,649,779
Cash Disbursements:		
County	700,372,482	2,382,167,698
School and Community College Districts	719,780,535	2,265,798,311
Total Cash Disbursements	1,420,153,017	4,647,966,009
Net Change in Cost Value of Pooled Assets	41,325,498	(861,316,230)
Net Increase in Non-Pooled Investments	5,059,390	13,120,940
Net Increase in Non-Pooled Cash	6,521,989	8,017,817
Treasurer's Accountability at the End of the Period:	\$ 9,546,098,322	\$ 9,546,098,322
Assets in the Treasury at the End of the Period (at Cost Value):		
Pooled Investments:		
Orange County Investment Pool		\$ 4,735,313,095
Orange County Educational Investment Pool		4,585,181,848
Total Pooled Investments		9,320,494,943
Non-Pooled Investments:		
Non-Pooled Investments - John Wayne Airport		45,951,560
Non-Pooled Investments - Fountain Valley School District Fund 40		34,810,654
Non-Pooled Investments - CCCD Series 2017E Bonds		19,843,144
Non-Pooled Investments - Other		1,081,500
Total Non-Pooled Investments		101,686,858
Cash:		
Cash in banks - County		69,462,241
Cash in banks - Schools		31,441,133
Cash in banks - OC Sheriff		15,859,134
Cash in banks - John Wayne Airport		7,038,694
Cash - Other		115,319
Total Cash		123,916,521
Total Assets in the Treasury at the End of the Period:		\$ 9,546,098,322

**ORANGE COUNTY TREASURER-TAX COLLECTOR
INVESTMENT POLICY (IPS) COMPLIANCE SUMMARY
March 31, 2018**

Investment Policy (IPS) Guidelines	Investment Type	Orange County Money Market Fund		Extended Fund		Orange County Educational Money Market Fund		John Wayne Airport Investment Fund	
Diversification Limit		Market Value of Investments ⁽¹⁾	Percent of Portfolio	Market Value of Investments ⁽¹⁾	Percent of Portfolio	Market Value of Investments ⁽¹⁾	Percent of Portfolio	Market Value of Investments ⁽¹⁾	Percent of Portfolio
30%	Negotiable Certificates of Deposit	\$	0.00%	\$ 198,258,070	2.98%	\$	0.00%	\$	0.00%
40%	Commercial Paper	-	0.00%	-	0.00%	-	0.00%	-	0.00%
100%	U.S. Government Agencies	753,447,580	51.37%	3,354,297,115	50.43%	705,099,627	61.35%	29,830,321	64.90%
\$65MM	LAIF	-	0.00%	16,157,822	0.24%	-	0.00%	-	0.00%
30%	Medium-Term Notes	99,710,695	6.80%	560,320,148	8.43%	105,348,874	9.17%	-	0.00%
20%	Money Market Mutual Funds	71,504,413	4.88%	550,982,820	0.00%	17,238,157	1.50%	751,107	1.63%
30%	Municipal Debt	-	0.00%	-	0.00%	-	0.00%	-	0.00%
20%	Repurchase Agreement	-	0.00%	-	0.00%	-	0.00%	-	0.00%
30%	Supranationals	-	0.00%	-	0.00%	-	0.00%	-	0.00%
100%	U.S. Treasuries	541,796,639	36.95%	1,971,627,134	29.64%	321,673,169	27.98%	15,381,774	33.47%
		\$ 1,466,459,327	100.00%	\$ 6,652,243,109	100.00%	\$ 1,149,359,827	100.00%	\$ 45,963,202	100.00%

Investment Policy (IPS) Guidelines	Compliance Category (Yes/No)	Orange County Money Market Fund	Extended Fund	Orange County Educational Money Market Fund	John Wayne Airport Investment Fund
5%	Percentage Limits	Yes	Yes	Yes	Yes
20%	Issuer Limit	Yes ⁽²⁾	N/A	Yes ⁽²⁾	Yes
50%	Money Market Mutual Fund Issuer	Yes ⁽⁴⁾	Yes ⁽⁴⁾	Yes ⁽⁴⁾	Yes ⁽⁴⁾
See Above	Government Agencies Issuer	Yes	Yes	Yes	Yes
	Diversification Limit				
60 Days	Maturity/Duration Limits	Yes/46.08	N/A	Yes/48.89	N/A
90 Days	Weighted Average Maturity - Money Market Fund	N/A	N/A	N/A	Yes/65.54
>Merrill 1-3 Year Index+25% (2.31)	Weighted Average Maturity - JWA Investment Fund	N/A	N/A	N/A	N/A
13 Months/397 days	Duration ⁽⁶⁾	N/A	Yes/1.12	N/A	N/A
15 Months/458 days	Final Maturity - Money Market Fund	Yes/365	N/A	Yes/355	N/A
5 Years/1826 days	Final Maturity - John Wayne Airport Investment Fund	N/A	N/A	N/A	Yes/249
	Final Maturity - Extended Fund	N/A	Yes/1522	N/A	N/A
A-1/≥ A	Rating Limits	Yes	N/A	Yes	Yes
≥ A-1/P-1/P2	Money Market Fund Short Term/Long Term	Yes	N/A	Yes	Yes
A-1/≥ AA ⁽³⁾	Short Term Debt/No Split Ratings	N/A	N/A	N/A	N/A
Approved Issuer List	Extended Fund Short Term/Long Term	Yes	Yes ⁽⁶⁾	N/A	Yes
Broker/Dealer List	Authorized Issuer	Yes	Yes	Yes	Yes
0.995 - 1.005	Authorized Financial Dealer/Institution	Yes/1.0005	N/A	Yes/1.0001	Yes/0.9997
	Net Asset Value - Money Market Fund and JWA				

(1) All investments are marked to market in compliance with the narrow valuation range prescribed by the IPS and market values are provided by Bloomberg Professional Services and Northern Trust.

(2) Excludes US Government Debt per the 2018 IPS policy approved by the Board of Supervisors on November 14, 2017 effective on January 1, 2018.

(3) Rating Agency requirements limit investment in each Money Market Mutual Fund to 10%.

(4) GSE issuers rated 'AA-' or higher with final maturities of 30 days or less are excluded from the calculation of the 50% limit per IPS for the Extended Fund and the JWA Investment Fund and from the Rating Agency limit of 33% for the two Money Market Funds.

(5) IPS states all pools, except short-term pools, shall have an effective duration not to exceed a leading 1-3 year index +25%. Duration provided above (1.12) is a modified duration, which does not take into consideration all embedded options such as callable bonds or mortgage backed bonds. This presentation is not considered materially different from the effective duration requirement specified in IPS.

(6) Securities issued by Royal Bank of Canada NY were rated above 'AA' at the time of purchase and are in compliance with IPS.

N/A Not applicable

Note: Compliance exceptions, if any, are noted by red shading for the specific IPS guideline and investment pool.

ORANGE COUNTY TREASURER-TAX COLLECTOR
INVESTMENT POLICY (IPS) AND TREASURY OVERSIGHT COMMITTEE (TOC) COMPLIANCE SUMMARY
March 31, 2018

COMPLIANCE CATEGORY	PERFORMED BY	REGULATORY/POLICY GUIDELINES	CURRENT STATUS
Annual Compliance Audit	ACIA	Performance Evaluation-Cal Govt. Code 27134	Calendar year 2016 and six months ended 6/30/17 in progress.
Quarterly Schedule of Assets Review	ACIA	Performance Evaluation-Cal Govt. Code 26920(a)	September 30, 2017 completed. December 31, 2017 and March 31, 2018 in progress.
Annual Schedule of Assets Audit	ACIA	Performance Evaluation-Cal Govt. Code 26920(b)	June 30, 2017 in progress.
Quarterly Continuous Compliance Auditing	ACIA	TOC Directive	December 31, 2017 completed. March 31, 2018 in progress.
Treasury Administrative Fee	TTC	Compensation Agreement-Cal Govt. Code 27013	FY 14/15, FY 15/16 and FY 16/17 in progress.
Annual Broker/Dealer Review	TTC	Authorized Financial Dealers and Qualified Institutions	Calendar year 2017 in progress.
Annual Broker/Dealer IPS Certification	TTC	Authorized Financial Dealers and Qualified Institutions	All 2017 IPS certifications received for active approved brokers (one broker removed).
IPS Compliance Deficiencies	TTC	Investment/Diversification/Maturity Restrictions/Form 700	FY 17/18 identified two compliance incidents as of March 31, 2018
TOC Bylaw Changes	BOS	TOC Review and BOS Annual Approval	The TOC reviewed Bylaws and made one change at the October 18, 2017 meeting. The BOS approved on November 14, 2017.
Annual IPS Approval	BOS	TOC Review and BOS Annual Approval	The TOC reviewed proposed IPS changes at the October 18, 2017 meeting and did not make any additional changes. The BOS approved on November 14, 2017.
TOC Annual Report	BOS	TOC Bylaws Rule 30 - Oral and Written Report	The TOC 2017 Annual Report was presented to BOS meeting on February 27, 2018.
Broker/Financial Institution List	TTC	OC Gift Ban Ordinance and Form 700	The TOC members were provided a list of active TTC Broker/Dealers and Financial Institutions at the TOC meeting on October 18, 2017.
Certificates of Compliance	TTC	TOC Bylaws Rule 34 - Annual	The TOC members are in compliance for calendar year 2018.
Ethics Training	TTC	TOC Bylaws Rule 34 - Every Two Years	The TOC members are in compliance for calendar year 2016 (one submitted in January 2017).
Conflict of Interest Form 700 Filing	TTC	TOC Bylaws Rule 34 / IPS - Every Year	All TOC members in compliance for calendar year 2017. A designated employee submitted an Assuming Office Statement in calendar year 2017 late.

LEGEND	
Auditor-Controller Internal Audit	ACIA
Board of Supervisors	BOS
Treasury Oversight Committee	TOC
Office of Treasurer-Tax Collector	TTC

**Orange County Treasurer-Tax Collector
Noncompliance Detail
For the Month Ended March 31, 2018**

During March, the Orange County Investment Pool (OCIP), the Orange County Educational Investment Pool (OCEIP), and the John Wayne Airport Investment Fund were all free of noncompliance incidents.

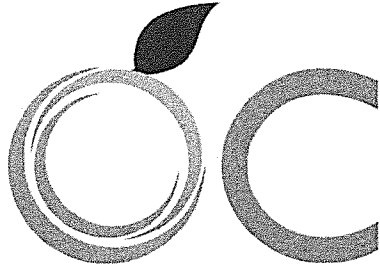


Orange County Auditor-Controller Internal Audit



Report on Review of the Schedule of Assets Held by the County Treasury as of September 30, 2017

Audit Number 1717
Report Date: March 20, 2018



O R A N G E C O U N T Y
AUDITOR-CONTROLLER
I N T E R N A L A U D I T

Eric H. Woolery, CPA
Orange County Auditor-Controller

Scott Suzuki, CPA, CIA, CISA	Director of Internal Audit
Lily Chin, CPA, CGMA	Audit Manager II
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Nancy Ramos	Auditor I

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Santa Ana, CA 92701

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www.acgov.com



ERIC H. WOOLERY, CPA
AUDITOR-CONTROLLER



Transmittal Letter

Audit No. 1717

March 20, 2018

TO: Members, Board of Supervisors
Chairman Andrew Do, 1st District Supervisor
Vice Chairman Shawn Nelson, 4th District Supervisor
Supervisor Michelle Steel, 2nd District
Supervisor Todd Spitzer, 3rd District
Supervisor Lisa A. Bartlett, 5th District

SUBJECT: Report on Review of the Schedule of Assets Held by the County Treasury
as of September 30, 2017

We have completed our Report on Review of the Schedule of Assets Held by the County Treasury as of September 30, 2017. Our final report is attached for your review.

An **Audit Status Report** is submitted quarterly to the Audit Oversight Committee (AOC) and the Board of Supervisors (BOS) detailing any critical and significant audit findings released in reports during the prior quarter and the implementation status of audit recommendations as disclosed by our Follow-Up Audits. Although there were no findings noted during this review, the results will be included in future status reports to the AOC and BOS.

Additionally, we will request the department to complete a **Customer Survey** of Review Services. The department will receive the survey shortly after the distribution of our final report.

Eric H. Woolery, CPA
Auditor-Controller

Attachments

Other recipients of this report:

Members, Audit Oversight Committee
Members, Treasury Oversight Committee
Shari L. Freidenrich, Treasurer-Tax Collector
Frank Kim, County Executive Officer
Michelle Aguirre, Chief Financial Officer
Mark Malbon, Chief Assistant Treasurer-Tax Collector
JC Squires, Financial Manager, Treasurer-Tax Collector – Treasury
Jennifer Han, Accounting/Compliance Manager, Treasurer-Tax Collector – Treasury
Claire Moynihan, Director of Central Accounting Operations, Auditor-Controller
Foreperson, Grand Jury
Robin Stieler, Clerk of the Board of Supervisors
Macias Gini & O'Connell LLP, County External Auditor



Table of Contents

*Report on Review of the Schedule of Assets
Held by the County Treasury
Audit No. 1717*

As of September 30, 2017

Transmittal Letter	i
Independent Accountant's Review Report	1
Schedule of Assets Held by the County Treasury as of September 30, 2017	3



Independent Accountant's Review Report

Independent Accountant's Review Report

The Honorable Board of Supervisors
County of Orange, California

We have reviewed the accompanying Schedule of Assets Held by the County Treasury—Modified Cash-Basis (financial schedule) of the County of Orange, California, as of September 30, 2017, pursuant to Government Code Section 26920(a). A review includes primarily applying analytical procedures to management's financial data and making inquiries of department management. A review is substantially less in scope than an audit, the objective of which is the expression of an opinion regarding the financial schedule as a whole. Accordingly, we do not express such an opinion.

Management's Responsibility for the Financial Schedule

Management is responsible for the preparation and fair presentation of this financial schedule in accordance with the modified cash-basis of accounting; this includes determining that the basis of accounting the County Treasury uses for financial reporting is an acceptable basis for the preparation of financial schedules in the circumstances. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Accountant's Responsibility

Our responsibility is to conduct the review engagement in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. Those standards require us to perform procedures to obtain limited assurance as a basis for reporting whether we are aware of any material modifications that should be made to the financial schedule for it to be in accordance with the modified cash-basis of accounting. We believe that the results of our procedures provide a reasonable basis for our conclusion.

Accountant's Conclusion

Based on our review, except for the issue noted in the Known Departure from Modified Cash-Basis of Accounting paragraph, we are not aware of any material modifications that should be made to the accompanying financial schedule in order for it to be in accordance with the modified cash-basis of accounting.

Known Departure from Modified Cash-Basis of Accounting

The financial schedule is prepared in accordance with the modified cash-basis of accounting, which is a basis of accounting other than accounting principles generally accepted in the United States of America. Receipts are recognized when received by the Treasurer; disbursements are recognized when paid by the bank; and the value of investments is stated at fair value. The modified cash-basis of accounting requires that financial statements include adequate disclosures. Management has elected to omit all disclosures ordinarily included in a financial schedule prepared on the modified cash-basis of accounting. If the omitted disclosures were included in the financial statement, they might influence the users' conclusions about the County Treasury's assets.



Independent Accountant's Review Report

Other Matter

This report is intended solely for the information and use of the Board of Supervisors and the management of the Orange County Auditor-Controller. However, this report is a matter of public record and its distribution is not limited.

A handwritten signature in black ink, reading "E. H. Woolery".

Eric H. Woolery, CPA
Auditor-Controller
March 20, 2018



Schedule of Assets Held by the County Treasury

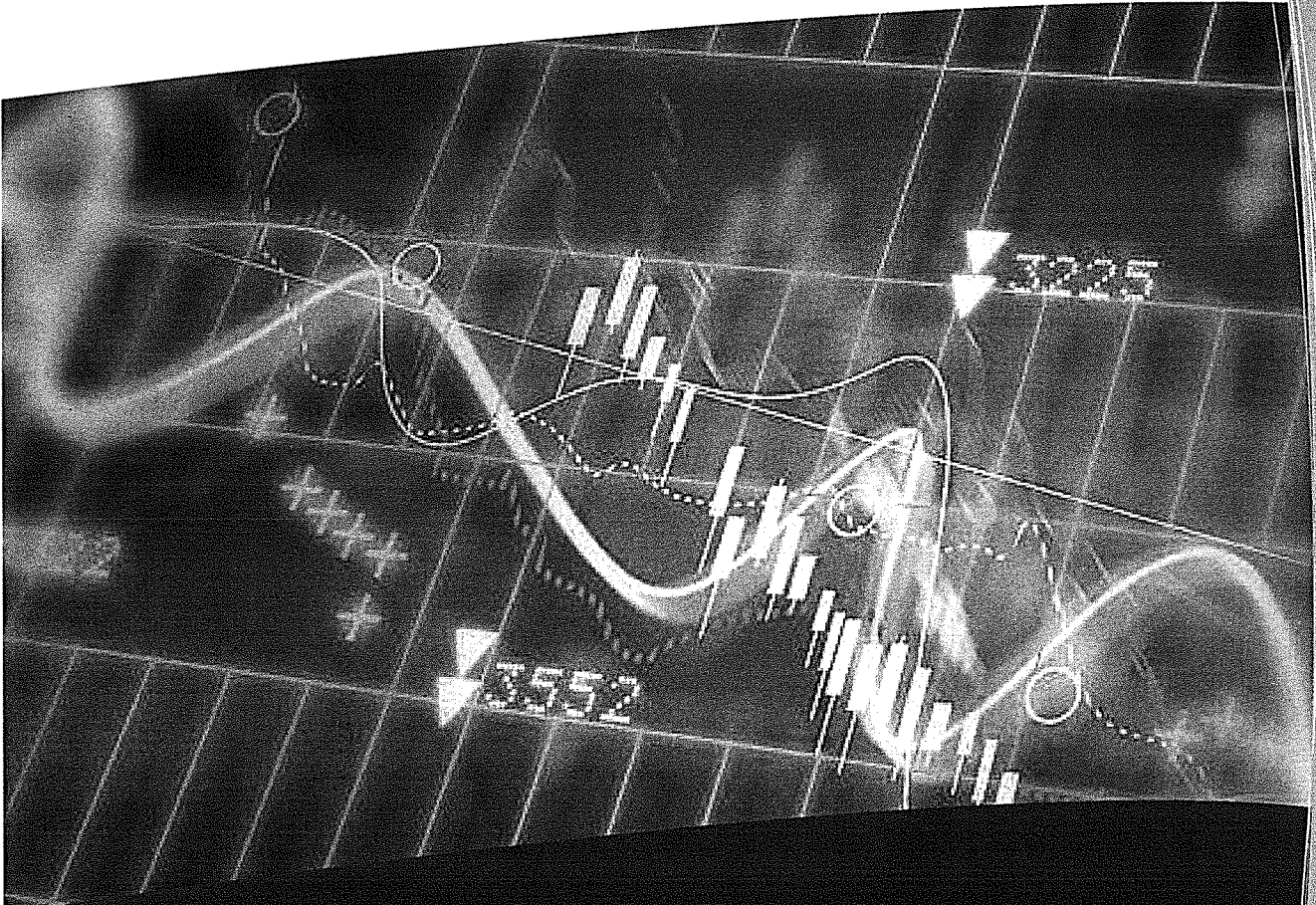
ORANGE COUNTY TREASURY
Schedule of Assets Held by the County Treasury
As of September 30, 2017

ASSETS

	OCIP	OCEIP	Non-Pooled	Total
CASH				
Cash On Hand	\$ 94,503	\$ -	\$ -	\$ 94,503
Bank Demand Accounts	24,874,243	3,900,045	20,950,550	49,724,838
Total Cash	24,968,746	3,900,045	20,950,550	49,819,341
INVESTMENTS, stated at fair value				
<i>Orange County Investment Pool (OCIP):</i>				
Money Market Fund	885,572,484	-	-	885,572,484
Extended Fund	2,976,267,826	-	-	2,976,267,826
<i>Orange County Educational Investment Pool (OCEIP):</i>				
Money Market Fund	-	1,319,525,808	-	1,319,525,808
Extended Fund	-	2,997,795,646	-	2,997,795,646
<i>Non-Pooled</i>			84,442,005	84,442,005
Total Investments	3,861,840,310	4,317,321,454	84,442,005	8,263,603,769
TOTAL ASSETS	\$ 3,886,809,056	\$ 4,321,221,499	\$ 105,392,555	\$ 8,313,423,110

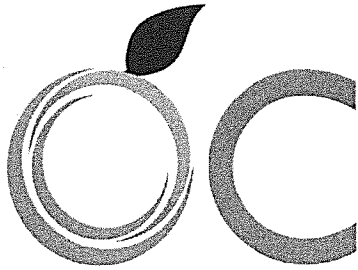


Orange County Auditor-Controller Internal Audit



Compliance Monitoring of the
Treasurer's Investment Portfolio for the
Quarter Ended December 31, 2017

Audit Number 1721
Report Date: March 27, 2018



O R A N G E C O U N T Y
AUDITOR-CONTROLLER
I N T E R N A L A U D I T

Eric H. Woolery, CPA
Orange County Auditor-Controller

Scott Suzuki, CPA, CIA, CISA	Director of Internal Audit
Lily Chin, CPA, CGMA	Audit Manager II
Michael Steinhaus, CPA, CGMA	Audit Manager I
Nancy Ramos	Auditor I

12 Civic Center Plaza, Room 200
Santa Ana, CA 92701

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ERIC H. WOOLERY, CPA
AUDITOR-CONTROLLER



Audit No. 1721

March 27, 2018

TO: Members, Treasury Oversight Committee

SUBJECT: Compliance Monitoring of the Treasurer's Investment Portfolio
For the Quarter Ended December 31, 2017

At the request of the Treasury Oversight Committee, we have completed the Compliance Monitoring of the Treasurer's Investment Portfolio for the Quarter Ended December 31, 2017.

An **Audit Status Report** is submitted quarterly to the Audit Oversight Committee (AOC) and the Board of Supervisors (BOS) detailing any critical or significant findings released in reports during the prior quarter and the implementation status of recommendations as disclosed by our Follow-Up Audits. Although there were no findings noted during this engagement, the results will be included in future status reports to the AOC and BOS.

Please feel free to call me at (714) 834-2456 or Scott Suzuki, Director of Internal Audit, at (714) 834-5509, should you wish to discuss any aspect of our report. Additionally, we request the department to complete a **Customer Survey** of Audit Services that will be sent shortly after the distribution of our final report.

Eric H. Woolery, CPA
Auditor-Controller

Attachment

Other recipients of this report:

Members, Board of Supervisors
Members, Audit Oversight Committee
Shari L. Freidenrich, Treasurer-Tax Collector
Frank Kim, County Executive Officer
Gary Nguyen, Director of Investments, Treasurer-Tax Collector – Treasury
JC Squires, Financial Manager, Treasurer-Tax Collector – Treasury
Jennifer Han, Accounting/Compliance Manager, Treasurer-Tax Collector – Treasury
Robin Stieler, Clerk of the Board of Supervisors
Foreperson, Grand Jury
Macias Gini & O'Connell LLP, County External Auditor



Table of Contents

*Compliance Monitoring of the
Treasurer's Investment Portfolio
For the Quarter Ended December 31, 2017
Audit No. 1721*

Transmittal Letter	i
Internal Auditor's Report	1



Internal Auditor's Report

Audit No. 1721

March 27, 2018

Richard Rohm, CPA, Chair, Public Member
Treasury Oversight Committee
625 North Ross Street, Building 11
Santa Ana, California 92701

We have completed the compliance monitoring of the Treasurer's Investment Portfolio for the quarter ended December 31, 2017. The purpose of our engagement was to determine whether the Orange County Investment Pool (OCIP), Orange County Educational Investment Pool (OCEIP), and various other non-pooled investments managed by the Treasurer, such as John Wayne Airport Investment Fund, were in compliance with the applicable provisions of its Investment Policy Statement (IPS) and that instances of noncompliance, including technical incidents, were properly reported in the Treasurer's Monthly Investment Report. It is important to note that the Treasurer further invests pooled funds from the OCIP and OCEIP into three funds: the Orange County Money Market Fund (OCMMF) and the Orange County Educational Money Market Fund (OCEMMF) (collectively referred to as Money Market Funds), and the Extended Fund.

We perform the compliance monitoring of the Treasurer's investment portfolio at the request of the Treasury Oversight Committee. The monitoring is designed to provide limited assurance to the Treasury Oversight Committee and the Office of the Treasurer-Tax Collector that the Treasurer's investment portfolio is in compliance with specific provisions of the IPS, and that instances of noncompliance, technical incidents and required disclosures are properly reported.

Our compliance procedures included judgmentally selecting five (5) business days for testing from each month and importing the selected electronic downloads from the Treasurer's Quantum system into ACL, a computer-assisted audit technique software, to perform calculations and determine whether investment purchases were in compliance with the IPS.

Based on the procedures performed, **no instances of noncompliance were identified**. When applicable, our report also includes information regarding the Treasurer's reporting of technical incidents in the Treasurer's Monthly Investment Reports. The Treasurer defines a technical incident as an event, other than the purchase of a security, which causes an IPS limit to be exceeded. The most common cause of a technical incident is when the total investment pool holdings decrease, causing the relative percentage of holdings to increase.



Internal Auditor's Report

The following lists the procedures performed and results achieved:

1. **Authorized Investments (IPS Section VI, VII, VIII, IX, XI):** We judgmentally selected a sample of 15 investments purchased during the quarter (one investment for each of the 15 business days selected for testing). For the samples selected, we confirmed that the investments conform to authorized investment requirements in accordance with the IPS. We also confirmed that the investments were purchased from issuers or brokers on the Treasurer's authorized lists.

Results: We found no exceptions.

2. **Diversification Compliance (IPS Section VIII.1):** We performed calculations to determine that the Money Market and Extended Fund portfolios met the diversification limits for investment types in accordance with the IPS, and that the John Wayne Airport Investment Fund met those diversification limits as well.

Results: We found no exceptions.

3. **Weighted Average Maturity (WAM) Limitations (IPS Section VIII.2):** We performed calculations to determine that WAM did not exceed 60 days for the Money Market Funds in accordance with the IPS and that WAM did not exceed 90 days for the John Wayne Airport Investment Fund.

Results: We found no exceptions.

4. **Maximum Maturity Limitations (IPS Section VIII.2):** We confirmed that the maximum maturity of any portfolio instrument purchased did not exceed 397 days for the Money Market Funds, 5 years for US treasury, government sponsored enterprise, and municipal debt securities, and 3 years for medium-term notes and negotiable certificates of deposits for the Extended Fund, in accordance with the IPS and that the maximum maturity did not exceed 15 months for the John Wayne Airport Investment Fund.

Results: We found no exceptions.

5. **Investment Type Maximum Maturity Limitations (IPS Section VIII.1):** We confirmed that the maximum maturity of investments purchased for commercial paper, bankers' acceptances, and repurchase agreements did not exceed 270 days for commercial paper, 180 days for bankers' acceptances, or one year for repurchase agreements in accordance with the IPS.

Results: We found no exceptions.

6. **Issuer Limitations (IPS Section VIII.1):** We performed calculations to determine that the Money Market and Extended Fund portfolios did not exceed the investment limits for issuers in accordance with the IPS, and that the John Wayne Airport Investment Fund did not exceed those investment limits.

Results: We found no exceptions.



Internal Auditor's Report

7. **Financial Reporting (IPS Section XXI):** We reviewed the investment portfolio for a sample of 15 business days to determine that any instances of non-compliance or technical incidents were properly reported in the Treasurer's Monthly Investment Report in accordance with the IPS.

Results: We found no exceptions.

This report is intended solely for the information and use of the Treasury Oversight Committee and the Office of the Treasurer-Tax Collector; however, this report is a matter of public record and its distribution is not limited.

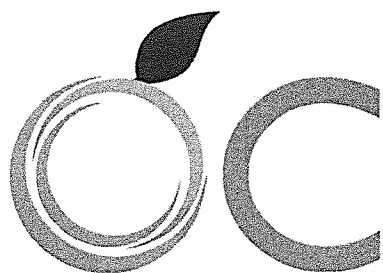


Orange County Auditor-Controller Internal Audit



Report on Review of the Schedule of Assets Held by the County Treasury as of September 30, 2017

Audit Number 1717
Report Date: March 20, 2018



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ERIC H. WOOLERY, CPA
AUDITOR-CONTROLLER



Transmittal Letter

Audit No. 1717

March 20, 2018

TO: Members, Board of Supervisors
Chairman Andrew Do, 1st District Supervisor
Vice Chairman Shawn Nelson, 4th District Supervisor
Supervisor Michelle Steel, 2nd District
Supervisor Todd Spitzer, 3rd District
Supervisor Lisa A. Bartlett, 5th District

SUBJECT: Report on Review of the Schedule of Assets Held by the County Treasury
as of September 30, 2017

We have completed our Report on Review of the Schedule of Assets Held by the County Treasury as of September 30, 2017. Our final report is attached for your review.

An **Audit Status Report** is submitted quarterly to the Audit Oversight Committee (AOC) and the Board of Supervisors (BOS) detailing any critical and significant audit findings released in reports during the prior quarter and the implementation status of audit recommendations as disclosed by our Follow-Up Audits. Although there were no findings noted during this review, the results will be included in future status reports to the AOC and BOS.

Additionally, we will request the department to complete a **Customer Survey** of Review Services. The department will receive the survey shortly after the distribution of our final report.

Eric H. Woolery, CPA
Auditor-Controller

Attachments

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Members, Treasury Oversight Committee
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Claire Moynihan, Director of Central Accounting Operations, Auditor-Controller
Foreperson, Grand Jury
Robin Stieler, Clerk of the Board of Supervisors
Macias Gini & O'Connell LLP, County External Auditor



Table of Contents

*Report on Review of the Schedule of Assets
Held by the County Treasury
Audit No. 1717*

As of September 30, 2017

Transmittal Letter	i
Independent Accountant's Review Report	1
Schedule of Assets Held by the County Treasury as of September 30, 2017	3



Independent Accountant's Review Report

Independent Accountant's Review Report

The Honorable Board of Supervisors
County of Orange, California

We have reviewed the accompanying Schedule of Assets Held by the County Treasury—Modified Cash-Basis (financial schedule) of the County of Orange, California, as of September 30, 2017, pursuant to Government Code Section 26920(a). A review includes primarily applying analytical procedures to management's financial data and making inquiries of department management. A review is substantially less in scope than an audit, the objective of which is the expression of an opinion regarding the financial schedule as a whole. Accordingly, we do not express such an opinion.

Management's Responsibility for the Financial Schedule

Management is responsible for the preparation and fair presentation of this financial schedule in accordance with the modified cash-basis of accounting; this includes determining that the basis of accounting the County Treasury uses for financial reporting is an acceptable basis for the preparation of financial schedules in the circumstances. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Accountant's Responsibility

Our responsibility is to conduct the review engagement in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. Those standards require us to perform procedures to obtain limited assurance as a basis for reporting whether we are aware of any material modifications that should be made to the financial schedule for it to be in accordance with the modified cash-basis of accounting. We believe that the results of our procedures provide a reasonable basis for our conclusion.

Accountant's Conclusion

Based on our review, except for the issue noted in the Known Departure from Modified Cash-Basis of Accounting paragraph, we are not aware of any material modifications that should be made to the accompanying financial schedule in order for it to be in accordance with the modified cash-basis of accounting.

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The financial schedule is prepared in accordance with the modified cash-basis of accounting, which is a basis of accounting other than accounting principles generally accepted in the United States of America. Receipts are recognized when received by the Treasurer; disbursements are recognized when paid by the bank; and the value of investments is stated at fair value. The modified cash-basis of accounting requires that financial statements include adequate disclosures. Management has elected to omit all disclosures ordinarily included in a financial schedule prepared on the modified cash-basis of accounting. If the omitted disclosures were included in the financial statement, they might influence the users' conclusions about the County Treasury's assets.



Independent Accountant's Review Report

Other Matter

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Eric H. Woolery, CPA
Auditor-Controller
March 20, 2018



Schedule of Assets Held by the County Treasury

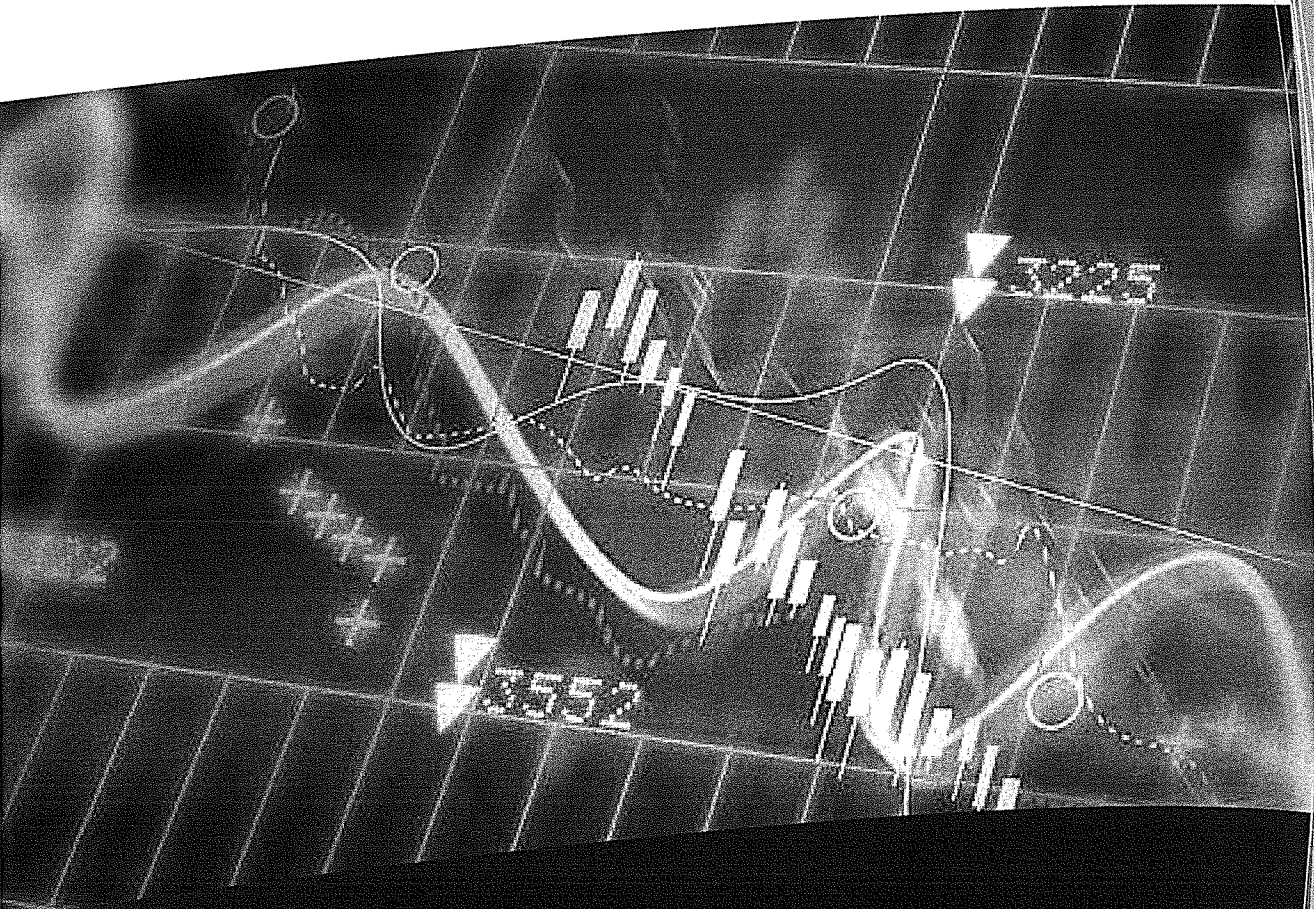
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Schedule of Assets Held by the County Treasury
As of September 30, 2017

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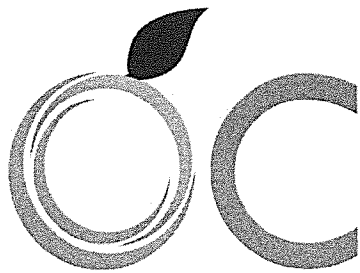


Orange County Auditor-Controller Internal Audit



Compliance Monitoring of the
Treasurer's Investment Portfolio for the
Quarter Ended December 31, 2017

Audit Number 1721
Report Date: March 27, 2018



O R A N G E C O U N T Y
AUDITOR-CONTROLLER
I N T E R N A L A U D I T

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Orange County Auditor-Controller

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ERIC H. WOOLERY, CPA
AUDITOR-CONTROLLER



Audit No. 1721

March 27, 2018

TO: Members, Treasury Oversight Committee

SUBJECT: Compliance Monitoring of the Treasurer's Investment Portfolio
For the Quarter Ended December 31, 2017

At the request of the Treasury Oversight Committee, we have completed the Compliance Monitoring of the Treasurer's Investment Portfolio for the Quarter Ended December 31, 2017.

An **Audit Status Report** is submitted quarterly to the Audit Oversight Committee (AOC) and the Board of Supervisors (BOS) detailing any critical or significant findings released in reports during the prior quarter and the implementation status of recommendations as disclosed by our Follow-Up Audits. Although there were no findings noted during this engagement, the results will be included in future status reports to the AOC and BOS.

Please feel free to call me at (714) 834-2456 or Scott Suzuki, Director of Internal Audit, at (714) 834-5509, should you wish to discuss any aspect of our report. Additionally, we request the department to complete a **Customer Survey** of Audit Services that will be sent shortly after the distribution of our final report.

Eric H. Woolery, CPA
Auditor-Controller

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Frank Kim, County Executive Officer
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Table of Contents

*Compliance Monitoring of the
Treasurer's Investment Portfolio
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Audit No. 1721*

Transmittal Letter	i
Internal Auditor's Report	1



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Audit No. 1721

March 27, 2018

Richard Rohm, CPA, Chair, Public Member
Treasury Oversight Committee
625 North Ross Street, Building 11
Santa Ana, California 92701

We have completed the compliance monitoring of the Treasurer's Investment Portfolio for the quarter ended December 31, 2017. The purpose of our engagement was to determine whether the Orange County Investment Pool (OCIP), Orange County Educational Investment Pool (OCEIP), and various other non-pooled investments managed by the Treasurer, such as John Wayne Airport Investment Fund, were in compliance with the applicable provisions of its Investment Policy Statement (IPS) and that instances of noncompliance, including technical incidents, were properly reported in the Treasurer's Monthly Investment Report. It is important to note that the Treasurer further invests pooled funds from the OCIP and OCEIP into three funds: the Orange County Money Market Fund (OCMMF) and the Orange County Educational Money Market Fund (OCEMMF) (collectively referred to as Money Market Funds), and the Extended Fund.

We perform the compliance monitoring of the Treasurer's investment portfolio at the request of the Treasury Oversight Committee. The monitoring is designed to provide limited assurance to the Treasury Oversight Committee and the Office of the Treasurer-Tax Collector that the Treasurer's investment portfolio is in compliance with specific provisions of the IPS, and that instances of noncompliance, technical incidents and required disclosures are properly reported.

Our compliance procedures included judgmentally selecting five (5) business days for testing from each month and importing the selected electronic downloads from the Treasurer's Quantum system into ACL, a computer-assisted audit technique software, to perform calculations and determine whether investment purchases were in compliance with the IPS.

Based on the procedures performed, **no instances of noncompliance were identified**. When applicable, our report also includes information regarding the Treasurer's reporting of technical incidents in the Treasurer's Monthly Investment Reports. The Treasurer defines a technical incident as an event, other than the purchase of a security, which causes an IPS limit to be exceeded. The most common cause of a technical incident is when the total investment pool holdings decrease, causing the relative percentage of holdings to increase.



Internal Auditor's Report

The following lists the procedures performed and results achieved:

1. **Authorized Investments (IPS Section VI, VII, VIII, IX, XI):** We judgmentally selected a sample of 15 investments purchased during the quarter (one investment for each of the 15 business days selected for testing). For the samples selected, we confirmed that the investments conform to authorized investment requirements in accordance with the IPS. We also confirmed that the investments were purchased from issuers or brokers on the Treasurer's authorized lists.

Results: We found no exceptions.

2. **Diversification Compliance (IPS Section VIII.1):** We performed calculations to determine that the Money Market and Extended Fund portfolios met the diversification limits for investment types in accordance with the IPS, and that the John Wayne Airport Investment Fund met those diversification limits as well.

Results: We found no exceptions.

3. **Weighted Average Maturity (WAM) Limitations (IPS Section VIII.2):** We performed calculations to determine that WAM did not exceed 60 days for the Money Market Funds in accordance with the IPS and that WAM did not exceed 90 days for the John Wayne Airport Investment Fund.

Results: We found no exceptions.

4. **Maximum Maturity Limitations (IPS Section VIII.2):** We confirmed that the maximum maturity of any portfolio instrument purchased did not exceed 397 days for the Money Market Funds, 5 years for US treasury, government sponsored enterprise, and municipal debt securities, and 3 years for medium-term notes and negotiable certificates of deposits for the Extended Fund, in accordance with the IPS and that the maximum maturity did not exceed 15 months for the John Wayne Airport Investment Fund.

Results: We found no exceptions.

5. **Investment Type Maximum Maturity Limitations (IPS Section VIII.1):** We confirmed that the maximum maturity of investments purchased for commercial paper, bankers' acceptances, and repurchase agreements did not exceed 270 days for commercial paper, 180 days for bankers' acceptances, or one year for repurchase agreements in accordance with the IPS.

Results: We found no exceptions.

6. **Issuer Limitations (IPS Section VIII.1):** We performed calculations to determine that the Money Market and Extended Fund portfolios did not exceed the investment limits for issuers in accordance with the IPS, and that the John Wayne Airport Investment Fund did not exceed those investment limits.

Results: We found no exceptions.



Internal Auditor's Report

7. **Financial Reporting (IPS Section XXI):** We reviewed the investment portfolio for a sample of 15 business days to determine that any instances of non-compliance or technical incidents were properly reported in the Treasurer's Monthly Investment Report in accordance with the IPS.

Results: We found no exceptions.

This report is intended solely for the information and use of the Treasury Oversight Committee and the Office of the Treasurer-Tax Collector; however, this report is a matter of public record and its distribution is not limited.

MONTHLY TREASURER'S INVESTMENT REPORT

Distribution List

County of Orange Elected Officials

Honorable Sandra Hutchens, Sheriff-Coroner
Honorable Hugh Nguyen, Clerk-Recorder
Honorable Claude Parrish, Assessor
Honorable Anthony J. Rackauckas, Jr., District Attorney/Public Administrator
Honorable Eric Woolery, Auditor-Controller

Treasury Oversight Committee

Gary Capata
Frank Kim
Al Mijares
Laura Parisi
Richard Rohm
Eric Woolery

County of Orange Departments

Assessor
Auditor-Controller
Child Support Services
Clerk of the Board
Clerk-Recorder
County Counsel
County Executive Office
District Attorney/Public Administrator
Health Care Agency
Human Resources Services
Independent Review
In-Home Supportive Services
John Wayne Airport
OC Community Resources
OC Dana Point Harbor
OC Public Works
OC Waste & Recycling
Performance Audit
Probation
Public Defender
Registrar of Voters
Sheriff-Coroner
Social Services Agency

County Agencies

Children & Families Commission
Civic Center Commission
Law Library
Orange County Employees Retirement System
Orange County Cemetery District
Orange County Fire Authority
Orange County Transportation Authority
Transportation Corridor Agencies

State of California

CDIAC
Superior Court

Orange County School Districts

Orange County Department of Education
Anaheim City School District
Anaheim Union High School District
Brea-Olinda Unified School District
Buena Park School District
Capistrano Unified School District
Centralia School District

Cypress School District
Fountain Valley School District
Fullerton School District
Fullerton Joint Union High School District
Garden Grove Unified School District
Huntington Beach City School District
Huntington Beach Union High School District
Irvine Unified School District
Laguna Beach Unified School District
La Habra City School District
Los Alamitos Unified School District
Lowell Joint School District
Magnolia School District
Newport-Mesa Unified School District
Ocean View School District
Orange Unified School District
Placentia-Yorba Linda Unified School District
Saddleback Valley Unified School District
Santa Ana Unified School District
Savanna School District
Tustin Unified School District
Westminster School District

Orange County Community College Districts (CCD)

Coast Community CCD
North Orange County CCD
Rancho-Santiago CCD
South Orange County CCD

Orange County Regional Occupational Programs (ROP)

Capistrano-Laguna Beach ROP
Coastline ROP
North Orange County ROP

Voluntary Pool Participants (date approved)

Serrano Water District (6-22-99)
City of Villa Park (10-2-01)
City of Tustin (5-21-02)
Mesa Water District (8-9-02)
Orange County Water District (3-30-04)
Municipal Water District of OC (7-27-04)
Orange County Mosquito and Vector Control District (11-14-06)
Buena Park Library District (2-9-10)
Local Agency Formation Commission (10-5-10)
Villa Park Community Services Foundation (4-5-11)
City of Laguna Niguel (3-13-14)
City of Lake Forest (12-16-15)
Foothill/Eastern TCA (10-14-16)
San Joaquin Hills TCA (10-14-16)
Foothill/Eastern TCA/RCC (11-17-16)
City of Laguna Woods (5-10-17)
City of Mission Viejo (10-2-17)
Placentia Library District (10-16-17)



April 25, 2018

To: Finance and Administration Committee

From: Darrell Johnson, Chief Executive Officer

Subject: Orange County Transportation Authority Investment and Debt Programs Report - March 2018

Overview

The Orange County Transportation Authority has a comprehensive investment and debt program to fund its immediate and long-term cash flow demands. Each month, the Treasurer submits a report detailing investment allocation, performance, compliance, outstanding debt balances, and credit ratings for the Orange County Transportation Authority's debt program. This report is for the month ending March 31, 2018. The report has been reviewed and is consistent with the investment practices contained in the Investment Policy.

Recommendation

Receive and file as an information item.

Discussion

As of March 31, 2018, the Orange County Transportation Authority's (OCTA) outstanding investments totaled \$1.35 billion. The portfolio is divided into two managed portfolios: the liquid portfolio for immediate cash needs and the short-term portfolio for future budgeted expenditures. In addition to these portfolios, OCTA has funds invested in debt service reserve funds for the 91 Express Lanes Program. The weighted average book yield for the OCTA portfolio is 1.65 percent.

The Book Yield measures the exact income, or interest, on a bond without regard to market price change. The yield is the income return on an investment, such as the interest received from holding a particular security. The yield is usually expressed as an annual percentage rate based on the investment's cost and market value.

OCTA's debt portfolio had an outstanding principal balance of \$413.8 million as of March 31, 2018. Approximately 75 percent of the

outstanding balance is comprised of M2 debt and 25 percent is associated with the 91 Express Lanes Program.

Summary

The Treasurer is submitting a copy of the Orange County Transportation Authority Investment and Debt Programs report to the Finance and Administration Committee. The report is for the month ending March 31, 2018.

Attachment

- A. Orange County Transportation Authority Investment and Debt Programs
– For the Period Ending March 31, 2018.

Prepared by:



Rodney Johnson
Deputy Treasurer
Treasury/Public Finance
(714) 560-5675

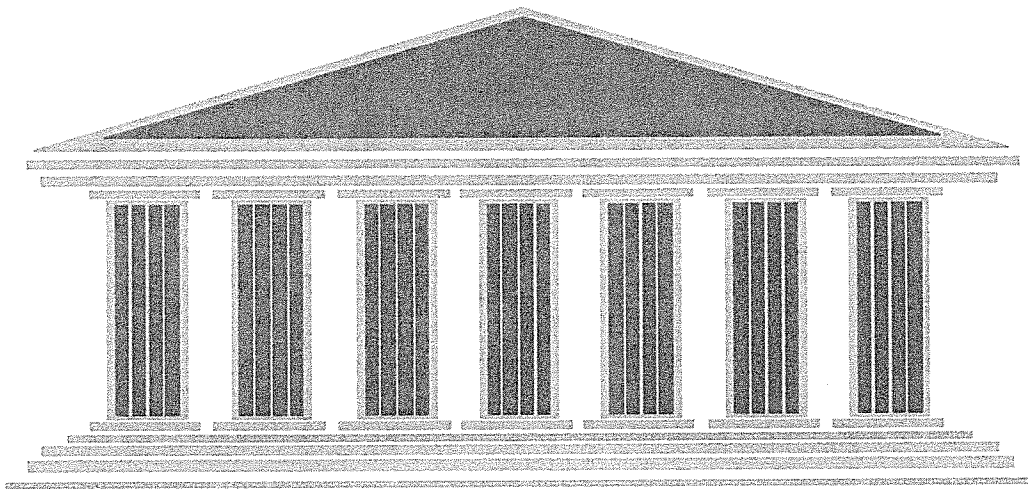
Approved by:



Andrew Oftelie
Executive Director,
Finance and Administration
(714) 560-5649

**Treasury/Public Finance Department's
Report On**

**Orange County Transportation Authority
Investment and Debt Programs**



**Presented to the
Finance and Administration Committee**

**For The Period Ending
March 31, 2018**

INVESTMENT PROGRAM

Investment Profile

3/31/2018

<u>Portfolio Manager</u>	<u>Depository</u>	<u>Role</u>	<u>Type of Investment</u>	<u>Amount (\$ Millions)</u>
<i>ACTIVELY MANAGED INVESTMENTS</i>				
JP Morgan	Union Bank	Custodian	Short-Term Operating	306.6
State Street Global Advisors	Union Bank	Custodian	Short-Term Operating	305.4
Payden & Rygel Investment Counsel	Union Bank	Custodian	Short-Term Operating	306.2
Western Asset Management	Union Bank	Custodian	Short-Term Operating	305.5
<i>POOLED INVESTMENTS</i>				
California State Treasurer	LAIF	Custodian	Liquid	10.3
Orange County Treasurer	OCIP	Custodian	Legal Requirement	21.5
<i>CASH INVESTMENTS</i>				
OCTA	BNY Mellon	Trustee	Liquid	12.8
OCTA	Bank of the West	Broker	Liquid	56.3
OCTA	U.S Bank	Trustee	Liquid	0.0
<i>DEBT SERVICE RESERVE FUNDS</i>				
91 Express Lanes 2013 Ref. Bonds	U.S Bank	Trustee	Commercial Paper	11.0
91 Express Lanes 2013 Ref. Bonds	Bank of the West	Trustee	Commercial Paper	10.0
91 Express Lanes 2013 Ref. Bonds	Bank of the West	Trustee	Commercial Paper	3.0
Bank Deposits/Cash				0.2
TOTAL				\$1,348.9

Short-Term Portfolio - \$1.22 Billion

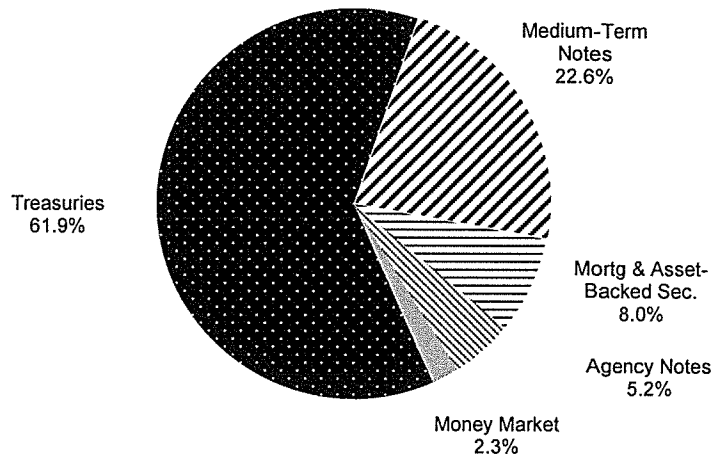
As of 3/31/18

Part 1 of 2

JP Morgan

Book Value \$ 306,584,522

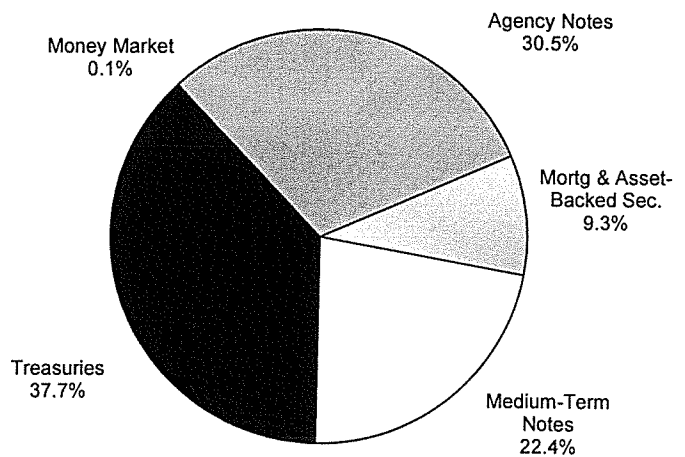
Market Value \$ 300,807,612



State Street Global

Book Value \$ 305,421,093

Market Value \$ 302,027,446



Market Value Reported By Custodial Bank

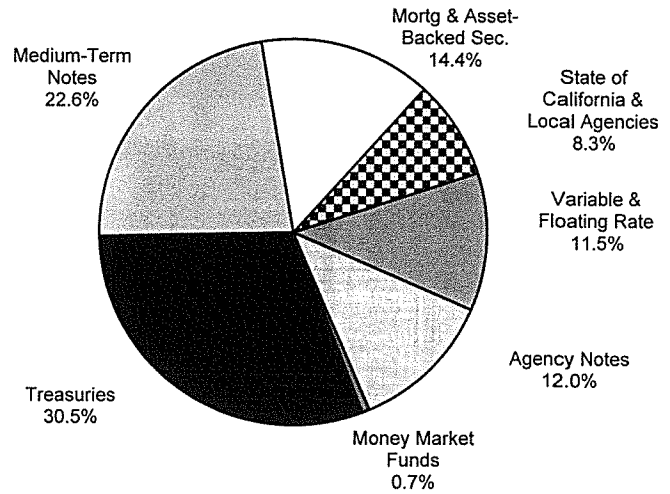
Short-Term Portfolio - \$1.22 Billion

As of 3/31/18

Part 2 of 2

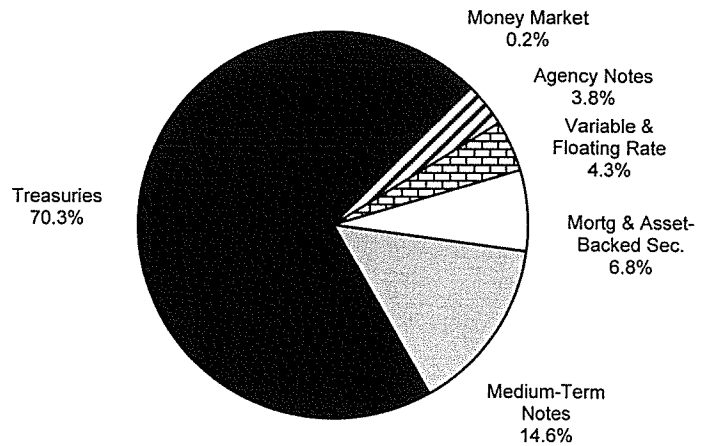
Payden & Rygel

Book Value	\$	306,169,701
Market Value	\$	302,849,235



Western Asset Management

Book Value	\$	305,505,964
Market Value	\$	302,193,411

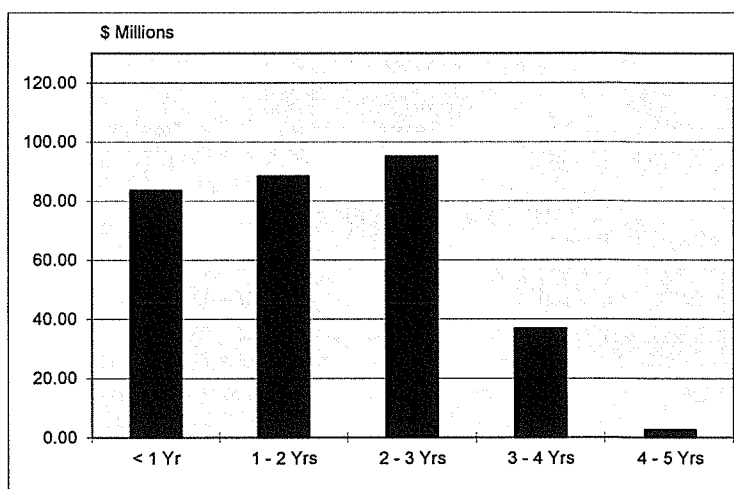


Market Value Reported By Custodial Bank

Short-Term Portfolio Maturity Schedule As of 3/31/18

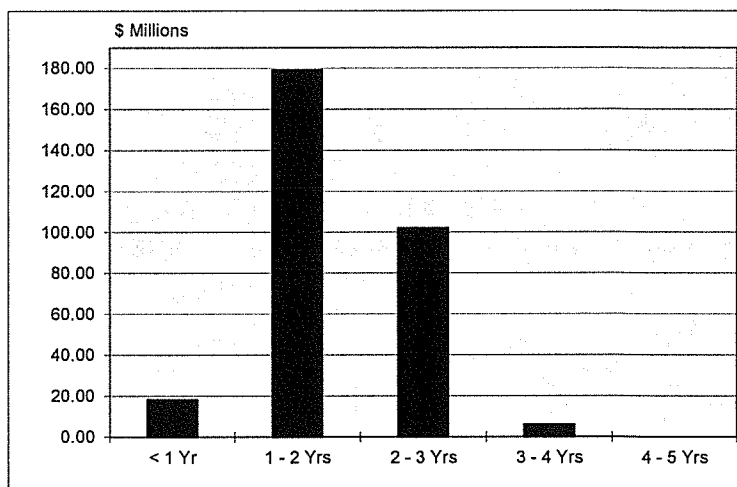
JP Morgan (\$306.6 M)

Monthly Return	0.17%
TSY Benchmark	0.20%
Gov/Corp Benchmark	0.17%
Fiscal YTD Return	-0.16%
TSY Benchmark	-0.14%
Gov/Corp Benchmark	-0.07%
12 Month Return	0.38%
TSY Benchmark	0.03%
Gov/Corp Benchmark	0.19%



State Street Global (\$305.4 M)

Monthly Return	0.14%
Benchmark Comparison	0.20%
Gov/Corp Benchmark	0.17%
Fiscal YTD Return	-0.14%
TSY Benchmark	-0.14%
Gov/Corp Benchmark	-0.07%
12 Month Return	0.24%
TSY Benchmark	0.03%
Gov/Corp Benchmark	0.19%



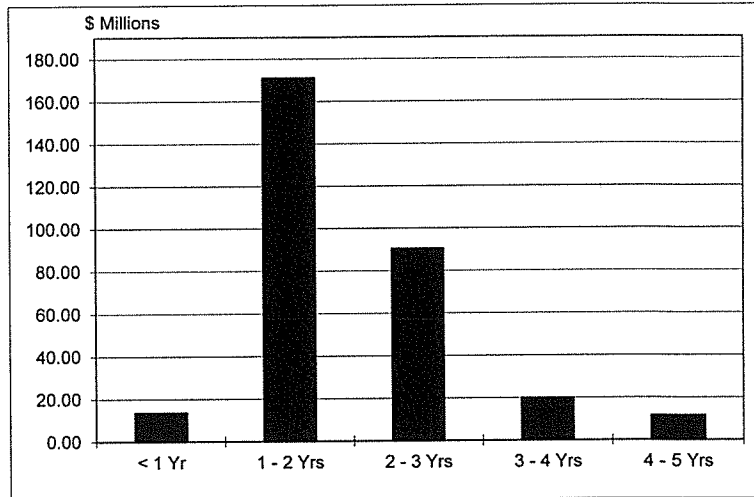
Yield Curve Change From 2/28/18 to 3/31/18			
	<u>2/28/18</u>	<u>3/31/18</u>	<u>Change</u>
1 Year	2.064%	2.090%	0.0260%
2 Year	2.254%	2.268%	0.0140%
3 Year	2.409%	2.384%	-0.0250%
5 Year	2.640%	2.563%	-0.0770%
30 Year	3.126%	2.974%	-0.1520%

Short-Term Portfolio Maturity Schedule

As of 3/31/18

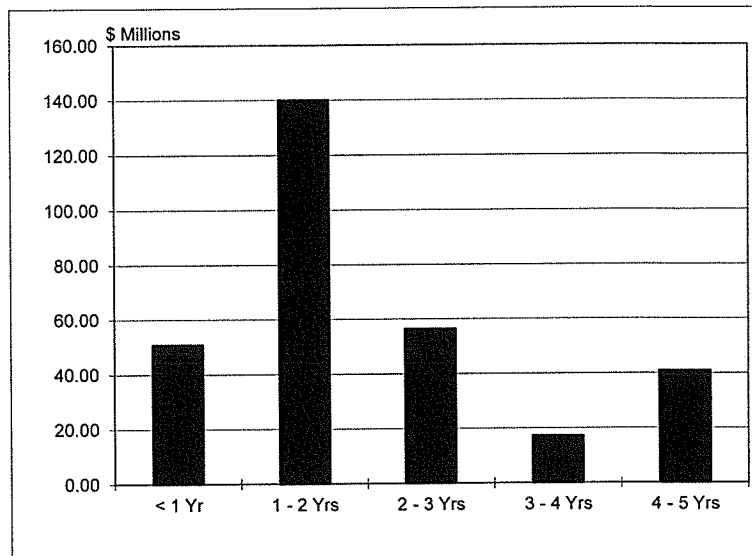
Payden & Rygel (\$306.2 M)

Monthly Return	0.13%
TSY Benchmark	0.20%
Gov/Corp Benchmark	0.17%
Fiscal YTD Return	0.17%
TSY Benchmark	-0.14%
Gov/Corp Benchmark	-0.07%
12 Month Return	0.49%
TSY Benchmark	0.03%
Gov/Corp Benchmark	0.19%



Western Asset Management (\$305.5 M)

Monthly Return	0.22%
TSY Benchmark	0.20%
Gov/Corp Benchmark	0.17%
Fiscal YTD Return	-0.02%
TSY Benchmark	-0.14%
Gov/Corp Benchmark	-0.07%
12 Month Return	0.34%
TSY Benchmark	0.03%
Gov/Corp Benchmark	0.19%

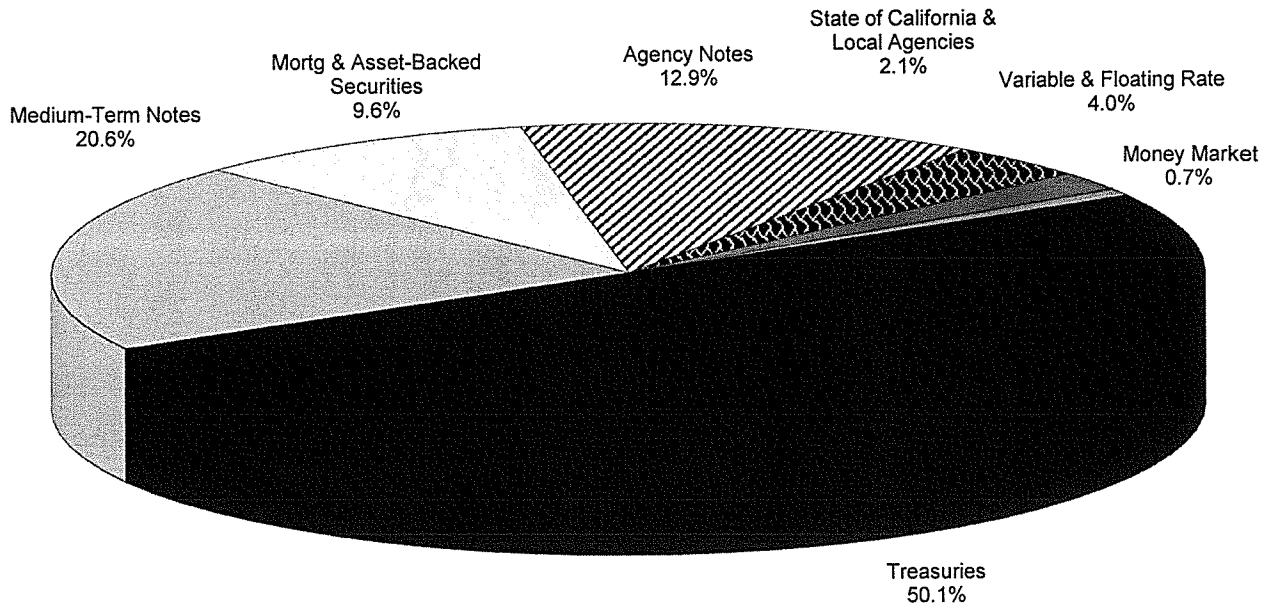


Yield Curve Change From 2/28/18 to 3/31/18			
	<u>2/28/18</u>	<u>3/31/18</u>	<u>Change</u>
1 Year	2.064%	2.090%	0.0260%
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5 Year	2.640%	2.563%	-0.0770%
30 Year	3.126%	2.974%	-0.1520%

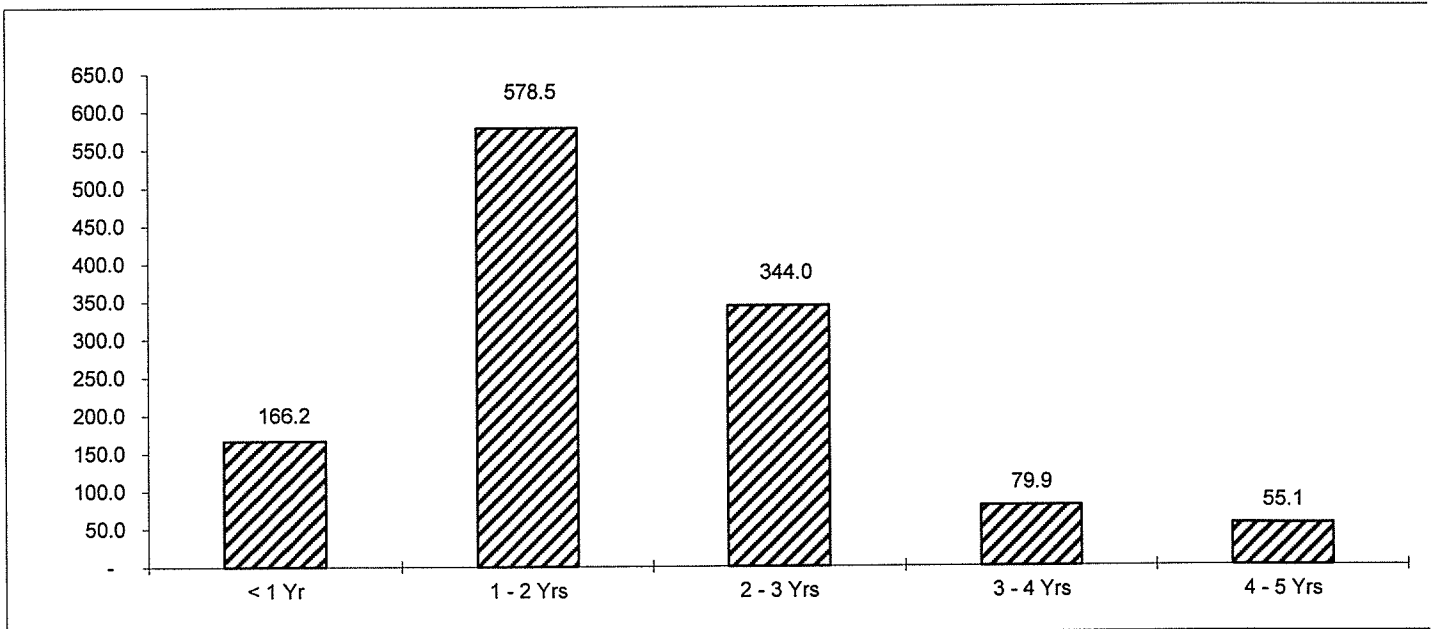
Short-Term Portfolio

As of 3/31/18

Total Portfolio Composition



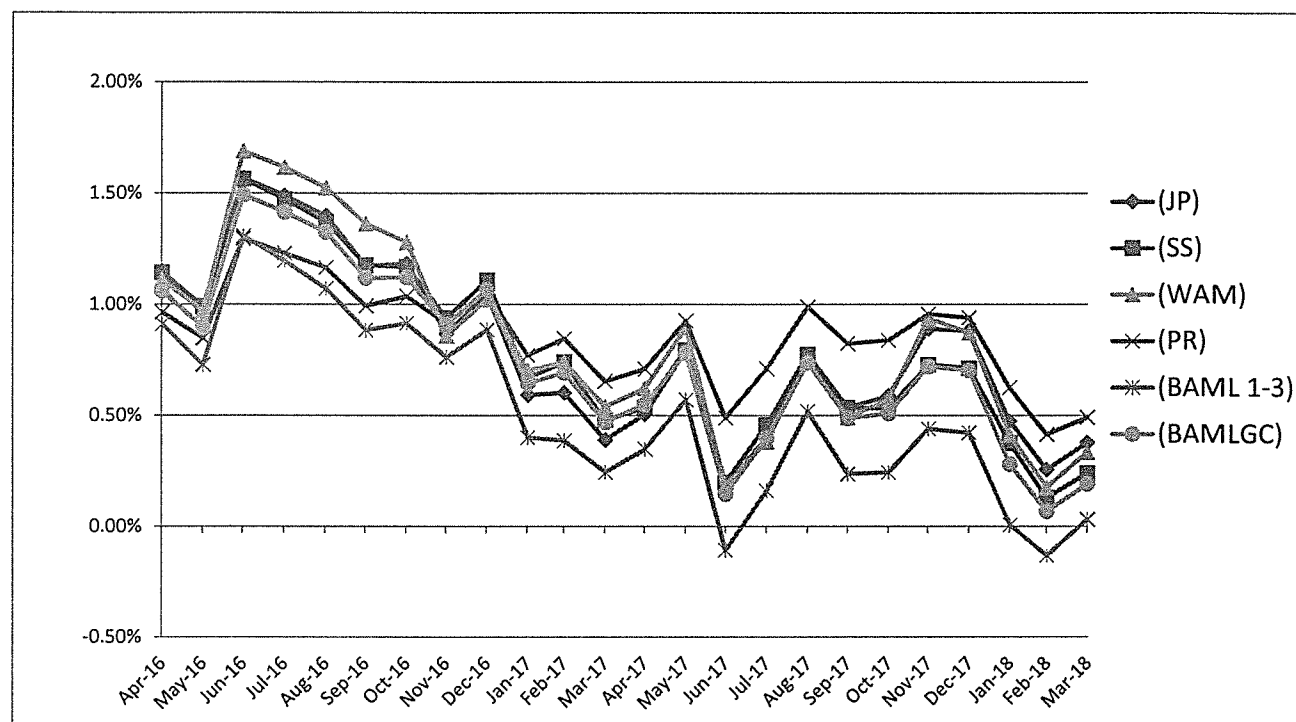
Total Portfolio Maturity Schedule



Short-Term Portfolio Performance

As of 3/31/18

Trailing 1-Year Total Return
Vs. The Bank of America Merrill Lynch (BAML) 1-3 Benchmarks

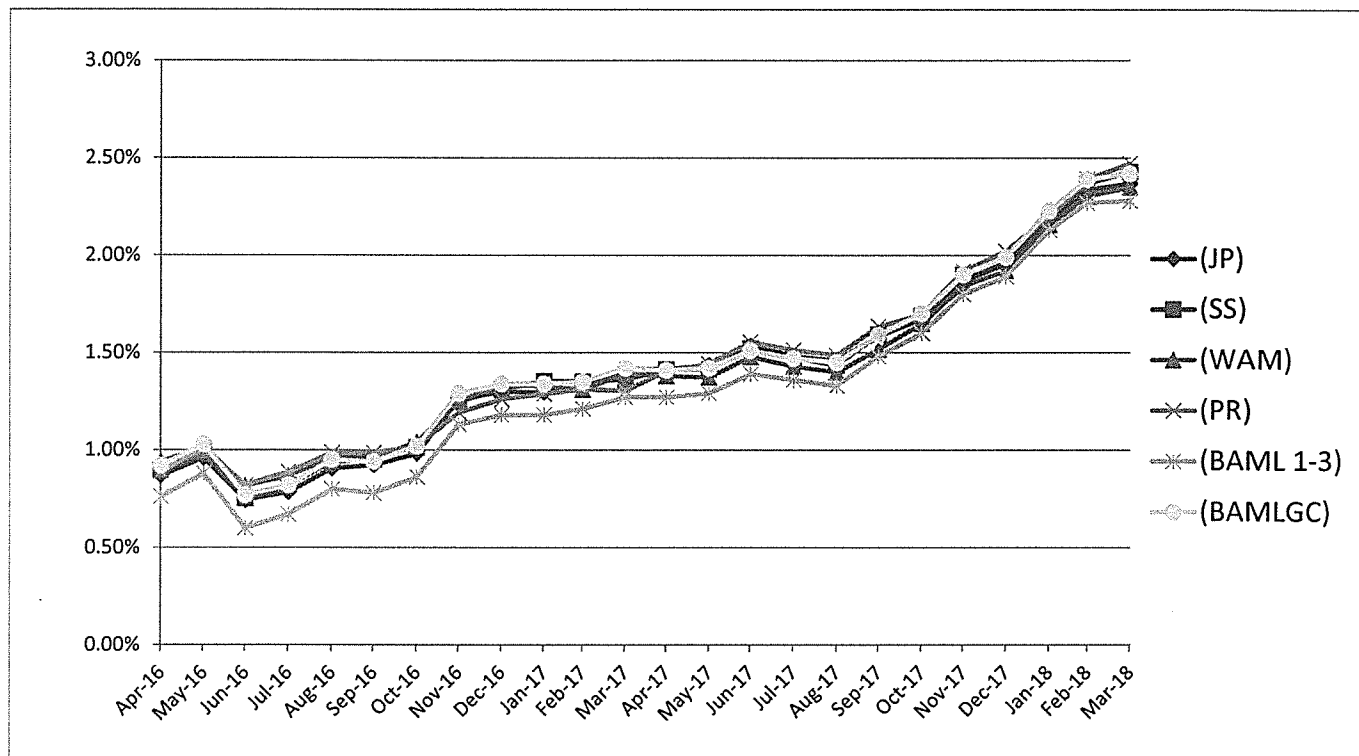


	JP Morgan (JP)	State Street (SS)	Western Asset Mgmt (WAM)	Payden & Rygel (PR)	ICE/BAML 1-3 Yr Trsy (BAML 1-3)	ICE/ BAML 1-3 Yr Gov/Corp (BAMLGC)
Apr-16	1.15%	1.14%	1.11%	0.96%	0.91%	1.06%
May-16	0.96%	0.99%	0.97%	0.85%	0.73%	0.90%
Jun-16	1.57%	1.56%	1.69%	1.30%	1.31%	1.49%
Jul-16	1.49%	1.47%	1.62%	1.23%	1.20%	1.42%
Aug-16	1.40%	1.37%	1.52%	1.16%	1.07%	1.32%
Sep-16	1.17%	1.18%	1.36%	0.99%	0.88%	1.12%
Oct-16	1.18%	1.17%	1.28%	1.04%	0.92%	1.12%
Nov-16	0.87%	0.94%	0.86%	0.92%	0.76%	0.91%
Dec-16	1.04%	1.11%	1.02%	1.05%	0.89%	1.07%
Jan-17	0.59%	0.67%	0.70%	0.77%	0.40%	0.65%
Feb-17	0.60%	0.74%	0.74%	0.85%	0.39%	0.69%
Mar-17	0.39%	0.48%	0.54%	0.65%	0.25%	0.47%
Apr-17	0.51%	0.54%	0.62%	0.71%	0.35%	0.55%
May-17	0.79%	0.80%	0.90%	0.93%	0.57%	0.78%
Jun-17	0.17%	0.20%	0.18%	0.49%	-0.11%	0.15%
Jul-17	0.40%	0.46%	0.38%	0.71%	0.16%	0.40%
Aug-17	0.76%	0.78%	0.74%	0.99%	0.52%	0.74%
Sep-17	0.54%	0.54%	0.49%	0.82%	0.24%	0.49%
Oct-17	0.59%	0.53%	0.57%	0.84%	0.24%	0.51%
Nov-17	0.89%	0.73%	0.94%	0.96%	0.44%	0.72%
Dec-17	0.88%	0.71%	0.87%	0.94%	0.42%	0.70%
Jan-18	0.48%	0.38%	0.41%	0.62%	0.01%	0.28%
Feb-18	0.26%	0.13%	0.18%	0.42%	-0.13%	0.07%
Mar-18	0.38%	0.24%	0.34%	0.49%	0.03%	0.19%

Comparative Yield Performance

As of 3/31/18

Historical Yields
Vs. The Bank of America Merrill Lynch (BAML) 1-3 Benchmarks



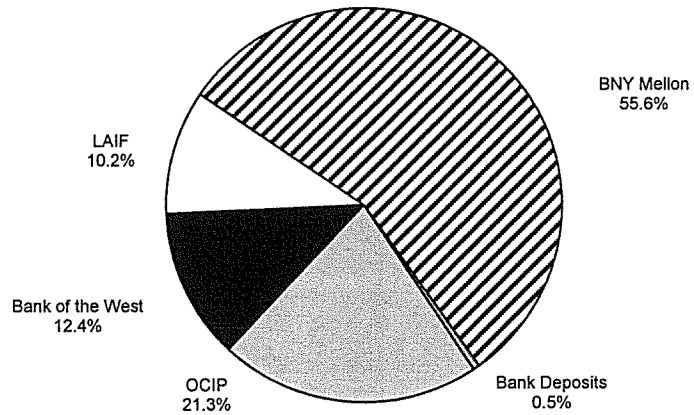
	JP Morgan (JP)	State Street (SS)	Western Asset Mgmt (WAM)	Payden Rygel (PR)	ICE/BAML 1-3 Yr Trsy (BAML 1-3)	ICE/ BAML 1-3 Yr Gov/Corp (BAMLGC)
Apr-16	0.87%	0.90%	0.94%	0.89%	0.76%	0.92%
May-16	0.96%	0.98%	1.01%	1.01%	0.88%	1.03%
Jun-16	0.74%	0.75%	0.82%	0.82%	0.60%	0.77%
Jul-16	0.79%	0.82%	0.87%	0.89%	0.67%	0.82%
Aug-16	0.91%	0.94%	0.96%	0.99%	0.80%	0.95%
Sep-16	0.92%	0.95%	0.96%	0.98%	0.78%	0.94%
Oct-16	0.98%	1.02%	1.04%	1.02%	0.86%	1.02%
Nov-16	1.26%	1.25%	1.25%	1.19%	1.13%	1.29%
Dec-16	1.30%	1.31%	1.34%	1.26%	1.18%	1.34%
Jan-17	1.29%	1.36%	1.33%	1.29%	1.18%	1.34%
Feb-17	1.32%	1.35%	1.31%	1.31%	1.21%	1.35%
Mar-17	1.42%	1.36%	1.39%	1.30%	1.27%	1.42%
Apr-17	1.42%	1.41%	1.38%	1.41%	1.27%	1.41%
May-17	1.44%	1.42%	1.37%	1.44%	1.29%	1.42%
Jun-17	1.54%	1.52%	1.48%	1.55%	1.39%	1.51%
Jul-17	1.48%	1.48%	1.43%	1.51%	1.36%	1.47%
Aug-17	1.46%	1.44%	1.40%	1.49%	1.33%	1.45%
Sep-17	1.59%	1.59%	1.52%	1.63%	1.48%	1.59%
Oct-17	1.67%	1.69%	1.65%	1.70%	1.60%	1.70%
Nov-17	1.87%	1.90%	1.84%	1.92%	1.80%	1.90%
Dec-17	1.96%	1.97%	1.92%	2.02%	1.89%	1.99%
Jan-18	2.18%	2.19%	2.16%	2.20%	2.13%	2.23%
Feb-18	2.34%	2.37%	2.31%	2.39%	2.27%	2.39%
Mar-18	2.37%	2.43%	2.35%	2.47%	2.28%	2.42%

Liquid Funds Portfolio - \$101.3 M

As of 3/31/18

Other Liquid Funds

Book Value	\$	101,276,754
Market Value	\$	101,276,754



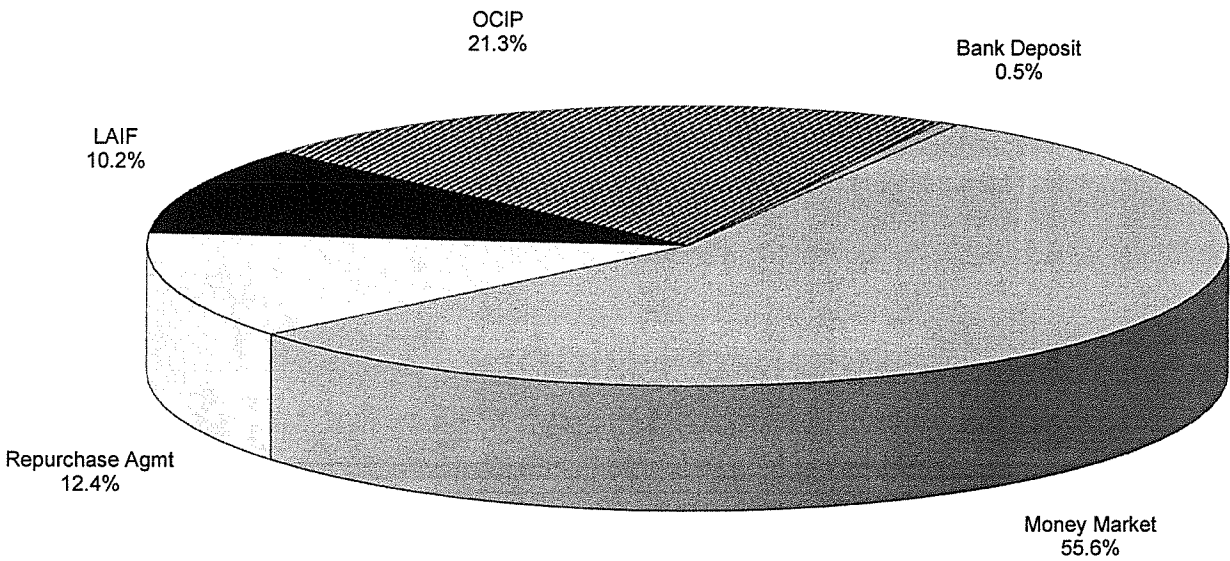
Yield Curve Change From 2/28/18 to 3/31/18			
	<u>2/28/18</u>	<u>3/31/18</u>	<u>Change</u>
1 Month	1.507%	1.618%	0.1110%
3 Month	1.659%	1.706%	0.0470%
6 Month	1.855%	1.918%	0.0630%

Market Value Reported By Custodial Bank

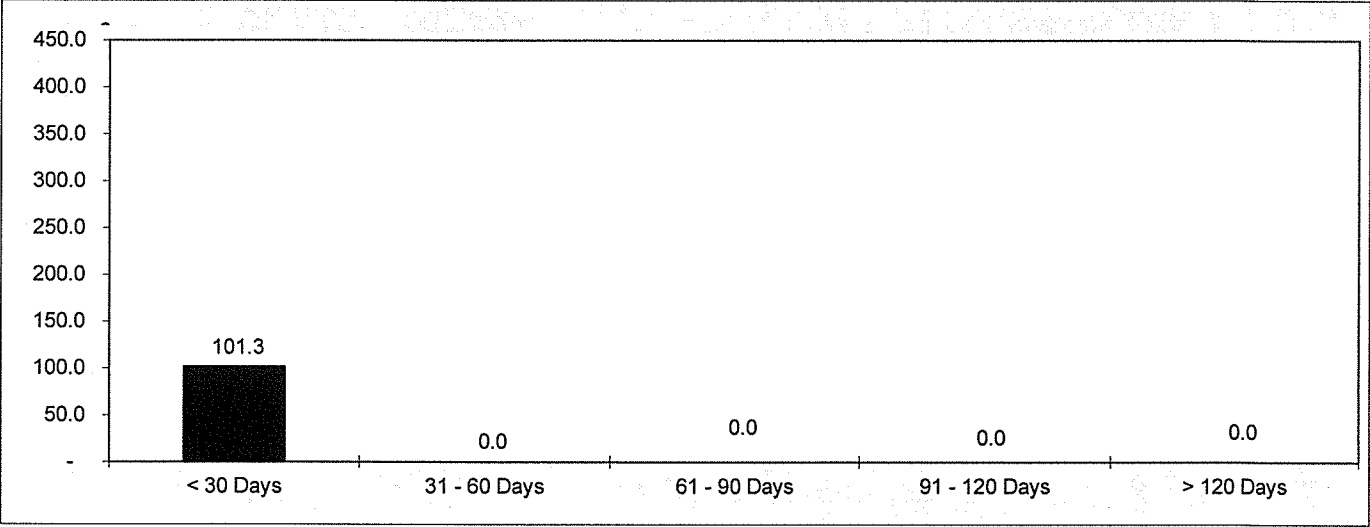
Liquid Portfolio

As of 3/31/18

Total Portfolio Composition



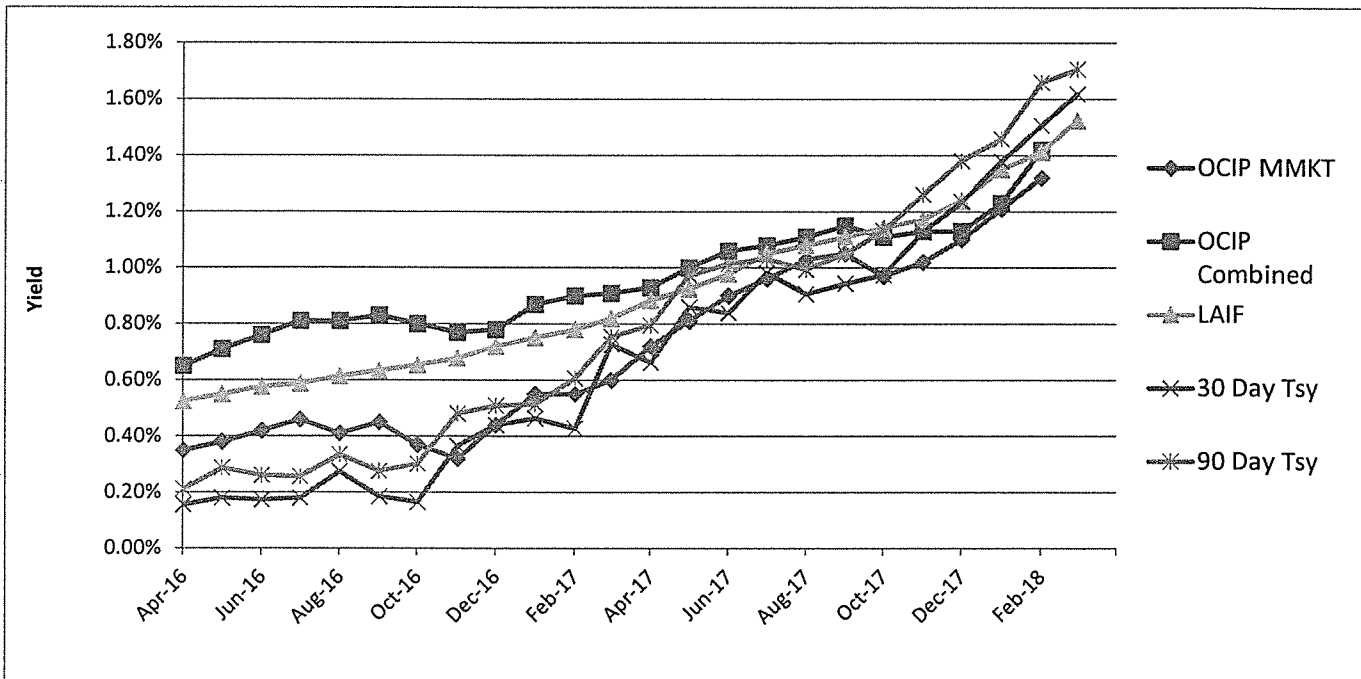
Maturity Schedule For Liquid Portfolio



Liquid Portfolio Performance

As of 3/31/18

Trailing 2-Year Yield OCIP, LAIF, 30 & 90 Day Treasury Bills



	OCIP MMKT	OCIP Combined	LAIF	30 Day Tsy	90 Day Tsy
Apr-16	0.35%	0.65%	0.53%	0.16%	0.21%
May-16	0.38%	0.71%	0.55%	0.18%	0.29%
Jun-16	0.42%	0.76%	0.58%	0.17%	0.26%
Jul-16	0.46%	0.81%	0.59%	0.18%	0.26%
Aug-16	0.41%	0.81%	0.61%	0.27%	0.34%
Sep-16	0.45%	0.83%	0.63%	0.19%	0.28%
Oct-16	0.37%	0.80%	0.65%	0.17%	0.30%
Nov-16	0.32%	0.77%	0.68%	0.37%	0.48%
Dec-16	0.44%	0.78%	0.72%	0.44%	0.51%
Jan-17	0.55%	0.87%	0.75%	0.46%	0.52%
Feb-17	0.55%	0.90%	0.78%	0.43%	0.61%
Mar-17	0.60%	0.91%	0.82%	0.73%	0.75%
Apr-17	0.72%	0.93%	0.88%	0.66%	0.80%
May-17	0.81%	1.00%	0.93%	0.86%	0.97%
Jun-17	0.90%	1.06%	0.98%	0.84%	1.01%
Jul-17	0.96%	1.08%	1.05%	0.98%	1.03%
Aug-17	1.03%	1.11%	1.08%	0.91%	0.99%
Sep-17	1.05%	1.15%	1.11%	0.94%	1.05%
Oct-17	0.97%	1.11%	1.14%	0.98%	1.13%
Nov-17	1.02%	1.13%	1.17%	1.13%	1.26%
Dec-17	1.10%	1.13%	1.24%	1.23%	1.38%
Jan-18	1.21%	1.23%	1.35%	1.38%	1.46%
Feb-18	1.32%	1.42%	1.41%	1.51%	1.66%
Mar-18	N/A	N/A	1.52%	1.62%	1.71%

Investment Policy Compliance

As of 3/31/18

<u>Investment Instruments</u>	<u>Dollar Amount Invested</u>	<u>Percent Of Portfolio</u>	<u>Investment Policy Maximum Percentages</u>
U.S. Treasuries	613,347,307	45.5%	100%
Federal Agencies & U.S. Government Sponsored *	157,523,803	11.7%	100%
State of California & Local Agencies	25,344,908	1.9%	25%
Money Market Funds & Mutual Funds	65,866,376	4.9%	20%
Bankers Acceptances	0	0.0%	30%
Negotiable Certificates of Deposit	0	0.0%	30%
Commercial Paper	23,964,275	1.8%	25%
Medium Term Maturity Corporate Securities	251,680,136	18.7%	30%
Mortgage and Asset-backed Securities	117,866,769	8.7%	10%
Repurchase Agreements	12,511,993	0.9%	75%
Investment Agreements Pursuant To Indenture	0	0.0%	100%
Local Agency Investment Fund (LAIF)	10,336,469	0.8%	\$ 40 Million
Orange County Investment Pool (OCIP)	21,530,142	1.6%	\$ 40 Million
CAMP	0	0.0%	10%
Variable & Floating Rate Securities	48,388,656	3.6%	30%
Debt Service Reserve Funds - Investment Agreements	0	0.0%	Not Applicable
Bank Deposits	561,483	0.0%	5%
Derivatives (hedging transactions only)	0	0.0%	5%
TOTAL	1,348,922,319	100.0%	

* See attached page for a detailed listing of this category

Investment Policy Compliance

As of 3/31/18

Detail Composition

<u>Investment Instruments</u>	<u>Dollar Amount Invested</u>	<u>Percent Of Total Portfolio</u>	<u>Investment Policy Guidelines</u>
<u>Federal Agencies & U.S. Government Sponsored</u>			
Federal Home Loan Bank (FHLB)	65,941,443	4.9%	35%
Federal Home Loan Mortgage Corporation (FHLMC)	57,082,666	4.2%	35%
Federal Farm Credit Bank (FFCB)	13,835,796	1.0%	35%
Federal National Mortgage Association (FNMA)	37,953,279	2.8%	35%
	174,813,184 *	13.0%	

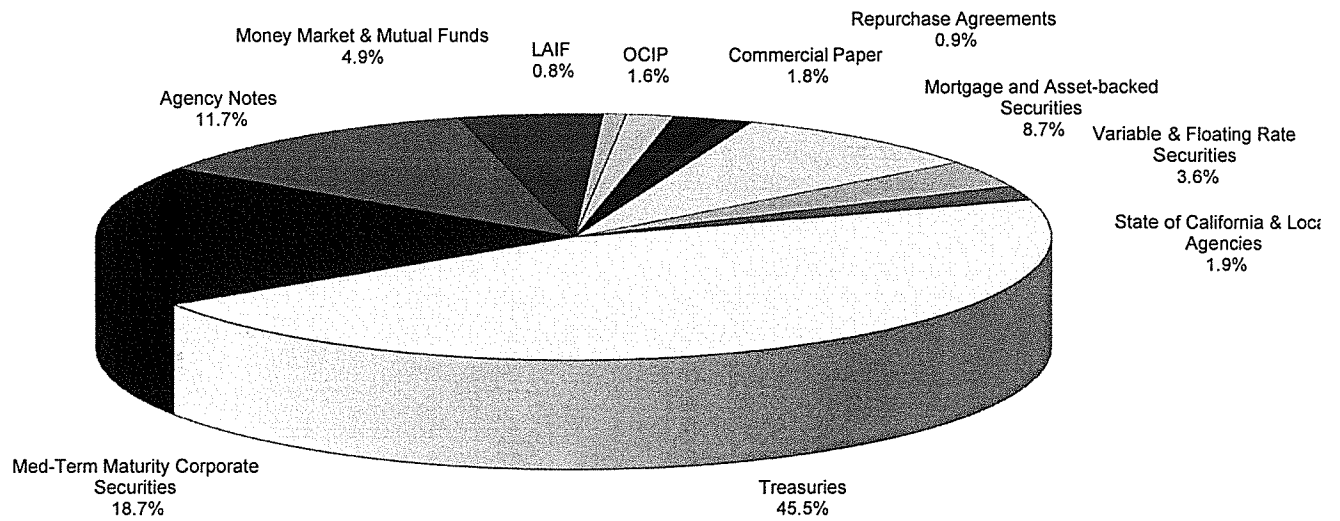
* The Total Dollar Amount Invested Equals The Dollar Amount Invested For Federal Agency Securities, Variable & Floating Rate (Agency) Securities, And A Portion Of Mortgage (Agency) & Asset-back Securities.

Money Market Funds (MMF) & Mutual Funds

First American Obligations Treasury Fund	405	0.0%
Goldman Sach Fin. Square Govt. MMF	0	0.0%
Blackrock Institutional T-Fund	9,525,200	0.7%
Fidelity Treasury Obligations MMF	42,833,002	3.2%
Federated Treasury Obligations Fund	<u>13,507,769</u>	<u>1.0%</u>
	65,866,376	4.9%

Investment Allocation

As of 3/31/18



Negative Credit Watch

As of 3/31/18

<u>Manager / Security</u>	<u>Par Amount</u>	<u>Maturity</u>	<u>S&P</u>	<u>Moody's</u>	<u>Fitch Ratings</u>
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JPM

<i>Bayer US Financial</i>	200,000	10/8/2019	A-	A3	NA
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During May 2016, Standard & Poor's and Moody's placed the long-term ratings of Bayer Financial under review for possible downgrade.

<i>Walt Disney</i>	447,000	Various*	A+	A2	A
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On December 14, 2017, Standard & Poor's placed the long-term ratings of Walt Disney under review for possible downgrade.

<i>Qualcom</i>	320,000	5/20/2020	A	A1	NA
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On February 20, 2018, Standard & Poor's placed the long-term ratings of Qualcom under review for possible downgrade.

<i>Southern California Edison</i>	485,000	Various**	A	Aa3	A+
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On February 26, 2018, Fitch placed the long-term ratings of Southern California Edison under review possible downgrade.

Payden & Rygel

<i>Qualcom</i>	530,000	5/20/2019	A	A1	NA
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On February 20, 2018, Standard & Poor's placed the long-term ratings of Qualcom under review for possible downgrade.

Western Asset Management

<i>Qualcom</i>	1,740,000	Various***	A	A1	NA
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On February 20, 2018, Standard & Poor's placed the long-term ratings of Qualcom under review for possible downgrade.

* Securities will mature on 9/17/18, 1/8/19, 7/12/19, and 6/5/20.

** Securities will mature on 8/15/18, 6/1/21, and 2/1/22.

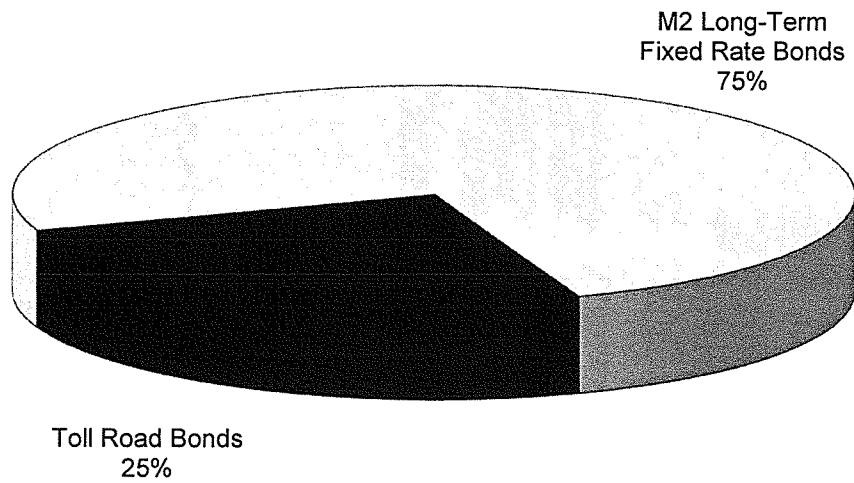
*** Securities will mature on 5/18/18 and 5/20/20.

DEBT PROGRAM

Total Outstanding Debt

As of 3/31/18

Outstanding Debt



TOTAL OUTSTANDING DEBT: \$413,840,000

Outstanding Debt

As of 3/31/18

Orange County Local Transportation Authority (OCLTA-M2)

2010 Series A Taxable Build America Bonds - Sales Tax Revenue Bonds

Issued:	\$	293,540,000
Outstanding:	\$	293,540,000
Debt Service FY 2018:		13,409,389
Pledged Revenue Source:	M2 Sales Tax Revenues	
Ratings		Aa2/AA+/AA+
Final Maturity		2041

2010 Series B Tax-Exempt Sales Tax Revenue Bonds

Issued:	\$	59,030,000
Outstanding:	\$	16,695,000
Debt Service FY 2018:		8,913,100
Pledged Revenue Source:	M2 Sales Tax Revenues	
Ratings		Aa2/AA+/AA+
Final Maturity		2020

91 Express Lanes

2013 OCTA 91 Express Lanes Refunding Bonds

Issued:	\$	124,415,000
Outstanding:		103,605,000
Debt Service FY 2018:		10,794,700
Pledged Revenue Source:	91 Toll Road Revenues	
Underlying Ratings		A1/AA-/A
Final Maturity		2030

405 Express Lanes

2017 TIFIA Loan

Outstanding:	\$	0
Debt Service FY 2018:		0
Pledged Revenue Source:	405 Toll Road Revenues	
Ratings		Baa2/BBB-/BBB-
Final Maturity		2058



April 25, 2018

To: Finance and Administration Committee

From: Darrell E. Johnson, Chief Executive Officer

Handwritten signature: J. Bennett Ruiz for

Subject: Agreement for Commercial Banking Services

Overview

The Orange County Transportation Authority uses banking services for the deposit, disbursement, and safekeeping of public funds. On January 22, 2018, a request for proposals for commercial banking services was issued. Offers were received and evaluated in accordance with the Orange County Transportation Authority's procurement procedures for professional and technical services. The evaluation process has been completed, and recommendations are presented for the Board of Directors' approval.

Recommendations

- A. Approve the selection of Bank of the West as the firm to provide commercial banking services.
- B. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-7-2159 between the Orange County Transportation Authority and Bank of the West, in the amount of \$277,000, for a five-year initial term effective September 1, 2018 through August 31, 2023, with one, three-year option term, to provide commercial banking services.

Discussion

The Orange County Transportation Authority (OCTA) utilizes a financial institution for daily commercial banking services. The commercial banking services include a master custodial account for the deposit of the 91 Express Lanes cash receipts, credit sales of bus passes, farebox collection deposits, direct deposit of employee payroll checks, payments to vendors, and investment activities.

Prudent procurement practices require the reevaluation of banking services on a periodic basis. In addition, changes in technology, fraud prevention tools, treasury management practices, and banking services present an opportunity to reevaluate banking needs and costs. Reviewing and selecting banking services on a periodic basis also allows OCTA to achieve its objective of having appropriate and cost-effective banking services, including investment options, while protecting its funds and reducing risks.

Procurement Approach

This procurement was handled in accordance with OCTA's Board of Directors (Board)-approved procedures for professional and technical services. In addition to cost, many other factors are considered in an award for professional and technical services. Award is recommended to the firm offering the most comprehensive overall proposal considering such factors as staffing and project organization, prior experience with similar banking services, approach to the requirement, as well as fair and reasonable fees.

On January 22, 2018, Request for Proposals (RFP) 7-2159 was issued electronically on CAMM NET. The project was advertised in a newspaper of general circulation on January 22 and 29, 2018. A pre-proposal conference was held on January 29, 2018, with nine attendees representing six firms. Four addenda were issued to make available a copy of the pre-proposal conference registration sheet and presentations, and respond to questions related to the RFP.

On February 20, 2018, three proposals were received. An evaluation committee consisting of OCTA staff from Contracts Administration and Materials Management, Financial Planning and Analysis, Accounting and Financial Reporting, and Treasury/Toll Roads departments, as well as a representative from the Los Angeles – San Diego – San Luis Obispo Rail Corridor met to review all proposals received.

The proposals were evaluated based on the following evaluation criteria and weightings:

- | | |
|-------------------------------------|------------|
| • Qualifications of the Firm | 25 percent |
| • Staffing and Project Organization | 20 percent |
| • Banking Services | 30 percent |
| • Banking Fees | 25 percent |

Several factors were considered in developing the evaluation criteria weightings. Banking services was considered of highest importance as the bank

needs to be able to provide the specific types of services to meet OCTA's banking needs.

Qualifications of the firm was assigned a 25 percent weighting as the bank's prior experience performing commercial banking confirms the bank will be able to hold, deposit, pay, and transfer funds for OCTA's various accounts. Bank fees was also assigned a 25 percent weighting to ensure OCTA receives competitive fees for the services provided. Staffing and project organization was assigned a 20 percent weighting as the firms need to clearly identify which staff from the bank will have access to OCTA funds.

On February 28, 2018, the evaluation committee reviewed all proposals received based on the evaluation criteria and short-listed the two most qualified firms listed below in alphabetical order:

Firm and Location

Bank of the West (BOTW)
Newport Beach, California

Wells Fargo, N.A. (WF)
Los Angeles, California

On March 8, 2018, the evaluation committee conducted interviews with the two short-listed firms. The interviews consisted of a presentation to demonstrate the firms' understanding of OCTA's requirements. The firms' project managers and key team members had an opportunity to present each team's qualifications and respond to the evaluation committee's questions. Questions were asked relative to the proposed relationship manager's experience in commercial banking, innovative technology offered that may improve OCTA's banking operations, fraud prevention tools, and investment tools. Finally, each team was asked specific clarification questions related to their proposal.

At the conclusion of the interviews, the two firms were requested to submit a best and final offer (BAFO) to provide more competitive banking fees. The two firms were also requested to clarify and provide additional information related to overnight investment options. Both firms provided a response to the clarification request and updated their bank fees.

After considering the responses to the questions asked during the interviews and the information provided in the BAFO, the evaluation committee reviewed the preliminary ranking for both firms. As a result, the ranking of the firms remained unchanged.

Based on the evaluation of the written proposals, the firms' qualifications, proposed banking fees, information obtained from the interviews, and the BAFO, the evaluation committee recommends BOTW for consideration of the award. The following is a brief summary of the proposal evaluation results.

Qualifications of the Firm

Both short-listed firms are established full-service financial institutions with extensive experience in providing commercial banking services, investment, and asset management to various public agencies nationwide.

BOTW was founded in 1874 and has provided commercial banking services to OCTA since 1983. BOTW also provides commercial banking for the County of Los Angeles, County of San Joaquin, and the State of California. As of January 1, 2018, BOTW has over \$3.4 billion in public funds collateralized in accordance with applicable laws and government codes. Lastly, BOTW has a government banking division that supports over 4,200 public accounts, 1,500 in California.

WF was founded in 1852 and has teams dedicated to government clients. WF currently provides commercial banking services to the City of Anaheim and San Bernardino County. As of January 1, 2018, WF has over \$4.5 billion in public funds collateralized in accordance with applicable laws and government codes. WF also has a Government and Institutional Banking group that supports 5,500 public-sector clients, 500 in California.

Staffing and Project Organization

Both firms proposed project teams with extensive commercial banking experience, and knowledge of the banking industry and the government sector.

BOTW proposed the same project team that is currently assigned to continue managing OCTA accounts. The proposed relationship manager is the manager of the Government Banking Division for BOTW. All key personnel for BOTW have over 20 years of experience in the banking industry.

The majority of the proposed key personnel from WF have over 20 years banking experience and are well qualified to provide the required services. The proposed relationship manager and the treasury management consultant for WF are part of the government and institutional banking group, and specialize in public agencies.

Banking Services

Both firms provided a comprehensive approach to addressing all the elements of the scope of work, which reflects their clear understanding of OCTA's banking service requirements. Both firms offered similar innovative tools to enhance the banking services offered to OCTA, which can potentially improve OCTA's oversight of banking transactions. In addition, both firms offered enhanced fraud prevention tools such as Positive Pay, which is a web-based security tool that prevents unauthorized automatic clearinghouse transactions to protect OCTA's funds.

BOTW offers an earnings credit of one percent for cash not invested. An earnings credit is a tool that is used by banks to reduce the fees paid by bank customers. These credits are earned on cash that is left in the bank account not invested. In addition to the one percent earnings credit, BOTW also offers a one percent return through a Repurchase Agreement Sweep, which is an overnight investment option which may offset the bank fees for the agreement. Other investment options offered include the Dreyfus Government Money Market Sweep with a 1.3 percent, seven-day yield, as well as various treasury, short term, and money market investments.

WF offers an earnings credit of one percent for cash not invested. WF offers a .6 percent return through a Repurchase Agreement Sweep. Other investment options include the Government Money Market Fund with a 1.3 percent, seven-day yield and the Treasury Plus Money Market Fund. WF also included in their proposal the implementation process, including discovery, planning, execution, testing, and monitoring phases to transition all OCTA accounts.

The return rate on the Repurchase Agreement Sweep proposed by BOTW is higher than the return rate offered by WF. The money earned from the repurchase agreement sweep is recorded in the general fund and may be used to pay for transactions charged to the general fund. The higher percentage return offered by BOTW on the repurchase agreement sweep will increase cash and revenue available in the general fund.

Bank Fees

Bank fees were based on a formula that assigns the highest score to the lowest total average estimated monthly fee, and scores the other proposals' total average estimated monthly fee based on their relation to the lowest total

estimated monthly fee. Both firms included a discount to their bank fees. BOTW's total estimated monthly amount was the lowest among all proposing firms.

Procurement Summary

Based on the evaluation of the written proposals, the firms' qualifications, the information obtained from the interviews, and BAFO, the evaluation committee recommends the selection of BOTW as the top-ranked firm to provide commercial banking services. BOTW demonstrated strong relevant experience and competitive pricing and submitted a thorough and comprehensive proposal that was responsive to all requirements of the RFP.

Fiscal Impact

Commercial banking services were included in the Orange County Transportation Authority's Fiscal Year 2018-19 Budget, Finance and Administration, Accounting and Financial Reporting Department, Account 1240-7629/A0001-1GJ.

Summary

Based on the information provided, staff recommends the Board authorize the Chief Executive Officer to negotiate and execute Agreement No. C-7-2159 with Bank of the West, in the amount of \$277,000, for a five-year initial term effective September 11, 2018 through August 31, 2023, with one, three-year option term, to provide commercial banking services.

Attachments

- A. Review of Proposals, RFP 7-2159 Commercial Banking Services
- B. Proposal Evaluation Criteria Matrix (Short-Listed Firms), RFP 7-2159 Commercial Banking Services
- C. Contract History for the Past Two Years, RFP 7-2159 Commercial Banking Services

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Approved by:



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Virginia Abadessa
Director, Contracts Administration and
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Review of Proposals
RFP 7-2159 Commercial Banking Services
Presented to the Finance and Administration Committee - April 25, 2018
3 proposals were received, 2 firms were interviewed, 1 firm is being recommended.

Overall Ranking	Proposal Score	Firm & Location	Sub-Contractors	Evaluation Committee Comments	Average Estimated Monthly Fees
1	87	Bank of the West Newport Beach, California	Loomis US	Excellent qualifications and extensive experience in providing banking services. Firm has been in business since 1871 and has over 28,000 employees. Subcontractor to provide private label Cash Vault Services. Firm has experience providing commercial banking services in Orange County. Strong project team with extensive commercial banking experience. Demonstrated a thorough and concise understanding of OCTA's requirements. Comprehensive banking services that meet OCTA's requirements. Excellent responses to interview questions reflecting bank service options. Proposed higher interest earnings on overnight investments (Repo Sweep). Proposed 1% earnings credit. Proposed Repo Sweep of 1% References provided positive comments and feedback.	Average Estimated Monthly Fees <u>\$ 4,610.83</u>
2	84	Wells Fargo, N.A. Los Angeles, California	None	Excellent qualifications and extensive experience in providing banking services. Firm has been in business since 1852 with a government division. Firm has experience providing commercial banking services in the State of California. Strong project team with extensive commercial banking experience. Comprehensive banking services that meet OCTA's requirements. Excellent responses to interview questions reflecting depth of experience. Proposed high interest earnings on Repo Sweep. Proposed 1% earnings credit. Proposed Repo Sweep of .6% References provided positive comments and feedback.	Average Estimated Monthly Fees <u>\$ 5,022.48</u>

Evaluation Panel:

Internal:

Contracts Administration and Materials Management (1)
Financial Planning and Analysis (1)
Accounting and Financial Reporting (1)
Treasury/Toll Roads (1)
Los Angeles – San Diego – San Luis Obispo Rail Corridor (1)

Proposal Criteria

Qualifications of the Firm
Staffing and Project Organization
Banking Services
Bank Fees

Weight Factors

25%
20%
30%
25%

ATTACHMENT A

PROPOSAL EVALUATION CRITERIA MATRIX (SHORT-LISTED FIRMS)
RFP 7-2159 Commercial Banking Services

Bank of the West						Weights	Overall Score
Evaluator Number	1	2	3	4	5		
Qualifications of Firm	4.5	4.5	4.0	4.0	4.0	5	21.0
Staffing/Project Organization	4.0	4.0	4.0	4.0	4.0	4	16.0
Bank Services	4.0	4.5	4.0	4.5	4.0	6	25.2
Bank Fees	5.0	5.0	5.0	5.0	5.0	5	25.0
Overall Score	87.5	90.5	85.0	88.0	85.0		87
Wells Fargo						Weights	Overall Score
Evaluator Number	1	2	3	4	5		
Qualifications of Firm	4.5	4.0	4.0	4.0	4.0	5	20.5
Staffing/Project Organization	4.0	4.0	4.0	4.0	4.0	4	16.0
Bank Services	4.0	4.0	4.0	4.0	4.0	6	24.0
Bank Fees	4.6	4.6	4.6	4.6	4.6	5	23.0
Overall Score	85.5	83.0	83.0	83.0	83.0		84

The score for the non-short-listed firm was 57.

CONTRACT HISTORY FOR THE PAST TWO YEARS
RFP 7-2159 COMMERCIAL BANKING SERVICES

Prime and Subconsultants	Contract No.	Description	Contract Start Date	Contract End Date	Total Contract Amount
Bank of the West					
Contract Type: Time and Expense	C-1-2421	Commercial Banking Services	September 1, 2011	August 31, 2018	\$ 500,000
Subconsultants:					
Wells Fargo Bank					
Brink's, Inc.					
			Sub Total		\$ 500,000
Wells Fargo					
Contract Type: N/A	None	N/A	N/A	N/A	\$ -
Subconsultants:None					
			Sub Total		\$ -



April 25, 2018

To: Finance and Administration Committee

From: Darrell Johnson, Chief Executive Officer

Subject: Third Quarter Fiscal Year 2017-2018 Procurement Status Report

Overview

The third quarter procurement status report summarizes the procurement activities for information purposes to the Orange County Transportation Authority Board of Directors. This report focuses on procurement activity from January 1 through March 31, 2018, that were approved by the Board of Directors during this period. The third quarter procurement status report also projects future procurement activity for the fourth quarter as identified in the fiscal year 2017-18 budget.

Recommendation

Receive and file as an information item.

Background

The Board of Directors (Board) approved the Orange County Transportation Authority (OCTA) Fiscal Year (FY) 2017-18 Budget, which identifies the goods and services that will be purchased during the FY. A quarterly procurement report has been prepared detailing the procurement activity for line items that were approved by the Board during the third quarter of FY 2017-18. The report also provides a “look-ahead” of upcoming procurement activity by Board committee. The quarterly procurement report identifies contractual activity, not dollars spent.

Discussion

During the third quarter of FY 2017-18, the Contracts Administration and Materials Management Department handled 508 different contractual documents. Of the total, 330 procurements, valued at \$208,642,825, were completed; the remaining procurements will be executed during the fourth quarter of FY 2017-18.

In the third quarter, the Board took action on 24 procurements. The procurements were split between 15 new agreements valued at \$117,238,747, four amendments valued at \$1,312,156, one construction change order valued at \$442,305, one cooperative agreement valued at \$147,584,000, one amendment to cooperative agreement valued at \$3,200,000, one purchase order valued at \$ 500,000, and one sole source agreement valued at \$ 100,000. Not all procurements are completed within the quarter in which they begin. Often, the procurements require cost and price reviews and negotiations which can lengthen the procurement process. Procurements not completed within the third quarter will be completed in the fourth quarter of FY 2017-18. Attachment A shows a list of Board-approved procurements during the third quarter.

Looking forward to the fourth quarter of FY 2017-18 (April through June, 2018), the Board committees will be asked to take action on several items such as:

- Consultant selection for financial advisory services;
- Consultant selection for commercial banking services;
- Cooperative Agreement with the California Department of Transportation for Transforming Beach Boulevard Study;
- Consultant selection for video surveillance system at the Laguna Niguel/Mission Viejo Metrolink Station; and
- Amendments to Cooperative Agreements with the cities of Costa Mesa, Fountain Valley, Huntington Beach, and Westminster for the Interstate 405 Improvement Project.

The estimated value of these upcoming procurements is \$26,433,414. Attachments B through E identify procurement activity anticipated in the fourth quarter of FY 2017-18 by the committee that will review the items.

Summary

This report provides an update of the procurement activity for the third quarter of FY 2017-18, January through March 2018, as well as a look-ahead at anticipated procurement activity for the fourth quarter of FY 2017-18. Staff recommends that this report be received and filed as an information item.

Attachments

- A. Board-Approved Contracts – Third Quarter FY 2017-2018
- B. Regional Planning and Highways Committee – Fourth Quarter Outlook
(April 1, 2018 – June 30, 2018)
- C. Transit Committee – Fourth Quarter Outlook
(April 1, 2018 – June 30, 2018)
- D. Finance and Administration Committee - Fourth Quarter Outlook
(April 1, 2018 – June 30, 2018)
- E. Legislative and Communications Committee - Fourth Quarter Outlook
(April 1, 2018 – June 30, 2018)

Prepared by:



Virginia Abadessa
Director, Contracts Administration and
Materials Management
(714) 560-5623

Approved by:



Andrew Oftelie
Executive Director,
Finance and Administration
(714) 560-5649

AGREEMENTS

Prime Vendor	Contract #	Contract Description	Eff Date	Exp Date	Amount
Siemens Industries, Inc.	6-1445	Purchase of eight Streetcar Vehicles, Spare Parts and Tools with an Option to Purchase Up To Ten Additional Streetcar Vehicles and Spare Parts	6/1/2018	5/31/2025	\$51,527,520
Chandler Asset Management, Inc.	7-1813	Investment Management Services	4/1/2018	12/31/2022	Aggregate \$8,995,608
Logan Circle Partners, L.P.	7-2062	Investment Management Services	4/1/2018	12/31/2022	Aggregate \$8,995,608
Payden & Rygel	7-2063	Investment Management Services	4/1/2018	12/31/2022	Aggregate \$8,995,608
PFM Asset Management LLC	7-2064	Investment Management Services	4/1/2018	12/31/2022	Aggregate \$8,995,608
Intratek Computer, Inc.	7-1949	Contract Staffing Services for Information Technology Technical Positions	2/15/2018	3/31/2023	\$11,267,760
Clean Energy	7-1930	Compressed Natural Gas Fueling Facility Operation and Maintenance	3/1/2018	2/28/2021	\$534,600
Kapsch TrafficCom USA	7-1911	Toll System Integrator Services for the Design, Installation, Operations and Maintenance of the Electronic Toll and Traffic Management System for the 405 Express Lanes and 91 Express Lanes	5/1/2018	4/30/2028	\$42,309,259
Keolis Transit Services, LLC	7-2052	Operation and Maintenance Services for the Micro-Transit Pilot Program	7/1/2018	6/30/2019	\$1,150,000
RSB Group, Inc.	7-2066	Minor Rehabilitation of Fullerton Park and Ride	5/14/2018	2/14/2019	\$854,000
HNTB Corporation	7-2050	On-Call Consulting Services for the 91 Express Lanes	5/1/2018	3/31/2023	Aggregate \$600,000
Parsons Transportation Group, Inc	8-1462	On-Call Consulting Services for the 91 Express Lanes	5/1/2018	3/31/2023	Aggregate \$600,000
Silicon Transportation Consultants LLC	8-1463	On-Call Consulting Services for the 91 Express Lanes	5/1/2018	3/31/2023	Aggregate \$600,000
Traffic Technologies, Inc.	8-1464	On-Call Consulting Services for the 91 Express Lanes	5/1/2018	3/31/2023	Aggregate \$600,000
WSP USA, Inc.	8-1465	On-Call Consulting Services for the 91 Express Lanes	5/1/2018	3/31/2023	Aggregate \$600,000
TOTAL NUMBER OF CONTRACTS					15
TOTAL DOLLAR VALUE					\$117,238,747

AMENDMENTS

Prime Vendor	Contract #	Contract Description	Eff Date	Exp Date	Amount
CenturyLink, Inc.	4-1396	Amendment No. 3 increase the Internet Bandwidth	2/26/2018	8/31/2019	\$32,000
Mott MacDonald, LLC	3-1587	Amendment No. 8 Continued Program Management Consultant Support Services for Rail Programs.	4/2/2018	1/31/2019	\$1,125,156
Trust Temporary Services, Inc. dba Helpmates Staffing Services	5-3372	Amendment No. 3 to Continue Providing Temporary Services	3/21/2018	10/31/2018	\$77,500
Howroyd Wright Employment Agency, Inc. dba AppleOne Employment Services	5-3658	Amendment No. 2 to Continue Providing Temporary Services	4/1/2018	10/31/2018	\$77,500
TOTAL NUMBER OF AMENDMENTS					4
TOTAL DOLLAR VALUE					\$1,312,156

Board Approved Contracts - Third Quarter FY 2017-2018

CONTRACT CHANGE ORDERS

Prime Vendor	Contract #	Contract Description	Eff Date	Exp Date	Amount
Trillium USA Company LLC	7-1577	Contract Change Order No. 1 Installation of Additional Equipment to Increase Feuling Capacity of the Hydrogen Fuel Station	3/15/2018	12/28/2018	\$442,305
TOTAL NUMBER OF AMENDMENTS					1
TOTAL DOLLAR VALUE					\$442,305

COOPERATIVE AGREEMENTS

Prime Vendor	Contract #	Contract Description	Eff Date	Exp Date	Amount
California Department of Transportation	8-1426	Construction Management Services for the I-5 Widening Project Between	7/1/2018	1/31/2023	\$147,584,000
TOTAL NUMBER OF CONTRACTS					1
TOTAL DOLLAR VALUE					\$147,584,000

COOPERATIVE AMENDMENTS

Prime Vendor	Contract #	Contract Description	Eff Date	Exp Date	Amount
California Department of Transportation	7-1753	Amendment No. 1 Increase the Federal Surface Transportation Block Grant Program for SR 55 Improvement Project Between I-405 and I-5	7/1/2018	2/28/2024	\$3,200,000
TOTAL NUMBER OF CONTRACTS					1
TOTAL DOLLAR VALUE					\$3,200,000

PURCHASE ORDERS

Prime Vendor	Contract #	Contract Description	Eff Date	Exp Date	Amount
Marsh Risk and Insurance Services, Inc.	A38806	91 Express Lanes Property, Flood and Earthquake Insurance	3/1/2018	3/1/2019	\$500,000
TOTAL NUMBER OF CONTRACTS					1
TOTAL DOLLAR VALUE					\$500,000

SOLE SOURCE

Prime Vendor	Contract #	Contract Description	Eff Date	Exp Date	Amount
Xerox Corporation	7-2110	Printing Costs, Equipment Repair, and Maintenance of the Xerox Color Press	3/1/2018	2/28/2019	\$100,000
TOTAL NUMBER OF SOLE SOURCE					1
TOTAL DOLLAR VALUE					\$100,000

REGIONAL PLANNING and HIGHWAYS COMMITTEE - Fourth Quarter Outlook (April 1, 2018 - June 30, 2018)

<u>Committee Date</u>	<u>Item Description</u>	<u>Estimated Value</u>	<u>Division</u>
April 2, 2018	Agreement for Right-of-Way Clearance Services for the Interstate 5 Far North Widening Project	\$562,475	Capital Programs
	Amendment to Agreement with TRC Solutions, Inc. for additional design services for Interstate 5 Improvement Project from south of Alicia Parkway to El Toro Road	\$849,604	Capital Programs
May 7, 2018	Consultant selection for Freeway Service Patrol Services	\$13,967,377	Transit
	Cooperative Agreement with the California Highway Patrol for services related to the Freeway Service Patrol Program	\$476,376	Transit
June 4, 2018	Contract change order for additional construction efforts due to right-of-way changes for the Interstate 405 Improvement Project	\$500,000	Capital Programs
	Amendments to Cooperative Agreements with the Cities of Costa Mesa, Fountain Valley , Huntington Beach and Westminster for the Interstate 405 Improvement Project	\$1,107,000	Capital Programs

TRANSIT COMMITTEE - Fourth Quarter Outlook (April 1, 2018 - June 30, 2018)

<u>Committee Date</u>	<u>Item Description</u>	<u>Estimated Value</u>	<u>Division</u>
April 12, 2018	Consultant selection for the purchase and installation of three-position bicycle racks on the 40-foot buses	\$745,592	Transit
	Contract award for the construction of the Right-of-Way Slope Stabilization Project	\$1,735,600	Transit
<hr/>			
May 10, 2018	Sole source procurement for automatic fire suppression and methane detection system	\$355,575	Transit
	Consultant selection for video surveillance system at the Laguna Niguel/Mission Viejo Metrolink station	\$400,000	Capital Programs
	Consultant selection for video surveillance system at the Santa Ana and Garden Grove bus bases station	\$1,200,000	Capital Programs
	Contractor award for bus dock platform repair at the Newport Transportation Center	\$99,800	Capital Programs

TRANSIT COMMITTEE - Fourth Quarter Outlook (April 1, 2018 - June 30, 2018)

<u>Committee Date</u>	<u>Item Description</u>	<u>Estimated Value</u>	<u>Division</u>
June 14, 2018	Amendment to Agreement with First Transit, Inc. for the expansion of the iShuttle Service	\$431,414	Transit
	Contractor award for hydrogen gas detection system	\$900,000	Transit

FINANCE AND ADMINISTRATION COMMITTEE - Fourth Quarter Outlook (April 1, 2018 - June 30, 2018)

<u>Committee Date</u>	<u>Item Description</u>	<u>Estimated Value</u>	<u>Division</u>
April 11, 2018	Consultant selection for financial advisory services	\$495,500	Finance and Administration
	Amendment to Agreement with Burnham Benefits Insurance Services for health insurance broker services	\$192,500	Human Resources and Organizational Development
	Agreements with health insurance services for the coach operators	\$354,101	Human Resources and Organizational Development
April 25, 2018	Consultant selection for commercial banking services	\$300,000	Finance and Administration
May 23, 2018	No procurement actions on this agenda		
June 13, 2018	Consultant selection for data center co-location services	\$960,500	Finance and Administration
June 27, 2018	No procurement actions on this agenda		

LEGISLATIVE AND COMMUNICATIONS COMMITTEE - Fourth Quarter Outlook (April 1, 2018 - June 30, 2018)

<u>Committee Date</u>	<u>Item Description</u>	<u>Estimated Value</u>	<u>Division</u>
April 19, 2018	No procurement actions on this agenda		
May 17, 2018	Amendment to Agreement with Outdoor Media to exercise the option term for the bus advertising services	\$800,000	External Affairs
June 21, 2018	No procurement actions on this agenda		



April 25, 2018

To: Finance and Administration Committee

From: Darrell E. Johnson, Chief Executive Officer *[Signature]*

Subject: 91 Express Lanes Corona Customer Service Center Relocation

Overview

The current lease for the 91 Express Lanes Customer Service Center in Corona expires September 30, 2018. The leased space accommodates the walk-in customer service center and the call center, and the facility is shared with the Riverside County Transportation Commission. Staff has retained the brokerage services of CBRE, Inc., and has researched various relocation opportunities for the customer service center. The terms of the proposed relocation include a ten-year lease for a total of 5,009 square feet, as well as tenant improvements, at a facility owned by the Riverside County Transportation Commission.

Recommendations

- A. Authorize the Chief Executive Officer to execute Agreement No. C-8-1660 with Riverside County Transportation Commission, to cover the ten-year lease, as well as tenant improvements, for the 91 Express Lanes Corona Office, located at 301 Corporate Terrace Circle, Corona, California, in an amount not to exceed \$999,000, which represents Orange County Transportation Authority's share of the costs.
- B. Authorize the Chief Executive Officer to execute Amendment No.3 to Agreement C-4-0384 with CPI Properties, LLC, to cover a six-month extension to the current lease, in an amount not to exceed \$55,000. This amount reflects the total lease cost and will be shared equally with the Riverside County Transportation Commission.
- C. Authorize the Chief Executive Officer to execute Amendment No.1 to Agreement C-6-1349 with CBRE, Inc., to cover real estate brokerage fees, in an amount not to exceed \$14,700.

Background

The 91 Express Lanes toll road operations includes a customer service center with 29 representatives who handle customer service issues both in person and by phone/internet, as well as handling the transponder inventory. Corona is home to the largest number of transponder holders of any city. In the past, approximately 44 customers visited the customer service center each day; however, since the extension of the 91 Express Lanes into Riverside County, the average visitors per day has increased to 71. Since April 2003, the customer service center has been located on the first floor of an office building in the City of Corona; however, various maintenance issues at the location, as well as future road construction adjacent to the location, make the location less desirable for future occupancy.

The Orange County Transportation Authority (OCTA) and the Riverside County Transportation Commission (RCTC) became partners in the facility operations of the 91 Express Lanes in November 2015, and in March 2017, RCTC opened up the extension of the 91 Express Lanes into Riverside County. An important part of the partnership agreement is that OCTA and RCTC share equally in the cost of lease and tenant improvement expenses.

Discussion

The lease for the current customer service center is expiring on September 30, 2018. In anticipation of the lease expiration, the real estate brokerage firm CBRE, Inc. (CBRE), conducted a property search along the State Route 91 corridor to determine what properties were available for lease and sale that fit within the customer service center's needs. Potential properties were identified based on square footage and pricing, and toured by staff, after which CBRE issued requests for proposals to four landlords of those properties, as well as the currently occupied property. Three responses to CBRE's requests for proposals were received, including one from the current landlord. In addition to these proposals, the RCTC proposed co-locating at a building they own in Corona. While the proposed space at three of the available locations and/or the pricing of the space were not in line with the Customer Service Center requirements, the RCTC proposed space at their building was a good fit for the customer service center, both with space and pricing.

Since the extension of the 91 Express Lanes into Riverside County, the staffing at the Corona Customer Service Center has increased from 20 to 29, an increase of 45 percent. This has caused significant space constraints at the current location, which occupies a total of 4,285 square feet.

RCTC has proposed space of approximately 5,009 square feet of their building, an increase of 16 percent over current space, which will ease the space limitations that are currently faced at the existing location. The proposed monthly rental rate is \$1.56 per square foot, modified gross, for the first year, with two percent annual increases thereafter. This rate includes janitorial services, so utility costs would be paid for separately. By comparison, the current location monthly lease rate is \$1.64 per square foot, modified gross, which means that OCTA pays for electricity and janitorial services separately. As part of the proposed lease agreement, RCTC will continue to share costs equally with OCTA, bringing the actual monthly rental rate for OCTA to \$0.78 per square foot the first year. RCTC has also agreed to manage the tenant improvement process at the new location. After considering the options available, and in the spirit of inter-agency partnership, staff recommends relocating to the RCTC site.

The proposed tenant improvements to the new location will include a walk-up customer service center and waiting area, a call center that handles all 91 Express Lanes customer-related business, cubicles and office space for 91 Express Lanes staff, technology, infrastructure, relocation costs, as well as some new furniture, fixtures, and equipment, though most will be relocated from the current location. The costs for the lease and tenant improvements are estimated at \$999,000 (\$502,000 for lease costs over ten years and \$497,000 for tenant improvements).

Because the tenant improvements for the proposed location will not be ready until March 2019, the lease at the current location will need to be extended for an additional six months to March 31, 2019, in an amount not to exceed \$55,000. A holdover provision is included in the proposed lease extension at the current location should the need for additional time arise.

As part of the proposed agreement with RCTC, OCTA will pay its own real estate fees to CBRE, Inc., in an amount not to exceed \$14,700. While it is generally customary for the landlord to pay for real estate fees, CBRE has acted in partnership with OCTA throughout the process, arranging tours, managing proposals, advising staff on project planning, logistics, negotiations, market trends, customary lease inclusions, and lease preparation. CBRE has been a tremendous asset to OCTA throughout the process.

Fiscal Impact

Funds for OCTA's share of the tenant improvements are included in the Fund 36 fiscal year 2017-18 budget. OCTA's share of the first year of the office lease is included in the Fund 36 fiscal year 2018-19 proposed budget, since the

estimated occupancy date is April 1, 2019. CBRE's brokerage fees are also part of the Fund 36 fiscal year 2018-19 budget.

Summary

Staff is recommending the Board of Directors authorize the Chief Executive Officer to execute Agreement No. C-8-1660 with the Riverside County Transportation Commission to cover both OCTA's share of the ten-year lease, as well as OCTA's share of the tenant improvements for the 91 Express Lanes customer service center in Corona, in an amount not to exceed \$999,000. Additionally, staff recommends the Board of Directors approve Amendment No.3 to C-4-0384 with CPI Properties, LLC, for a six-month extension to the current lease, in an amount not to exceed \$55,000. Finally, staff recommends the Board of Directors approve funding of an amount not to exceed \$14,700 for Amendment No.1 to Agreement C-6-1349 with CBRE, Inc., for real estate brokerage fees in accordance with the terms contained therein.

Attachments

- A. Proposed Standard Multi-Tenant Office Lease – Gross, 301 Corporate Terrace, Corona, CA 92879

Prepared by:



Christina Runge Haidl
Senior Financial Analyst
Express Lanes Programs
(714) 560-5634

Approved by:



Kenneth Phipps
Deputy Chief Executive Officer
(714) 560-5637

STANDARD MULTI-TENANT OFFICE LEASE - GROSS

1. Basic Provisions ("Basic Provisions").

1.1 **Parties.** This Lease ("Lease"), dated for reference purposes only January 1, 2018, is made by and between Riverside County Transportation Commission (RCTC) ("Lessor") and Orange County Transportation Authority (OCTA) ("Lessee"), (collectively the "Parties", or individually a "Party").

1.2(a) **Premises:** That certain Portion of the Project (as defined below), commonly known as (street address, suite, city, state): 301 Corporate Terrace, Corona, CA 92879 ("Premises"). The Premises are located in the County of Riverside, and consist of approximately 5,009 rentable square feet. ~~and approximately _____ useable square feet.~~ In addition to Lessee's rights to use and occupy the Premises as hereinafter specified, Lessee shall have non-exclusive rights to the Common Areas (as defined in Paragraph 2.7 below) as hereinafter specified, but shall not have any rights to the roof, the exterior walls, the area above the dropped ceilings, or the utility raceways of the building containing the Premises ("Building") or to any other buildings in the Project. The Premises, the Building, the Common Areas, the land upon which they are located, along with all other buildings and improvements thereon, are herein collectively referred to as the "Project." The Project consists of approximately 6,599 rentable square feet. (See also Paragraph 2)

1.2(b) **Parking:** 20 plus Visitors unreserved and _____ reserved vehicle parking spaces at a monthly cost of \$0.00 per unreserved space and _____ per reserved space. (See Paragraph 2.6)

1.3 **Term:** 10 years and 0 months ("Original Term") commencing upon the receipt of Certificate of Occupancy, currently expected on April 1, 2019 ("Commencement Date") and ending March 31, 2029 ("Expiration Date"). (See also Paragraph 3)

1.4 **Early Possession:** If the Premises are available Lessee may have non-exclusive possession of the Premises commencing _____ ("Early Possession Date"). (See also Paragraphs 3.2 and 3.3)

1.5 **Base Rent:** \$0.78/RSF per month, **plus electricity** ("Base Rent"), payable on the first day of each month commencing on the first day of the fourth month following the Commencement Date as defined in paragraph 1.3, such that Lessee shall receive abated rent for the first three (3) months of the Term. (See also Paragraph 4)

☒ If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted. See Paragraph 50.

~~1.6 Lessee's Share of Operating Expense Increase: _____ percent (____%) ("Lessee's Share"). In _____ the event that that size of the Premises and/or the Project are modified during the term of this Lease, Lessor shall recalculate Lessee's Share to reflect such modification.~~

1.7 Base Rent and Other Monies Paid Upon Execution:

(a) **Base Rent:** \$0.78 / SF for the period of the first month rent payable.

(b) **Security Deposit:** N/A ("Security Deposit"). (See also Paragraph 5)

(c) **Parking:** N/A for the period _____.

(d) **Other:** _____ for _____.

(e) **Total Due Upon Execution of this Lease:** None.

1.8 **Agreed Use:** General office and other legally permitted uses. (See also Paragraph 6)

1.9 **Base Year; Insuring Party.** ~~The Base Year is _____.~~ Lessor is the "Insuring Party". (See also Paragraphs 4.2 and 8)

1.10 **Real Estate Brokers.** (See also Paragraph 15 and 25)

(a) **Representation:** The following real estate brokers (the "Brokers") and brokerage relationships exist in this transaction (check applicable boxes):

☐ _____ represents Lessor exclusively ("Lessor's Broker");

☒ CBRE, Inc. (Rick Warner / Peter Andrich) represents Lessee exclusively ("Lessee's Broker"); or

☐ _____ represents both Lessor and Lessee ("Dual Agency").

(b) **Payment to Brokers.** Within 30 days of Upon execution and delivery of this Lease by both Parties, Lessee Lessor shall pay to the Brokers the brokerage fee agreed to in a separate written agreement (or if there is no such agreement, the sum of _____ of 4 % of the total Base Rent for Years 1-5 and 2% of the total Base Rent for Years 6-10) for the brokerage services rendered by the Brokers.

~~1.11 Guarantor. The obligations of the Lessee under this Lease are to be guaranteed by _____ ("Guarantor"). (See also Paragraph 3.7)~~

1.12 **Business Hours for the Building:** 7:00 a.m. to 6:00 p.m., Mondays through Fridays (except Building Holidays) and 8:00 a.m. to 1:00 p.m. on Saturdays (except Building Holidays). "Building Holidays" shall mean the dates of observation of New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and any other national holiday.

1.13 **Lessor Supplied Services.** Notwithstanding the provisions of Paragraph 11.1, Lessor is NOT obligated to provide the following within the Premises:

☐ Janitorial services

☒ Electricity

☐ Other (specify): _____

1.14 **Attachments.** Attached hereto are the following, all of which constitute a part of this Lease:

☒ an Addendum consisting of Paragraphs 50 through _____;

☐ a plot plan depicting the Premises;

☐ a current set of the Rules and Regulations;

☒ a Work Letter **Exhibit A and Work Schedule Exhibit A-1**;

☐ a janitorial schedule;

☒ other (specify): Broker Disclosures Exhibit "B".

2. Premises.

2.1 **Letting.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. While the approximate square footage of the Premises may have been used in the marketing of the Premises for purposes of comparison, the Base Rent stated herein is NOT tied to square footage and is not subject to adjustment should the actual size be determined to be different. **NOTE: Lessee is advised to verify the actual size prior to executing this Lease.**

2.2 **Condition.** Lessor shall deliver the Premises to Lessee in a clean condition on the Commencement Date or the Early Possession Date, whichever first occurs ("**Start Date**"), and warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning systems ("**HVAC**"), and all other items which the Lessor is obligated to construct pursuant to the Work Letter attached hereto, if any, other than those constructed by Lessee, shall be in good operating condition on said date, that the structural elements of the roof, bearing walls and foundation of the Unit shall be free of material defects, and that the Premises do not contain hazardous levels of any mold or fungi defined as toxic under applicable state or federal law. Lessor also warrants, that unless otherwise specified in writing, Lessor is unaware of (i) any recorded Notices of Default affecting the Premise; (ii) any delinquent amounts due under any loan secured by the Premises; and (iii) any bankruptcy proceeding affecting the Premises.

2.3 **Compliance.** Lessor warrants that to the best of its knowledge the improvements on the Premises and the Common Areas comply with the building codes, applicable laws, covenants or restrictions of record, regulations, and ordinances ("**Applicable Requirements**") that were in effect at the time that each improvement, or portion thereof, was constructed. Said warranty does not apply to the use to which Lessee will put the Premises, modifications which may be required by the Americans with Disabilities Act or any similar laws as a result of Lessee's use (see Paragraph 49), or to any Alterations or Utility Installations (as defined in Paragraph 7.3(a)) made or to be made by Lessee. **NOTE: Lessee-Lessor is responsible for determining whether or not the zoning and other Applicable Requirements are appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed.** If the Premises do not comply with said warranty, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same. If the Applicable Requirements are hereafter changed so as to require during the term of this Lease the construction of an addition to or an alteration of the Premises, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Premises ("**Capital Expenditure**"), Lessor and Lessee shall allocate the cost of such work as follows:

(a) Subject to Paragraph 2.3(c) below, if such Capital Expenditures are required as a result of the specific and unique use of the Premises by Lessee as compared with uses by tenants in general, Lessee shall be fully responsible for the cost thereof, provided, however, that if such Capital Expenditure is required during the last 2 years of this Lease and the cost thereof exceeds 6 months' Base Rent, Lessee may instead terminate this Lease unless Lessor notifies Lessee, in writing, within 10 days after receipt of Lessee's termination notice that Lessor has elected to pay the difference between the actual cost thereof and the amount equal to 6 months' Base Rent. If Lessee elects termination, Lessee shall immediately cease the use of the Premises which requires such Capital Expenditure and deliver to Lessor written notice specifying a termination date at least 90 days thereafter. Such termination date shall, however, in no event be earlier than the last day that Lessee could legally utilize the Premises without commencing such Capital Expenditure.

(b) If such Capital Expenditure is not the result of the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), then Lessor shall pay for such Capital Expenditure and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease or any extension thereof, on the date that on which the Base Rent is due, an amount equal to 1/144th of the portion of such costs reasonably attributable to the Premises. Lessee shall pay Interest on the balance but may prepay its obligation at any time. If, however, such Capital Expenditure is required during the last 2 years of this Lease or if Lessor reasonably determines that it is not economically feasible to pay its share thereof, Lessor shall have the option to terminate this Lease upon 90 days prior written notice to Lessee unless Lessee notifies Lessor, in writing, within 10 days after receipt of Lessor's termination notice that Lessee will pay for such Capital Expenditure. If Lessor does not elect to terminate, and fails to tender its share of any such Capital Expenditure, Lessee may advance such funds and deduct same, with Interest, from Rent until Lessor's share of such costs have been fully paid. If Lessee is unable to finance Lessor's share, or if the balance of the Rent due and payable for the remainder of this Lease is not sufficient to fully reimburse Lessee on an offset basis, Lessee shall have the right to terminate this Lease upon 30 days written notice to Lessor.

(c) Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to non-voluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, and in that event, Lessee shall either: (i) immediately cease such changed use or intensity of use and/or take such other steps as may be necessary to eliminate the requirement for such Capital Expenditure, or (ii) complete such Capital Expenditure at its own expense. Lessee shall not have any right to terminate this Lease.

2.4 **Acknowledgements.** Lessee acknowledges that: (a) it has been given an opportunity to inspect and measure the Premises, (b) Lessee has been advised by Lessor and/or Brokers to satisfy itself with respect to the size and condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements), and their suitability for Lessee's intended use, (c) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises, (d) it is not relying on any representation as to the size of the Premises made by Brokers or Lessor, (e) the square footage of the Premises was not material to Lessee's decision to lease the Premises and pay the Rent stated herein, and (f) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease. In addition, Lessor acknowledges that: (i) Brokers have made no representations, promises or warranties concerning Lessee's ability to honor the Lease or suitability to occupy the Premises, and (ii) it is Lessor's sole responsibility to investigate the financial capability and/or suitability of all proposed tenants.

2.5 **Lessee as Prior Owner/Occupant.** The warranties made by Lessor in Paragraph 2 shall be of no force or effect if immediately prior to the Start Date, Lessee was the owner or occupant of the Premises. In such event, Lessee shall be responsible for any necessary corrective work.

2.6 **Vehicle Parking.** So long as Lessee is not in default, and subject to the Rules and Regulations attached hereto, and as established by Lessor from time to time, Lessee shall be entitled to rent and use the number of parking spaces specified in Paragraph 1.2(b) at the rental rate applicable from time to time for monthly parking as set by Lessor and/or its licensee.

(a) If Lessee commits, permits or allows any of the prohibited activities described in the Lease or the rules then in effect, then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove or tow

away the vehicle involved and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

(b) The monthly rent per parking space specified in Paragraph 1.2(b) is subject to change upon 30 days prior written notice to Lessee. The rent for the parking is payable one month in advance prior to the first day of each calendar month.

2.7 Common Areas - Definition. The term "Common Areas" is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Project and interior utility raceways and installations within the Premises that are provided and designated by the Lessor from time to time for the general nonexclusive use of Lessor, Lessee and other tenants of the Project and their respective employees, suppliers, shippers, customers, contractors and invitees, including, but not limited to, common entrances, lobbies, corridors, stairwells, public restrooms, elevators, parking areas, loading and unloading areas, trash areas, roadways, walkways, driveways and landscaped areas.

2.8 Common Areas - Lessee's Rights. Lessor grants to Lessee, for the benefit of Lessee and its employees, suppliers, shippers, contractors, customers and invitees, during the term of this Lease, the non-exclusive right to use, in common with others entitled to such use, the Common Areas as they exist from time to time, subject to any rights, powers, and privileges reserved by Lessor under the terms hereof or under the terms of any rules and regulations or restrictions governing the use of the Project. Under no circumstances shall the right herein granted to use the Common Areas be deemed to include the right to store any property, temporarily or permanently, in the Common Areas. Any such storage shall be permitted only by the prior written consent of Lessor or Lessor's designated agent, which consent may be revoked at any time. In the event that any unauthorized storage shall occur, then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove the property and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

2.9 Common Areas - Rules and Regulations. Lessor or such other person(s) as Lessor may appoint shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to adopt, modify, amend and enforce reasonable rules and regulations ("Rules and Regulations") for the management, safety, care, and cleanliness of the grounds, the parking and unloading of vehicles and the preservation of good order, as well as for the convenience of other occupants or tenants of the Building and the Project and their invitees. The Lessee agrees to abide by and conform to all such Rules and Regulations, and shall use its best efforts to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Lessor shall not be responsible to Lessee for the noncompliance with said Rules and Regulations by other tenants of the Project.

2.10 Common Areas - Changes. Lessor shall have the right, in Lessor's sole discretion, from time to time:

(a) To make changes to the Common Areas, including, without limitation, changes in the location, size, shape and number of the lobbies, windows, stairways, air shafts, elevators, escalators, restrooms, driveways, entrances, parking spaces, parking areas, loading and unloading areas, ingress, egress, direction of traffic, landscaped areas, walkways and utility raceways;

(b) To close temporarily any of the Common Areas for maintenance purposes so long as reasonable access to the Premises remains available;

(c) To designate other land outside the boundaries of the Project to be a part of the Common Areas;

(d) To add additional buildings and improvements to the Common Areas;

(e) To use the Common Areas while engaged in making additional improvements, repairs or alterations to the Project, or any portion thereof; and

(f) To do and perform such other acts and make such other changes in, to or with respect to the Common Areas and Project as Lessor may, in the exercise of sound business judgment, deem to be appropriate.

3. Term.

3.1 Term. The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

3.2 Early Possession. Any provision herein granting Lessee Early Possession of the Premises is subject to and conditioned upon the Premises being available for such possession prior to the Commencement Date. Any grant of Early Possession only conveys a non-exclusive right to occupy the Premises. If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such Early Possession. All other terms of this Lease (including but not limited to the obligations to pay Lessee's Share of the Operating Expense Increase) shall be in effect during such period. Any such Early Possession shall not affect the Expiration Date.

3.3 Delay In Possession. Lessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession by such date, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease or change the Expiration Date. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until Lessor delivers possession of the Premises and any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession is not delivered within 60 days after the Commencement Date, as the same may be extended under the terms of any Work Letter executed by Parties, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. If possession of the Premises is not delivered within 120 days after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

3.4 Lessee Compliance. Lessor shall not be required to deliver possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance (Paragraph 8.5). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied.

4. Rent.

4.1 Rent Defined. All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be rent ("Rent").

4.2 Operating Expense Increase. Lessor and Lessee are parties to that certain Cooperative Agreement for State Route 91 Express Lanes and Corridor Improvements dated December 16, 2011 whereby they are 50/50 partners for the cost of operating the Premises. Notwithstanding anything contained herein to the contrary, Lessee shall not be responsible for any costs or operating expense increases solely attributable to Lessor's ownership of the Premises, including but not limited to expenses associated with the roof, HVAC, light bulbs, ceiling tiles, sprinklers,

plumbing fixtures, drains, electric outlets, electric panels, exterior windows, exterior doors, parking lots, exterior walls, landscaping, common area, repair, maintenance and replacement. Lessee shall also not pay for any increases in operating costs, (other than 50% of the increases in electric specifically for the Premises, as required to be paid directly by Lessee).

Lessee shall pay to Lessor during the term hereof, in addition to the Base Rent, Lessee's Share of the amount by which all Operating Expenses for each Comparison Year exceeds the amount of all Operating Expenses for the Base Year, such excess being hereinafter referred to as the "Operating Expense Increase", in accordance with the following provisions:

(a) "Base Year" is as specified in Paragraph 1.9.

(b) "Comparison Year" is defined as each calendar year during the term of this Lease subsequent to the Base Year; provided, however, Lessee shall have no obligation to pay a share of the Operating Expense Increase applicable to the first 12 months of the Lease Term (other than such as are mandated by a governmental authority, as to which government mandated expenses Lessee shall pay Lessee's Share, notwithstanding they occur during the first twelve (12) months). Lessee's Share of the Operating Expense Increase for the first and last Comparison Years of the Lease Term shall be prorated according to that portion of such Comparison Year as to which Lessee is responsible for a share of such increase.

(c) The following costs relating to the ownership and operation of the Project, calculated as if the Project was at least 95% occupied, are defined as "Operating Expenses":

(i) Costs relating to the operation, repair, and maintenance in neat, clean, safe, good order and condition, but not the replacement (see subparagraph (g)), of the following:

(aa) The Common Areas, including their surfaces, coverings, decorative items, carpets, drapes and window coverings, and including parking areas, loading and unloading areas, trash areas, roadways, sidewalks, walkways, stairways, parkways, driveways, landscaped areas, striping, bumpers, irrigation systems, Common Area lighting facilities, building exteriors and roofs, fences and gates;

(bb) All heating, air conditioning, plumbing, electrical systems, life safety equipment, communication systems and other equipment used in common by, or for the benefit of, tenants or occupants of the Project, including elevators and escalators, tenant directories, fire detection systems including sprinkler system maintenance and repair.

(cc) All other areas and improvements that are within the exterior boundaries of the Project but outside of the Premises and/or any other space occupied by a tenant.

(ii) The cost of trash disposal, janitorial and security services, pest control services, and the costs of any environmental inspections;

(iii) The cost of any other service to be provided by Lessor that is elsewhere in this Lease stated to be an "Operating Expense";

(iv) The cost of the premiums for the insurance policies maintained by Lessor pursuant to paragraph 8 and any deductible portion of an insured loss concerning the Building or the Common Areas;

(v) The amount of the Real Property Taxes payable by Lessor pursuant to paragraph 10;

(vi) The cost of water, sewer, gas, electricity, and other publicly mandated services not separately metered;

(vii) Labor, salaries, and applicable fringe benefits and costs, materials, supplies and tools, used in maintaining and/or cleaning the Project and accounting and management fees attributable to the operation of the Project;

(viii) The cost of any capital improvement to the Building or the Project not covered under the provisions of Paragraph 2.3 provided; however, that Lessor shall allocate the cost of any such capital improvement over a 12 year period and Lessee shall not be required to pay more than Lessee's Share of 1/144th of the cost of such Capital Expenditure in any given month;

(ix) The cost to replace equipment or improvements that have a useful life for accounting purposes of 5 years or less.

(x) Reserves set aside for maintenance, repair and/or replacement of Common Area improvements and equipment.

(d) Any item of Operating Expense that is specifically attributable to the Premises, the Building or to any other building in the Project or to the operation, repair and maintenance thereof, shall be allocated entirely to such Premises, Building, or other building. However, any such item that is not specifically attributable to the Building or to any other building or to the operation, repair and maintenance thereof, shall be equitably allocated by Lessor to all buildings in the Project.

(e) The inclusion of the improvements, facilities and services set forth in Subparagraph 4.2(c) shall not be deemed to impose an obligation upon Lessor to either have said improvements or facilities or to provide those services unless the Project already has the same, Lessor already provides the services, or Lessor has agreed elsewhere in this Lease to provide the same or some of them.

(f) Lessee's Share of Operating Expense Increase is payable monthly on the same day as the Base Rent is due hereunder. The amount of such payments shall be based on Lessor's estimate of the Operating Expense Expenses. Within 60 days after written request (but not more than once each year) Lessor shall deliver to Lessee a reasonably detailed statement showing Lessee's Share of the actual Common Area Operating Expenses for the preceding year. If Lessee's payments during such Year exceed Lessee's Share, Lessee shall credit the amount of such over-payment against Lessee's future payments. If Lessee's payments during such Year were less than Lessee's Share, Lessee shall pay to Lessor the amount of the deficiency within 10 days after delivery by Lessor to Lessee of said statement. Lessor and Lessee shall forthwith adjust between them by cash payment any balance determined to exist with respect to that portion of the last Comparison Year for which Lessee is responsible as to Operating Expense Increases, notwithstanding that the Lease term may have terminated before the end of such Comparison Year.

(g) Operating Expenses shall not include the costs of replacement for equipment or capital components such as the roof, foundations, exterior walls or a Common Area capital improvement, such as the parking lot paving, elevators, fences that have a useful life for accounting purposes of 5 years or more.

(h) Operating Expenses shall not include any expenses paid by any tenant directly to third parties, or as to which Lessor is otherwise reimbursed by any third party, other tenant, or by insurance proceeds.

4.3 Payment. Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States on or before the day on which it is due, without offset or deduction (except as specifically permitted in this Lease). All monetary amounts shall be rounded to the nearest whole dollar. In the event that any invoice prepared by Lessor is inaccurate such inaccuracy shall not constitute a waiver and Lessee shall be obligated to pay the amount set forth in this Lease. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other

instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of \$25 in addition to any Late Charge and Lessor, at its option, may require all future Rent be paid by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent and Common Area Operating Expenses, and any remaining amount to any other outstanding charges or costs.

~~5. **Security Deposit.** Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount already due Lessor, for Rents which will be due in the future, and/or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional monies with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 90 days after the expiration or termination of this Lease, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. Lessor shall upon written request provide Lessee with an accounting showing how that portion of the Security Deposit that was not returned was applied. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease. THE SECURITY DEPOSIT SHALL NOT BE USED BY LESSEE IN LIEU OF PAYMENT OF THE LAST MONTH'S RENT.~~

6. Use.

6.1 Use. Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. Other than guide, signal and seeing eye dogs, Lessee shall not keep or allow in the Premises any pets, animals, birds, fish, or reptiles. Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same will not impair the structural integrity of the improvements of the Building, will not adversely affect the mechanical, electrical, HVAC, and other systems of the Building, and/or will not affect the exterior appearance of the Building. If Lessor elects to withhold consent, Lessor shall within 7 days after such request give written notification of same, which notice shall include an explanation of Lessor's objections to the change in the Agreed Use.

6.2 Hazardous Substances.

(a) **Reportable Uses Require Consent.** The term "**Hazardous Substance**" as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, byproducts or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. "**Reportable Use**" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use such as ordinary office supplies (copier toner, liquid paper, glue, etc.) and common household cleaning materials, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.

(b) **Duty to Inform Lessor.** If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

(c) **Lessee Remediation.** Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, comply with all Applicable Requirements and take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party.

(d) **Lessee Indemnification.** Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises from areas outside of the Project not caused or contributed to by Lessee). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive

the expiration or termination of this Lease. No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.

(e) **Lessor Indemnification.** Except as otherwise provided in paragraph 8.7, Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which result from Hazardous Substances which existed on the Premises prior to Lessee's occupancy or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease.

(f) **Investigations and Remediations.** Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to Lessee's occupancy, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in paragraph 7.3(a) below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities.

(g) **Lessor Termination Option.** If a Hazardous Substance Condition (see Paragraph 9.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 12 times the then monthly Base Rent or \$100,000, whichever is greater, give written notice to Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 12 times the then monthly Base Rent or \$100,000, whichever is greater. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified in Lessor's notice of termination.

6.3 Lessee's Compliance with Applicable Requirements. Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to the Premises, without regard to whether said Applicable Requirements are now in effect or become effective after the Start Date. Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements. Likewise, Lessee shall immediately give written notice to Lessor of: (i) any water damage to the Premises and any suspected seepage, pooling, dampness or other condition conducive to the production of mold; or (ii) any mustiness or other odors that might indicate the presence of mold in the Premises.

6.4 Inspection; Compliance. Lessor and Lessor's "Lender" (as defined in Paragraph 30) and consultants authorized by Lessor shall have the right to enter into Premises at any time, in the case of an emergency, and otherwise at reasonable times, after reasonable notice, for the purpose of inspecting and/or testing the condition of the Premises and/or for verifying compliance by Lessee with this Lease. The cost of any such inspections shall be paid by Lessor, unless a violation of Applicable Requirements, or a Hazardous Substance Condition (see Paragraph 9.1e) is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination. In addition, Lessee shall provide copies of all relevant material safety data sheets (**MSDS**) to Lessor within 10 days of the receipt of written request therefor. Lessee acknowledges that any failure on its part to allow such inspections or testing will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to allow such inspections and/or testing in a timely fashion the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater for the remainder to the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to allow such inspection and/or testing. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to such failure nor prevent the exercise of any of the other rights and remedies granted hereunder.

7. Maintenance; Repairs; Utility Installations; Trade Fixtures and Alterations.

7.1 Lessee's Obligations. Notwithstanding Lessor's obligation to keep the Premises in good condition and repair, Lessee ~~and Lessor shall each~~ be responsible for payment of **50% of the cost thereof to Lessor as additional rent for that portion of the cost of any maintenance and repair of the Premises, or any equipment- separate HVAC unit for Lessee's computer room** (wherever located) that serves only Lessee or the Premises, to the extent such cost is attributable to abuse or misuse. In addition, ~~Lessee and Lessor rather than the Lessor shall each~~ be responsible for **50% of the cost of painting, repairing or replacing wall coverings, and to repair or replace any similar improvements within the Premises during the Term of the Lease.** ~~Lessor may, at its option, upon reasonable notice, elect to have Lessee perform any particular such maintenance or repairs the cost of which is otherwise Lessee's responsibility hereunder."~~

7.2 Lessor's Obligations. Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 4.2 (Operating Expenses), 6 (Use), 7.1 (Lessee's Obligations), 9 (Damage or Destruction) and 14 (Condemnation), Lessor, subject to reimbursement pursuant to Paragraph 4.2, shall keep in good order, condition and repair the foundations, exterior walls, structural condition of interior bearing walls, exterior roof, fire sprinkler system, fire alarm and/or smoke detection systems, fire hydrants, and the Common Areas.

7.3 Utility Installations; Trade Fixtures; Alterations.

(a) **Definitions.** The term "**Utility Installations**" refers to all floor and window coverings, air lines, vacuum lines, power panels, electrical distribution, security and fire protection systems, communication cabling, lighting fixtures, HVAC equipment, and plumbing in or on the Premises. The term "**Trade Fixtures**" shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term "**Alterations**" shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. "**Lessee Owned Alterations and/or Utility Installations**" are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor pursuant to Paragraph 7.4(a).

(b) **Consent.** Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Alterations or Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof, ceilings, floors or any existing walls, will not affect the electrical, plumbing, HVAC, and/or life safety systems, do not trigger the requirement for additional modifications and/or improvements to the Premises resulting from Applicable Requirements, such as compliance with Title 24, and the cumulative cost thereof during this Lease as extended does not exceed \$2000. Notwithstanding the foregoing, Lessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Lessor. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor chosen and/or approved by Lessor. Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with as-built plans and specifications. ~~For work which costs an amount in excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor.~~

(c) **Liens; Bonds.** Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or materialmen's lien against the Premises or any interest therein. Lessee shall give Lessor not less than 10 days notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility. If Lessee shall contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. If Lessor shall require, Lessee shall furnish a surety bond in an amount equal to 150% of the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same. If Lessor elects to participate in any such action, Lessee shall pay Lessor's attorneys' fees and costs.

7.4 Ownership; Removal; Surrender; and Restoration.

(a) **Ownership.** Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed per paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

(b) **Removal.** By delivery to Lessee of written notice from Lessor not earlier than 90 and not later than 30 days prior to the end of the term of this Lease, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations made without the required consent.

(c) **Surrender; Restoration.** Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing, if the Lessee occupies the Premises for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Start Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee. Lessee shall also remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Lessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Premises) to the level specified in Applicable Requirements. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. Any personal property of Lessee not removed on or before the Expiration Date or any earlier termination date shall be deemed to have been abandoned by Lessee and may be disposed of or retained by Lessor as Lessor may desire. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

8. Insurance; Indemnity.

~~8.1 Insurance Premiums. The cost of the premiums for the insurance policies maintained by Lessor pursuant to paragraph 8 are included as Operating Expenses (see paragraph 4.2 (c)(iv)). Said costs shall include increases in the premiums resulting from additional coverage related to requirements of the holder of a mortgage or deed of trust covering the Premises, Building and/or Project, increased valuation of the Premises, Building and/or Project, and/or a general premium rate increase. Said costs shall not, however, include any premium increases resulting from the nature of the occupancy of any other tenant of the Building. If the Project was not insured for the entirety of the Base Year, then the base premium shall be the lowest annual premium reasonably obtainable for the required insurance as of the Start Date, assuming the most nominal use possible of the Building and/or Project. In no event, however, shall Lessee be responsible for any portion of the premium cost attributable to liability insurance coverage in excess of \$2,000,000 procured under Paragraph 8.2(b).~~

8.2 Liability Insurance.

(a) **Carried by Lessee.** Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Lessee and Lessor as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than \$1,000,000 per occurrence with an annual aggregate of not less than \$2,000,000. Lessee shall add Lessor as an additional insured by means of an endorsement at least as

broad as the Insurance Service Organization's "Additional Insured-Managers or Lessors of Premises" Endorsement and coverage shall also be extended to include damage caused by heat, smoke or fumes from a hostile fire. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "insured contract" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. Lessee shall provide an endorsement on its liability policy(ies) which provides that its insurance shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

(b) **Carried by Lessor.** Lessor shall maintain liability insurance as described in Paragraph 8.2(a), in addition to, and not in lieu of, the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.

8.3 Property Insurance - Building, Improvements and Rental Value.

(a) **Building and Improvements.** Lessor shall obtain and keep in force a policy or policies of insurance in the name of Lessor, with loss payable to Lessor, any ground-lessor, and to any Lender insuring loss or damage to the Building and/or Project. The amount of such insurance shall be equal to the full insurable replacement cost of the Building and/or Project, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee not by Lessor. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. If such insurance coverage has a deductible clause, the deductible amount shall not exceed \$5,000 per occurrence.

(b) **Rental Value.** Lessor shall also obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the loss of the full Rent for one year with an extended period of indemnity for an additional 180 days ("Rental Value insurance"). Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee, for the next 12 month period.

~~(c) **Adjacent Premises.** Lessee shall pay for any increase in the premiums for the property insurance of the Building and for the Common Areas or other buildings in the Project if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.~~

(d) **Lessee's Improvements.** Since Lessor is the Insuring Party, Lessor shall not be required to insure Lessee Owned Alterations and Utility Installations unless the item in question has become the property of Lessor under the terms of this Lease.

8.4 Lessee's Property; Business Interruption Insurance; Worker's Compensation Insurance.

(a) **Property Damage.** Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed \$1,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations.

(b) **Worker's Compensation Insurance.** Lessee shall obtain and maintain Worker's Compensation Insurance in such amount as may be required by Applicable Requirements. Such policy shall include a 'Waiver of Subrogation' endorsement. Lessee shall provide Lessor with a copy of such endorsement along with the certificate of insurance or copy of the policy required by paragraph 8.5.

(c) **Business Interruption.** Lessee shall obtain and maintain loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.

(d) **No Representation of Adequate Coverage.** Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.

8.5 Insurance Policies. Insurance required herein shall be by companies maintaining during the policy term a "General Policyholders Rating" of at least A-, VII, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates with copies of the required endorsements evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 10 days prior written notice to Lessor. Lessee shall, at least 30 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may increase his liability insurance coverage and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other Party may, but shall not be required to, procure and maintain the same.

8.6 Waiver of Subrogation. Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation that such companies may have against Lessor or Lessee, as the case may be, so long as the insurance is not invalidated thereby.

8.7 Indemnity. Except for Lessor's gross negligence or willful misconduct, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, the use and/or occupancy of the Premises by Lessee. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

8.8 Exemption of Lessor and its Agents from Liability. Notwithstanding the negligence or breach of this Lease by Lessor or its

agents, neither Lessor nor its agents shall be liable under any circumstances for: (i) injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, indoor air quality, the presence of mold or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the Building, or from other sources or places, (ii) any damages arising from any act or neglect of any other tenant of Lessor or from the failure of Lessor or its agents to enforce the provisions of any other lease in the Project, or (iii) injury to Lessee's business or for any loss of income or profit therefrom. Instead, it is intended that Lessee's sole recourse in the event of such damages or injury be to file a claim on the insurance policy(ies) that Lessee is required to maintain pursuant to the provisions of paragraph 8.

8.9 Failure to Provide Insurance. Lessee acknowledges that any failure on its part to obtain or maintain the insurance required herein will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, for any month or portion thereof that Lessee does not maintain the required insurance and/or does not provide Lessor with the required binders or certificates evidencing the existence of the required insurance, the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater. The parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to maintain the required insurance. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted hereunder, nor relieve Lessee of its obligation to maintain the insurance specified in this Lease.

9. Damage or Destruction.

9.1 Definitions.

(a) **"Premises Partial Damage"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in 3 months or less from the date of the damage or destruction, and the cost thereof does not exceed a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(b) **"Premises Total Destruction"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in 3 months or less from the date of the damage or destruction and/or the cost thereof exceeds a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(c) **"Insured Loss"** shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in Paragraph 8.3(a), irrespective of any deductible amounts or coverage limits involved.

(d) **"Replacement Cost"** shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of Applicable Requirements, and without deduction for depreciation.

(e) **"Hazardous Substance Condition"** shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance, in, on, or under the Premises which requires restoration.

9.2 Partial Damage - Insured Loss. If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor's expense, repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or destruction the total cost to repair of which is \$5,000 or less, and, in such event, Lessor shall make any applicable insurance proceeds available to Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to effect such repair, the Insuring Party shall promptly contribute the shortage in proceeds as and when required to complete said repairs. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to pay for the shortage in insurance proceeds or to fully restore the unique aspects of the Premises unless Lessee provides Lessor with the funds to cover same, or adequate assurance thereof, within 10 days following receipt of written notice of such shortage and request therefor. If Lessor receives said funds or adequate assurance thereof within said 10 day period, the party responsible for making the repairs shall complete them as soon as reasonably possible and this Lease shall remain in full force and effect. If such funds or assurance are not received, Lessor may nevertheless elect by written notice to Lessee within 10 days thereafter to: (i) make such restoration and repair as is commercially reasonable with Lessor paying any shortage in proceeds, in which case this Lease shall remain in full force and effect, or (ii) have this Lease terminate 30 days thereafter. Lessee shall not be entitled to reimbursement of any funds contributed by Lessee to repair any such damage or destruction. Premises Partial Damage due to flood or earthquake shall be subject to Paragraph 9.3, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by either Party.

9.3 Partial Damage - Uninsured Loss. If a Premises Partial Damage that is not an Insured Loss occurs, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor may either: (i) repair such damage as soon as reasonably possible at Lessor's expense (subject to reimbursement pursuant to Paragraph 4.2), in which event this Lease shall continue in full force and effect, or (ii) terminate this Lease by giving written notice to Lessee within 30 days after receipt by Lessor of knowledge of the occurrence of such damage. Such termination shall be effective 60 days following the date of such notice. In the event Lessor elects to terminate this Lease, Lessee shall have the right within 10 days after receipt of the termination notice to give written notice to Lessor of Lessee's commitment to pay for the repair of such damage without reimbursement from Lessor. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days after making such commitment. In such event this Lease shall continue in full force and effect, and Lessor shall proceed to make such repairs as soon as reasonably possible after the required funds are available. If Lessee does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

9.4 Total Destruction. Notwithstanding any other provision hereof, if a Premises Total Destruction occurs, this Lease shall terminate 60 days following such Destruction. If the damage or destruction was caused by the gross negligence or willful misconduct of Lessee, Lessor shall have the right to recover Lessor's damages from Lessee, except as provided in Paragraph 8.6.

9.5 Damage Near End of Term. If at any time during the last 6 months of this Lease there is damage for which the cost to repair

exceeds one month's Base Rent, whether or not an Insured Loss, Lessor may terminate this Lease effective 60 days following the date of occurrence of such damage by giving a written termination notice to Lessee within 30 days after the date of occurrence of such damage. Notwithstanding the foregoing, if Lessee at that time has an exercisable option to extend this Lease or to purchase the Premises, then Lessee may preserve this Lease by, (a) exercising such option and (b) providing Lessor with any shortage in insurance proceeds (or adequate assurance thereof) needed to make the repairs on or before the earlier of (i) the date which is 10 days after Lessee's receipt of Lessor's written notice purporting to terminate this Lease, or (ii) the day prior to the date upon which such option expires. If Lessee duly exercises such option during such period and provides Lessor with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor shall, at Lessor's commercially reasonable expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option and provide such funds or assurance during such period, then this Lease shall terminate on the date specified in the termination notice and Lessee's option shall be extinguished.

9.6 Abatement of Rent; Lessee's Remedies.

(a) **Abatement.** In the event of Premises Partial Damage or Premises Total Destruction or a Hazardous Substance Condition for which Lessee is not responsible under this Lease, the Rent payable by Lessee for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired, but not to exceed the proceeds received from the Rental Value insurance. All other obligations of Lessee hereunder shall be performed by Lessee, and Lessor shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

(b) **Remedies.** If Lessor is obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within 90 days after such obligation shall accrue, Lessee may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than 60 days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within 30 days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within such 30 days, this Lease shall continue in full force and effect. "Commence" shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever first occurs.

9.7 **Termination; Advance Payments.** Upon termination of this Lease pursuant to Paragraph 6.2(g) or Paragraph 9, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's Security Deposit as has not been, or is not then required to be, used by Lessor.

10. Real Property Taxes. Lessor and Lessee are each public entities and therefore should be exempt from real and personal properties taxes. However, to the extent such taxes should be assessable against either Lessor or Lessee, the Parties agree as follows:

10.1 **Definitions.** As used herein, the term "Real Property Taxes" shall include any form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Project, Lessor's right to other income therefrom, and/or Lessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Project address. "Real Property Taxes" shall also include any tax, fee, levy, assessment or charge, or any increase therein: (i) imposed by reason of events occurring during the term of this Lease, including but not limited to, a change in the ownership of the Project, (ii) a change in the improvements thereon, and/or (iii) levied or assessed on machinery or equipment provided by Lessor to Lessee pursuant to this Lease.

10.2 **Payment of Taxes.** Except as otherwise provided in Paragraph 10.3, Lessor shall pay the Real Property Taxes applicable to the Project, and said payments shall be **shared equally among Lessor and Lessee** included in the calculation of Operating Expenses in accordance with the provisions of Paragraph 4.2.

~~10.3 **Additional Improvements.** Operating Expenses shall not include Real Property Taxes specified in the tax assessor's records and work sheets as being caused by additional improvements placed upon the Project by other lessees or by Lessor for the exclusive enjoyment of such other lessees. Notwithstanding Paragraph 10.2 hereof, Lessee shall, however, pay to Lessor at the time Operating Expenses are payable under Paragraph 4.2, the entirety of any increase in Real Property Taxes if assessed solely by reason of Alterations, Trade Fixtures or Utility Installations placed upon the Premises by Lessee or at Lessee's request or by reason of any alterations or improvements to the Premises made by Lessor subsequent to the execution of this Lease by the Parties.~~

10.4 **Joint Assessment.** If the Building is not separately assessed, Real Property Taxes allocated to the Building shall be an equitable proportion of the Real Property Taxes for all of the land and improvements included within the tax parcel assessed, such proportion to be determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available. Lessor's reasonable determination thereof, in good faith, shall be conclusive.

10.5 **Personal Property Taxes.** Lessee shall pay prior to delinquency all taxes assessed against and levied upon Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee contained in the Premises. When possible, Lessee shall cause its Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Lessor. If any of Lessee's said property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee's property within 10 days after receipt of a written statement setting forth the taxes applicable to Lessee's property.

11. Utilities and Services.

11.1 **Services Provided by Lessor.** Lessor shall provide heating, ventilation, air conditioning, reasonable amounts of electricity for normal lighting and office machines, water for reasonable and normal drinking and lavatory use in connection with an office, and replacement light bulbs and/or fluorescent tubes and ballasts for standard overhead fixtures. Lessor shall also provide janitorial services to the Premises and Common Areas 5 times per week, excluding Building Holidays, or pursuant to the attached janitorial schedule, if any. Lessor shall not, however, be required to provide janitorial services to kitchens or storage areas included within the Premises.

11.2 **Services Exclusive to Lessee.** Notwithstanding the provisions of paragraph 11.1, Lessee ~~and Lessor shall share the cost of electric, telephone and internet pay equally for all water, gas, light, power, telephone and other utilities and services specially or exclusively supplied and/or metered~~ **supplied** exclusively to the Premises or to Lessee, together with any taxes thereon. ~~Notwithstanding the provisions of Paragraph 4.2(vi), if a service is deleted by Paragraph 1.13 and such service is~~

~~not separately metered to the Premises, Lessee shall pay at Lessor's option, either Lessee's Share or a reasonable proportion to be determined by Lessor of all charges for such jointly metered service.~~

11.3 **Hours of Service.** Said services and utilities shall be provided during times set forth in Paragraph 1.12. Utilities and services required at other times shall be subject to advance request and reimbursement by Lessee to Lessor of the cost thereof.

11.4 **Excess Usage by Lessee.** Lessee shall not make connection to the utilities except by or through existing outlets and shall not install or use machinery or equipment in or about the Premises that uses excess water, lighting or power, or suffer or permit any act that causes extra burden upon the utilities or services, including but not limited to security and trash services, over standard office usage for the Project. Lessor shall require Lessee to reimburse Lessor for any excess expenses or costs that may arise out of a breach of this subparagraph by Lessee. Lessor may, in its sole discretion, install at Lessee's expense supplemental equipment and/or separate metering applicable to Lessee's excess usage or loading.

11.5 **Interruptions.** There shall be no abatement of rent and Lessor shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond Lessor's reasonable control or in cooperation with governmental request or directions.

12. Assignment and Subletting.

12.1 Lessor's Consent Required.

(a) Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, "**assign or assignment**") or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent.

(b) Unless Lessee is a corporation and its stock is publicly traded on a national stock exchange, a change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 25% or more of the voting control of Lessee shall constitute a change in control for this purpose.

(c) The involvement of Lessee or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buyout or otherwise), whether or not a formal assignment or hypothecation of this Lease or Lessee's assets occurs, which results or will result in a reduction of the Net Worth of Lessee by an amount greater than 25% of such Net Worth as it was represented at the time of the execution of this Lease or at the time of the most recent assignment to which Lessor has consented, or as it exists immediately prior to said transaction or transactions constituting such reduction, whichever was or is greater, shall be considered an assignment of this Lease to which Lessor may withhold its consent. "**Net Worth of Lessee**" shall mean the net worth of Lessee (excluding any guarantors) established under generally accepted accounting principles.

(d) An assignment or subletting without consent shall, at Lessor's option, be a Default curable after notice per Paragraph 13.1(d), or a noncurable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a noncurable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 110% of the Base Rent then in effect. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any option to purchase the Premises held by Lessee shall be subject to similar adjustment to 110% of the price previously in effect, and (ii) all fixed and non-fixed rental adjustments scheduled during the remainder of the Lease term shall be increased to 110% of the scheduled adjusted rent.

(e) Lessee's remedy for any breach of Paragraph 12.1 by Lessor shall be limited to compensatory damages and/or injunctive relief.

(f) Lessor may reasonably withhold consent to a proposed assignment or subletting if Lessee is in Default at the time consent is requested.

(g) Notwithstanding the foregoing, allowing a de minimis portion of the Premises, ie. 20 square feet or less, to be used by a third party vendor in connection with the installation of a vending machine or payphone shall not constitute a subletting.

12.2 Terms and Conditions Applicable to Assignment and Subletting.

(a) Regardless of Lessor's consent, no assignment or subletting shall : (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

(b) Lessor may accept Rent or performance of Lessee's obligations from any person other than Lessee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of Rent or performance shall constitute a waiver or estoppel of Lessor's right to exercise its remedies for Lessee's Default or Breach.

(c) Lessor's consent to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting.

(d) In the event of any Default or Breach by Lessee, Lessor may proceed directly against Lessee, any Guarantors or anyone else responsible for the performance of Lessee's obligations under this Lease, including any assignee or sublessee, without first exhausting Lessor's remedies against any other person or entity responsible therefor to Lessor, or any security held by Lessor.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of \$500 as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested. (See also Paragraph 36)

(f) Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment, entering into such sublease, or entering into possession of the Premises or any portion thereof, be deemed to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by Lessee during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Lessor has specifically consented to in writing.

(g) Lessor's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the original Lessee by this Lease unless such transfer is specifically consented to by Lessor in writing. (See Paragraph 39.2)

12.3 **Additional Terms and Conditions Applicable to Subletting.** The following terms and conditions shall apply to any subletting by Lessee of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

(a) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance of Lessee's obligations, Lessee may collect said Rent. In the event that the amount collected by Lessor exceeds Lessee's then outstanding obligations any such excess shall be refunded to Lessee. Lessor shall not, by reason of the foregoing or any

assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Lessee to the contrary.

(b) In the event of a Breach by Lessee, Lessor may, at its option, require sublessee to attorn to Lessor, in which event Lessor shall undertake the obligations of the sublessor under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any prior Defaults or Breaches of such sublessor.

(c) Any matter requiring the consent of the sublessor under a sublease shall also require the consent of Lessor.

(d) No sublessee shall further assign or sublet all or any part of the Premises without Lessor's prior written consent.

(e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.

13. Default; Breach; Remedies.

13.1 Default; Breach. A "Default" is defined as a failure by the Lessee to comply with or perform any of the terms, covenants, conditions or Rules and Regulations under this Lease. A "Breach" is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable grace period:

(a) The abandonment of the Premises; or the vacating of the Premises without providing a commercially reasonable level of security, or where the coverage of the property insurance described in Paragraph 8.3 is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism.

(b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of 3 business days following written notice to Lessee. THE ACCEPTANCE BY LESSOR OF A PARTIAL PAYMENT OF RENT OR SECURITY DEPOSIT SHALL NOT CONSTITUTE A WAIVER OF ANY OF LESSOR'S RIGHTS, INCLUDING LESSOR'S RIGHT TO RECOVER POSSESSION OF THE PREMISES.

(c) The failure of Lessee to allow Lessor and/or its agents access to the Premises or the commission of waste, act or acts constituting public or private nuisance, and/or an illegal activity on the Premises by Lessee, where such actions continue for a period of 3 business days following written notice to Lessee. In the event that Lessee commits waste, a nuisance or an illegal activity a second time then, the Lessor may elect to treat such conduct as a non-curable Breach rather than a Default.

(d) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate or financial statements, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document requested under Paragraph 41, (viii) material safety data sheets (MSDS), or (ix) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 10 days following written notice to Lessee.

(e) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 2.9 hereof, other than those described in subparagraphs 13.1(a), (b) or (c), above, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

(f) The occurrence of any of the following events: (i) the making of any general arrangement or assignment for the benefit of creditors; (ii) becoming a "debtor" as defined in 11 U.S.C. § 101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within 30 days; provided, however, in the event that any provision of this subparagraph is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(g) The discovery that any financial statement of Lessee or of any Guarantor given to Lessor was materially false.

(h) If the performance of Lessee's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory basis, and Lessee's failure, within 60 days following written notice of any such event, to provide written alternative assurance or security, which, when coupled with the then existing resources of Lessee, equals or exceeds the combined financial resources of Lessee and the Guarantors that existed at the time of execution of this Lease.

13.2 Remedies. If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. Lessee shall pay to Lessor an amount equal to 115% of the costs and expenses incurred by Lessor in such performance upon receipt of an invoice therefor. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration

of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover any damages to which Lessor is otherwise entitled. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

(b) Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, in which event Lessee may sublet or assign, subject only to reasonable limitations. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession.

(c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located. The expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

13.3 Inducement Recapture. Any agreement for free or abated rent or other charges, the cost of tenant improvements for Lessee paid for or performed by Lessor, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as "**Inducement Provisions**," shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Lessor under such an Inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.

13.4 Late Charges. Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within ~~5-~~ **10** days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall immediately pay to Lessor a one-time late charge equal to 10% of each such overdue amount or \$100, whichever is greater. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for 3 consecutive installments of Base Rent, then notwithstanding any provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

13.5 Interest. Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due shall bear interest from the 31st day after it was due. The interest ("**Interest**") charged shall be computed at the rate of 10% per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 Breach by Lessor.

(a) **Notice of Breach.** Lessor shall not be deemed in breach of this Lease unless Lessor fails within a reasonable time to perform an obligation required to be performed by Lessor. For purposes of this Paragraph, a reasonable time shall in no event be less than 30 days after receipt by Lessor, and any Lender whose name and address shall have been furnished to Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that if the nature of Lessor's obligation is such that more than 30 days are reasonably required for its performance, then Lessor shall not be in breach if performance is commenced within such 30 day period and thereafter diligently pursued to completion.

(b) **Performance by Lessee on Behalf of Lessor.** In the event that neither Lessor nor Lender cures said breach within 30 days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Lessee may elect to cure said breach at Lessee's expense and offset from Rent the actual and reasonable cost to perform such cure, provided, however, that such offset shall not exceed an amount equal to the greater of one month's Base Rent or the Security Deposit, reserving Lessee's right to seek reimbursement from Lessor for any such expense in excess of such offset. Lessee shall document the cost of said cure and supply said documentation to Lessor.

14. Condemnation. If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively "Condemnation"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than 10% of the rentable floor area of the Premises, or more than 25% of Lessee's Reserved Parking Spaces, if any, are taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within 10 days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severance damages; provided, however, that Lessee shall be entitled to any compensation paid by the condemnor for Lessee's relocation expenses, loss of business goodwill and/or Trade Fixtures, without regard to whether or not this Lease is terminated pursuant to the provisions of this Paragraph. All Alterations and Utility Installations made to the Premises by Lessee, for purposes of Condemnation only, shall be considered the property of the Lessee and Lessee shall be entitled to any and all compensation which is payable therefor. In the event that this Lease is not terminated by reason of the Condemnation, Lessor shall repair any damage to

the Premises caused by such Condemnation.

15. Brokerage Fees. Each Party shall be solely responsible for the payments of any brokerage fees or commissions for the broker assisting such Party in this transaction.

~~15.1 — **Additional Commission.** In addition to the payments owed pursuant to Paragraph 1.10 above, Lessor agrees that: (a) if Lessee exercises any Option, (b) if Lessee or anyone affiliated with Lessee acquires from Lessor any rights to the Premises or other premises owned by Lessor and located within the Project, (c) if Lessee remains in possession of the Premises, with the consent of Lessor, after the expiration of this Lease, or (d) if Base Rent is increased, whether by agreement or operation of an escalation clause herein, then, Lessor shall pay Brokers a fee in accordance with the fee schedule of the Brokers in effect at the time the Lease was executed.~~

~~15.2 — **Assumption of Obligations.** Any buyer or transferee of Lessor's interest in this Lease shall be deemed to have assumed Lessor's obligation hereunder. Brokers shall be third party beneficiaries of the provisions of Paragraphs 1.10, 15, 22 and 31. If Lessor fails to pay to Brokers any amounts due as and for brokerage fees pertaining to this Lease when due, then such amounts shall accrue interest. In addition, if Lessor fails to pay any amounts to Lessee's Broker when due, Lessee's Broker may send written notice to Lessor and Lessee of such failure and if Lessor fails to pay such amounts within 10 days after said notice, Lessee shall pay said monies to its Broker and offset such amounts against Rent. In addition, Lessee's Broker shall be deemed to be a third party beneficiary of any commission agreement entered into by and/or between Lessor and Lessor's Broker for the limited purpose of collecting any brokerage fee owed.~~

15.3 Representations and Indemnities of Broker Relationships. Lessee and Lessor each represent and warrant to the other that it has had no dealings with any person, firm, broker or finder (other than the Brokers, if any) in connection with this Lease, and that no one other than said named Brokers is entitled to any commission or finder's fee in connection herewith. Lessee and Lessor do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying Party, including any costs, expenses, attorneys' fees reasonably incurred with respect thereto.

16. Estoppel Certificates.

(a) Each Party (as "**Responding Party**") shall within 10 days after written notice from the other Party (the "**Requesting Party**") execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current "**Estoppel Certificate**" form published BY AIR CRE, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrancers may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate. In addition, Lessee acknowledges that any failure on its part to provide such an Estoppel Certificate will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to execute and/or deliver a requested Estoppel Certificate in a timely fashion the monthly Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater for remainder of the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to provide the Estoppel Certificate. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to provide the Estoppel Certificate nor prevent the exercise of any of the other rights and remedies granted hereunder.

(c) If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee and all Guarantors shall within 10 days after written notice from Lessor deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past 3 years. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

17. Definition of Lessor. The term "**Lessor**" as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined.

18. Severability. The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

19. Days. Unless otherwise specifically indicated to the contrary, the word "**days**" as used in this Lease shall mean and refer to calendar days.

20. Limitation on Liability. The obligations of Lessor under this Lease shall not constitute personal obligations of Lessor, or its partners, members, directors, officers or shareholders, and Lessee shall look to the Project, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against Lessor's partners, members, directors, officers or shareholders, or any of their personal assets for such satisfaction.

21. Time of Essence. Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

22. No Prior or Other Agreements; Broker Disclaimer. This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the use, nature, quality and character of the

Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party.

23. Notices.

23.1 **Notice Requirements.** All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, or by email, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23. The addresses noted adjacent to a Party's signature on this Lease shall be that Party's address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice. A copy of all notices to Lessor shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate in writing.

23.2 **Date of Notice.** Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 72 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantees next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices delivered by hand, or transmitted by facsimile transmission or by email shall be deemed delivered upon actual receipt. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

24. Waivers.

(a) No waiver by Lessor of the Default or Breach of any term, covenant or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent.

(b) The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of monies or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or before the time of deposit of such payment.

(c) THE PARTIES AGREE THAT THE TERMS OF THIS LEASE SHALL GOVERN WITH REGARD TO ALL MATTERS RELATED THERETO AND HEREBY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE TO THE EXTENT THAT SUCH STATUTE IS INCONSISTENT WITH THIS LEASE.

25. Disclosures Regarding The Nature of a Real Estate Agency Relationship.

(a) When entering into a discussion with a real estate agent regarding a real estate transaction, a Lessor or Lessee should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Lessor and Lessee acknowledge being advised by the Brokers in this transaction, as follows:

(i) Lessor's Agent. A Lessor's agent under a listing agreement with the Lessor acts as the agent for the Lessor only. A Lessor's agent or subagent has the following affirmative obligations: To the Lessor: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessor. To the Lessee and the Lessor: (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(ii) Lessee's Agent. An agent can agree to act as agent for the Lessee only. In these situations, the agent is not the Lessor's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Lessor. An agent acting only for a Lessee has the following affirmative obligations. To the Lessee: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee. To the Lessee and the Lessor: (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(iii) Agent Representing Both Lessor and Lessee. A real estate agent, either acting directly or through one or more associate licenses, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: (a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Lessor or the Lessee. (b) Other duties to the Lessor and the Lessee as stated above in subparagraphs (i) or (ii). In representing both Lessor and Lessee, the agent may not without the express permission of the respective Party, disclose to the other Party that the Lessor will accept rent in an amount less than that indicated in the listing or that the Lessee is willing to pay a higher rent than that offered. The above duties of the agent in a real estate transaction do not relieve a Lessor or Lessee from the responsibility to protect their own interests. Lessor and Lessee should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

(b) Brokers have no responsibility with respect to any default or breach hereof by either Party. The Parties agree that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to this Lease may be brought against Broker more than one year after the Start Date and that the liability (including court costs and attorneys' fees), of any Broker with respect to any such lawsuit and/or legal proceeding shall not exceed the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

(c) Lessor and Lessee agree to identify to Brokers as "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.

26. No Right To Holdover. Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. In the event that Lessee holds over, then the Base Rent shall be increased to 150% of the Base Rent applicable immediately preceding the expiration or termination. Holdover Base Rent shall be calculated on a monthly basis. Nothing

contained herein shall be construed as consent by Lessor to any holding over by Lessee.

27. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

28. Covenants and Conditions; Construction of Agreement. All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

29. Binding Effect; Choice of Law. This Lease shall be binding upon the parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located.

30. Subordination; Attornment; Non-Disturbance.

30.1 **Subordination.** This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, "**Security Device**"), now or hereafter placed upon the Premises, to any and all advances made on the security thereof, and to all renewals, modifications, and extensions thereof. Lessee agrees that the holders of any such Security Devices (in this Lease together referred to as "**Lender**") shall have no liability or obligation to perform any of the obligations of Lessor under this Lease. Any Lender may elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to Lessee, whereupon this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

30.2 **Attornment.** In the event that Lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Device to which this Lease is subordinated (i) Lessee shall, subject to the non-disturbance provisions of Paragraph 30.3, attorn to such new owner, and upon request, enter into a new lease, containing all of the terms and provisions of this Lease, with such new owner for the remainder of the term hereof, or, at the election of the new owner, this Lease will automatically become a new lease between Lessee and such new owner, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations, except that such new owner shall not: (a) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (b) be subject to any offsets or defenses which Lessee might have against any prior lessor, (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior lessor which was not paid or credited to such new owner.

30.3 **Non-Disturbance.** With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a "**Non-Disturbance Agreement**") from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises. Further, within 60 days after the execution of this Lease, Lessor shall, if requested by Lessee, use its commercially reasonable efforts to obtain a Non-Disturbance Agreement from the holder of any pre-existing Security Device which is secured by the Premises. In the event that Lessor is unable to provide the Non-Disturbance Agreement within said 60 days, then Lessee may, at Lessee's option, directly contact Lender and attempt to negotiate for the execution and delivery of a Non-Disturbance Agreement.

30.4 **Self-Executing.** The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any subordination, attornment and/or Non-Disturbance Agreement provided for herein.

31. Attorneys' Fees. If any Party or Broker brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "**Prevailing Party**" shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach (\$200 is a reasonable minimum per occurrence for such services and consultation).

32. Lessor's Access; Showing Premises; Repairs. Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through the Premises and/or other premises as long as there is no material adverse effect on Lessee's use of the Premises. All such activities shall be without abatement of rent or liability to Lessee.

33. Auctions. Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

34. Signs. Lessor may place on the Premises ordinary "For Sale" signs at any time and ordinary "For Lease" signs during the last 6 months of the term hereof. Lessor may not place any sign on the exterior of the Building that covers any of the windows of the Premises. Except for ordinary "For Sublease" signs which may be placed only on the Premises, Lessee shall not place any sign upon the Project without Lessor's prior written consent. All signs must comply with all Applicable Requirements.

35. Termination; Merger. Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, that Lessor may elect to continue any one or all existing subtenancies. Lessor's failure within 10 days following any such event to elect to the contrary by written notice to the holder of any

such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.

36. Consents. All requests for consent shall be in writing. Except as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Lessor's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Lessee for any Lessor consent, including but not limited to consents to an assignment, a subletting or the presence or use of a Hazardous Substance, shall be paid by Lessee upon receipt of an invoice and supporting documentation therefor. Lessor's consent to any act, assignment or subletting shall not constitute an acknowledgment that no Default or Breach by Lessee of this Lease exists, nor shall such consent be deemed a waiver of any then existing Default or Breach, except as may be otherwise specifically stated in writing by Lessor at the time of such consent. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given. In the event that either Party disagrees with any determination made by the other hereunder and reasonably requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within 10 business days following such request.

37. Guarantor.

37.1 **Execution.** The Guarantors, if any, shall each execute a guaranty in the form most recently published BY AIR CRE.

37.2 **Default.** It shall constitute a Default of the Lessee if any Guarantor fails or refuses, upon request to provide: (a) evidence of the execution of the guaranty, including the authority of the party signing on Guarantor's behalf to obligate Guarantor, and in the case of a corporate Guarantor, a certified copy of a resolution of its board of directors authorizing the making of such guaranty, (b) current financial statements, (c) an Estoppel Certificate, or (d) written confirmation that the guaranty is still in effect.

38. Quiet Possession. Subject to payment by Lessee of the Rent and performance of all of the covenants, conditions and provisions on Lessee's part to be observed and performed under this Lease, Lessee shall have quiet possession and quiet enjoyment of the Premises during the term hereof.

39. Options. If Lessee is granted any option, as defined below, then the following provisions shall apply.

39.1 **Definition.** "Option" shall mean: (a) the right to extend or reduce the term of or renew this Lease or to extend or reduce the term of or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal or first offer to lease either the Premises or other property of Lessor; (c) the right to purchase, the right of first offer to purchase or the right of first refusal to purchase the Premises or other property of Lessor.

39.2 **Options Personal To Original Lessee.** Any Option granted to Lessee in this Lease is personal to the original Lessee, and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and, if requested by Lessor, with Lessee certifying that Lessee has no intention of thereafter assigning or subletting.

39.3 **Multiple Options.** In the event that Lessee has any multiple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options have been validly exercised.

39.4 **Effect of Default on Options.**

(a) Lessee shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default and continuing until said Default is cured, (ii) during the period of time any Rent is unpaid (without regard to whether notice thereof is given Lessee), (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessee has been given 3 or more notices of separate Default, whether or not the Defaults are cured, during the 12 month period immediately preceding the exercise of the Option.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Paragraph 39.4(a).

(c) An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term or completion of the purchase, (i) Lessee fails to pay Rent for a period of 30 days after such Rent becomes due (without any necessity of Lessor to give notice thereof), or (ii) if Lessee commits a Breach of this Lease.

40. Security Measures. Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties. In the event, however, that Lessor should elect to provide security services, then the cost thereof shall be an Operating Expense.

41. Reservations.

(a) Lessor reserves the right: (i) to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, (ii) to cause the recordation of parcel maps and restrictions, (iii) to create and/or install new utility raceways, so long as such easements, rights, dedications, maps, restrictions, and utility raceways do not unreasonably interfere with the use of the Premises by Lessee. Lessor may also: change the name, address or title of the Building or Project upon at least 90 days prior written notice; provide and install, at Lessee's expense, Building standard graphics on the door of the Premises and such portions of the Common Areas as Lessor shall reasonably deem appropriate; grant to any lessee the exclusive right to conduct any business as long as such exclusive right does not conflict with any rights expressly given herein; and to place such signs, notices or displays as Lessor reasonably deems necessary or advisable upon the roof, exterior of the Building or the Project or on signs in the Common Areas. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate such rights. The obstruction of Lessee's view, air, or light by any structure erected in the vicinity of the Building, whether by Lessor or third parties, shall in no way affect this Lease or impose any liability upon Lessor.

(b) Lessor also reserves the right to move Lessee to other space of comparable size in the Building or Project. Lessor must provide at least 45 days prior written notice of such move, and the new space must contain improvements of comparable quality to those contained within the Premises. Lessor shall pay the reasonable out of pocket costs that Lessee incurs with regard to such relocation, including the expenses of moving and necessary stationary revision costs. In no event, however, shall Lessor be required to pay an amount in excess of two months Base Rent. Lessee may not be relocated more than once during the term of this Lease.

(c) Lessee shall not: (i) use a representation (photographic or otherwise) of the Building or Project or their name(s) in connection with Lessee's business; or (ii) suffer or permit anyone, except in emergency, to go upon the roof of the Building.

42. Performance Under Protest. If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to

the other under the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not legally required to pay. A Party who does not initiate suit for the recovery of sums paid "under protest" within 6 months shall be deemed to have waived its right to protest such payment.

43. Authority; Multiple Parties; Execution.

(a) If either Party hereto is a corporation, trust, limited liability company, partnership, or similar entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. Each Party shall, within 30 days after request, deliver to the other Party satisfactory evidence of such authority.

(b) If this Lease is executed by more than one person or entity as "Lessee", each such person or entity shall be jointly and severally liable hereunder. It is agreed that any one of the named Lessees shall be empowered to execute any amendment to this Lease, or other document ancillary thereto and bind all of the named Lessees, and Lessor may rely on the same as if all of the named Lessees had executed such document.

(c) This Lease may be executed by the Parties in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

44. Conflict. Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

45. Offer. Preparation of this Lease by either party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

46. Amendments. This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.

47. Waiver of Jury Trial. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS AGREEMENT.

48. Arbitration of Disputes. An Addendum requiring the Arbitration of all disputes between the Parties and/or Brokers arising out of this Lease ☐ is ☒ is not attached to this Lease.

49. Accessibility; Americans with Disabilities Act.

(a) The Premises:

☒ have not undergone an inspection by a Certified Access Specialist (CASp). Note: A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.

☐ have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises met all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. Lessee acknowledges that it received a copy of the inspection report at least 48 hours prior to executing this Lease and agrees to keep such report confidential.

☐ have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises did not meet all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. Lessee acknowledges that it received a copy of the inspection report at least 48 hours prior to executing this Lease and agrees to keep such report confidential except as necessary to complete repairs and corrections of violations of construction related accessibility standards.

In the event that the Premises have been issued an inspection report by a CASp the Lessor shall provide a copy of the disability access inspection certificate to Lessee within 7 days of the execution of this Lease.

(b) Since compliance with the Americans with Disabilities Act (ADA) and other state and local accessibility statutes are dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation. In the event that Lessee's use of the Premises requires modifications or additions to the Premises in order to be in compliance with ADA or other accessibility statutes, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY AIR CRE OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:

1. SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.

2. RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PREMISES. SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING AND SIZE OF THE PREMISES, THE STRUCTURAL INTEGRITY, THE CONDITION OF THE ROOF AND OPERATING SYSTEMS, COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND THE SUITABILITY OF THE PREMISES FOR LESSEE'S INTENDED USE.

WARNING: IF THE PREMISES ARE LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THE LEASE MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PREMISES ARE LOCATED.

The parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.

Executed at: _____
On: _____

Executed at: _____
On: _____

By LESSOR:
Riverside County Transportation Commission (RCTC)

By LESSEE:
Orange County Transportation Authority (OCTA)

By: _____
Name Printed: _____
Title: _____
Phone: _____
Fax: _____
Email: _____

By: _____
Name Printed: _____
Title: _____
Phone: _____
Fax: _____
Email: _____

By: _____
Name Printed: _____
Title: _____
Phone: _____
Fax: _____
Email: _____

By: _____
Name Printed: _____
Title: _____
Phone: _____
Fax: _____
Email: _____

Address: _____
Federal ID No.: _____

Address: 530 S. Main Street
Orange, CA 92868

Federal ID No.: _____

LESSOR'S BROKER

LESSEE'S BROKER

CBRE, Inc.

Attn: _____
Title: _____

Attn: Rick Warner Peter Andrich
Title: _____

Address: _____

Address: 1100 W. Town & Country Rd, Ste 1200

Phone: _____

Orange, CA 92868

Fax: _____

Phone: (714) 371-9250

Email: _____

Fax: (714) 371-9201

Federal ID No.: _____

Email: rick.warner@cbre.com

Broker/Agent BRE License #: _____

Federal ID No.: 95-2743174

Broker/Agent BRE License #: 00409987

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R. Warner-0318-OFG-301 Corporate Terrace-OCTA:sp:fmc



RENT ADJUSTMENT(S) STANDARD LEASE ADDENDUM

Dated: January 1, 2018

By and Between

Lessor: Riverside County Transportation Commission (RCTC)

Lessee: Orange County Transportation Authority (OCTA)

Property Address: 301 Corporate Terrace, Corona, CA 92879
(street address, city, state, zip)

Paragraph: 50

A. RENT ADJUSTMENTS:

The monthly rent for each month of the adjustment period(s) specified below shall be increased using the method(s) indicated below:

(Check Method(s) to be Used and Fill in Appropriately)

☐ **I. Cost of Living Adjustment(s) (COLA)**

a. On (Fill in COLA Dates): , the Base Rent shall be adjusted by the change, if any, from the Base Month specified below, in the Consumer Price Index of the Bureau of Labor Statistics of the U.S. Department of Labor for (select one): ☐ CPI-W (Urban Wage Earners and Clerical Workers) or ☐ CPI-U (All Urban Consumers), for (Fill in Urban Area): , All Items (1982-1984 = 100), herein referred to as "CPI".

b. The monthly Base Rent payable in accordance with paragraph A.I.a. of this Addendum shall be calculated as follows: the Base Rent set forth in paragraph 1.5 of the attached Lease, shall be multiplied by a fraction the numerator of which shall be the CPI of the calendar month 2 months prior to the month(s) specified in paragraph A.I.a. above during which the adjustment is to take effect, and the denominator of which shall be the CPI of the calendar month which is 2 months prior to (select one): the ☐ first month of the term of this Lease as set forth in paragraph 1.3 ("Base Month") or ☐ (Fill in Other "Base Month"): . The sum so calculated shall constitute the new monthly Base Rent hereunder, but in no event, shall any such new monthly Base Rent be less than the Base Rent payable for the month immediately preceding the Base Rent adjustment.

c. In the event the compilation and/or publication of the CPI shall be transferred to any other governmental department or bureau or agency or shall be discontinued, then the index most nearly the same as the CPI shall be used to make such calculation. In the event that the Parties cannot agree on such alternative index, then the matter shall be submitted for decision to the American Arbitration Association in accordance with the then rules of said Association and the decision of the arbitrators shall be binding upon the parties. The cost of said Arbitration shall be paid equally by the Parties.

☐ **II. Market Rental Value Adjustment(s) (MRV)**

a. On (Fill in MRV Adjustment Date(s)): , the Base Rent shall be adjusted to the "Market Rental Value" of the property as follows:

1) Four months prior to each Market Rental Value Adjustment Date described above, the Parties shall attempt to agree upon what the new MRV will be on the adjustment date. If agreement cannot be reached within thirty days, then:

(a) Lessor and Lessee shall immediately appoint a mutually acceptable appraiser or broker to establish the new MRV within the next 30 days. Any associated costs will be split equally between the Parties, or

(b) Both Lessor and Lessee shall each immediately make a reasonable determination of the MRV and submit such determination, in writing, to arbitration in accordance with the following provisions:

(i) Within 15 days thereafter, Lessor and Lessee shall each select an independent third party ☐ appraiser or ☐ broker ("Consultant" - check one) of their choice to act as an arbitrator (Note: the parties may not select either of the Brokers that was involved in negotiating the Lease). The two arbitrators so appointed shall immediately select a third mutually acceptable Consultant to act as a third arbitrator.

(ii) The 3 arbitrators shall within 30 days of the appointment of the third arbitrator reach a decision as to what the actual MRV for the Premises is, and whether Lessor's or Lessee's submitted MRV is the closest thereto. The decision of a majority of the arbitrators shall be binding on the Parties. The submitted MRV which is determined to be the closest to the actual MRV shall thereafter be used by the Parties.

(iii) If either of the Parties fails to appoint an arbitrator within the specified 15 days, the arbitrator timely appointed by one of them shall reach a decision on his or her own, and said decision shall be binding on the Parties.

(iv) The entire cost of such arbitration shall be paid by the party whose submitted MRV is not selected, i.e., the one that is NOT the closest to the actual MRV.

2) When determining MRV, the Lessor, Lessee and Consultants shall consider the terms of comparable market transactions which shall include, but no limited to, rent, rental adjustments, abated rent, lease term and financial condition of tenants.

3) Notwithstanding the foregoing, the new Base Rent shall not be less than the rent payable for the month immediately preceding the rent adjustment.

b. Upon the establishment of each New Market Rental Value:

INITIALS

INITIALS

- 1) ~~the new MRV will become the new "Base Rent" for the purpose of calculating any further Adjustments, and~~
2) ~~the first month of each Market Rental Value term shall become the new 'Base Month' for the purpose of calculating any further Adjustments.~~

☒ **III. Fixed Rental Adjustment(s) (FRA)**

The Base Rent shall be increased to the following amounts on the dates set forth below:

On (Fill in FRA Adjustment Date(s)):	The New Base Rent shall be:
<u>April 1, 2019 – March 31, 2020</u>	<u>\$0.78/RSF per month</u>
<u>April 1, 2020 – March 31, 2021</u>	<u>\$0.80/RSF per month</u>
<u>April 1, 2021 – March 31, 2022</u>	<u>\$0.81/RSF per month</u>
<u>April 1, 2022 – March 31, 2023</u>	<u>\$0.83/RSF per month</u>
<u>April 1, 2023 – March 31, 2024</u>	<u>\$0.84/RSF per month</u>
<u>April 1, 2024 – March 31, 2025</u>	<u>\$0.86/RSF per month</u>
<u>April 1, 2025 – March 31, 2026</u>	<u>\$0.88/RSF per month</u>
<u>April 1, 2026 – March 31, 2027</u>	<u>\$0.90/RSF per month</u>
<u>April 1, 2027 – March 31, 2028</u>	<u>\$0.91/RSF per month</u>
<u>April 1, 2028 – March 31, 2029</u>	<u>\$0.93/RSF per month</u>

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R. Warner-0318-RA-301 Corporate Terrace-OCTA:sp:fmc



WORK LETTER EXHIBIT A

Dated: January 1, 2018

By and Between

Lessor: Riverside County Transportation Commission (RCTC)

Lessee: Orange County Transportation Authority (OCTA)

Property Address: 301 Corporate Terrace, Corona, CA 92879
(street address, city, state, zip)

1. **The Improvements.** The Premises shall be modified with the following improvements or work: All new interior buildout, per a mutually agreed upon Space Plan (the "Improvements") **according to the attached Work Schedule (Exhibit A-1).** The Improvements shall be of the quality which is standard for the Building, which quality shall be determined by Lessor ("Standard Improvement" - See paragraph 12 below).
2. **Preliminary Plans.** ~~Within _____ days after the Parties have mutually executed and delivered this Lease, Lessor shall prepare preliminary plans and specifications for the completion of the Improvements ("Preliminary Plans"). The Preliminary Plans shall itemize the work to be done by each Party, including, an estimate of the cost any work required of Lessor which is not a Standard Improvement. Lessee shall approve the Preliminary Plans and the preliminary cost estimate. or specify with particularity Lessee's objection thereto within _____ days following delivery thereof by Lessor. Lessee's failure to timely approve or disapprove the Preliminary Plans and the preliminary cost estimate shall constitute Lessee's approval thereof. If Lessee shall disapprove all or any part of the Preliminary Plans, and the Preliminary Plans cannot in good faith be modified within 10 days after such disapproval to be acceptable to both Lessor and Lessee, then this Lease shall terminate upon notice thereof by one Party to the other, Lessor shall refund to Lessee any Security Deposit or prepaid rent by Lessee, less the cost of the Preliminary Plans, legal fees and other costs incurred by Lessor in connection with this Lease, and neither Party shall thereafter have any obligation, liability or responsibility to the other Party for any reason whatsoever having to do with this Lease.~~ The Preliminary Plans, when approved by Lessee, shall supersede any prior agreement of the Parties concerning the Improvements.
3. **Final Plans.** After the Parties have, or are deemed to have, mutually approved the Preliminary Plans, Lessor shall prepare final plans and specifications for the completion of the Improvements ("Final Plans"), including an estimate of the cost the Improvements in excess of Lessor's Standard Improvements. ~~Lessee and Lessor shall mutually approve the Final Plans and the final cost estimate or specify with particularity Lessee's objection thereto within _____ days following delivery thereof by Lessor. Lessee's failure to timely approve or disapprove the Final Plans and the final cost estimate shall constitute Lessee's approval thereof. If Lessee shall disapprove all or any part of the Final Plans, and the Final Plans cannot in good faith be modified within 10 days after such disapproval to be acceptable to both Lessor and Lessee, then this Lease shall terminate upon notice thereof by one Party to the other, Lessor shall refund to Lessee any Security Deposit or prepaid rent by Lessee, less the cost of the Preliminary Plans, Final Plans, legal fees and other costs incurred by Lessor in connection with this Lease, and neither Party shall thereafter have any obligation, liability or responsibility to the other Party for any reason whatsoever having to do with this Lease.~~ The Final Plans, when approved by Lessee, shall supersede the Preliminary Plans and any prior agreement of the Parties concerning the Improvements.
4. **Construction.** ~~If Lessor's estimated cost constructing the Improvements exceeds Lessor's estimated cost of the Standard Improvements, before Lessor is obligated to start construction of the Improvements or perform any acts in furtherance thereof, Lessee shall pay to Lessor in cash a sum equal to such excess. If the Final Plans are approved or deemed approved by Lessor and Lessee, and Lessee pays Lessor for such excess, then Lessor shall construct the Improvements. If actual costs to complete improvements exceeds Final Plans, Parties shall share costs equally. Lessee shall, within 5 days of demand by Lessor, pay for all non-Standard Improvements.~~
5. **Completion.** The term "Completion", as used in this Work Letter, is hereby defined to mean the date the building department of the municipality having jurisdiction of the Premises shall have made a final inspection of the Improvements and authorized a final release of restrictions on the use of public utilities in connection therewith and the Premises are in a broom-clean condition. If the Improvements, or any portion thereof, have not reached Completion by the Commencement Date, this Lease shall not be invalid, Lessor shall not be subject to any liability therefore in any respect whatsoever, Lessor shall use commercially reasonable efforts to complete the same. Lessee shall use Lessee's best, good faith, efforts and all due diligence to cooperate with the Lessor to complete all phases of the construction of the Improvements, and, in that regard, shall meet with Lessor on a scheduled basis to be determined by Lessor.
6. **Delay.** If Lessor shall be directly or indirectly delayed at any time in the progress of the planning or construction of the Improvements by strikes, lockouts, fire, delay in transportation, unavoidable casualties, rain or weather conditions, governmental procedures or delay, or by any other cause beyond Lessor's control ("force majeure"), or by Lessee's Breach or Default, by any acts or omissions of Lessee, Lessee's agents, employees, contractors, including extra work, changes in construction ordered by Lessee ("Lessee Delay"), then the Commencement Date established in the Lease shall be extended by the period of such force majeure delay and Lessee Delay; provided, however, Lessor may elect to designate the Commencement Date as the date Completion of the Improvements would have occurred if such Lessee Delays had not occurred. Lessee shall from time to time, upon Lessor's request, meet with Lessor or Lessor's representatives and provide sufficient information for the preparation of the Preliminary Plans or the Final Plans, or otherwise for the timely and property construction of the Improvements.
7. ~~**Extra Work.** Notwithstanding anything to the contrary in the Lease or this Work Letter, if at any time before the actual Completion of the Improvements, any governmental body, authority or instrumentality does or may require any work to be performed outside of the Premises, such as the Building Common Areas, fire life safety or any other systems, and the cost of such extra work is estimated to exceed _____, then Lessor shall have the right to terminate this Lease by giving written notice of such~~

~~election to Lessee. In the event that the Lessor elects to terminate this Lease, Lessee shall have the right within 5 days of the receipt of such notice of termination to give written notice to Lessor of Lessee's commitment to pay for such extra work. Lessee shall provide Lessor with the necessary funds to perform such work within 5 days thereafter. If Lessee does not make the required commitment or does not forward the necessary funds within the time limits specified then this Lease shall terminate and Lessor shall refund to Lessee any Security Deposit or Rent prepaid by Lessee, and neither Party shall thereafter have any obligation, liability or responsibility to the other Party for any reason whatsoever having to do with this Lease.~~

8. **Term.** Any time after Completion of the Improvements, upon request by Lessor, the Parties shall execute an amendment to the Lease confirming the date of Completion of the Improvements, the date that Lessor delivered possession of the Premises to Lessee, the Commencement Date and Expiration Date of this Lease.

9. **Work Done by Lessee.** Any work done by Lessee shall be performed in a good and workmanlike manner and in full compliance with paragraph 7.3 of this Lease. If required by Lessor, all work by Lessee shall be done only with union labor and only by contractors approved by Lessor, it being understood that all plumbing, mechanical, electrical wiring and ceiling work are to be done only by contractors designated by Lessor.

10. **Early Entry.** If Lessor notifies Lessee of the estimated Completion, Lessee may, starting as of 10 days before said date, enter the Premises to commence construction of any improvements Lessee is to construct and to equip and fixtimize the Premises, as long as such entry does not interfere with Lessor's work. Any entry by Lessee into the Premises under this paragraph shall be under all of the terms and provisions of the Lease to which this Work Letter is attached.

11. **Acceptance of Premises.** Lessee shall, within 10 days following the date that Lessor delivered possession of the Premises to Lessee, notify Lessor in writing of any items of the Improvements that Lessee deems incomplete or incorrect in order for the Completion of the Improvements in the Premises to occur and the Premises to be acceptable to Lessee. Lessee shall be deemed to have accepted the Premises and approved construction of the Improvements if and to the extent Lessee does not deliver such a list to Lessor within said time period.

12. **Standard Improvements.** Lessor's Standard Improvements are described as follows: partitions, walls and wall surfaces, window coverings, floor coverings, doors, electrical, computer and telephone outlets, ceilings, lighting, HVAC ducting, sound proofing, plumbing, permits, architects, engineering, cabling, furniture, fixtures and equipment ("Tenant Improvement Cost").

Lessor to pay the first Fifty Thousand Dollars (\$50,000) of Tenant Improvement Cost to offset demolition and deferred maintenance cost.

Lessee to pay 50% of the remaining Tenant Improvement Cost, within 60 days of receipt of an invoice for payment which Lessor shall issue upon receipt of a Certificate of Occupancy. Lessor shall pay the remaining 50% of the Tenant Improvement Cost.

- a. Partitions: _____
- b. Wall Surfaces: _____
- c. Window Coverings: _____
- d. Floor Coverings: _____
- e. Doors: _____
- f. Electrical and Telephone Outlets: _____
- g. Ceilings: _____
- h. Lighting: _____
- i. HVAC Ducting: _____
- j. Sound Proofing: _____
- k. Plumbing: _____

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R Warner: 0318-WL-301 Corporate Terrace-OCTA:fmc

301 BUILDING (91 CSC RELOCATION) - PROJECT SCHEDULE

		Actual/Forecast			'Actual/Forecast' Logic
		Start Date	Finish Date	Duration (Days)	
91 CIP PCM AMENDMENT					
	Finalize PCM Amendment	7/26/2017A	9/26/2017A	62	
	Execute Amendment/NTP	9/26/2017A	10/8/2017A	12	
DESIGN PERIOD					
	Finalize Layout Concept	10/9/2017A	1/19/2018A	102	3 Week Period After NTP
	60% Design Period	1/19/2018A	4/12/2018	83	
	60% Design Plans Due	4/12/2018	4/12/2018	1	
	RCTC/OCTA 60% Review	4/12/2018	4/19/2018	7	1 Week Period After 60% Submittal
	100% Final Design Period	4/19/2018	5/14/2018	25	
	100% Design Plans Due	5/14/2018	5/14/2018	1	
	RCTC/OCTA 100% Review	5/15/2018	5/22/2018	7	
	Prepare Permit Set	5/22/2018	5/29/2018	7	
	City of Corona Approvals/Permits	5/30/2018	7/5/2018	36	
	Business Owners Association Approvals	7/5/2018	8/19/2018	45	After City of Corona Approvals. Approval Needed Before Construction NTP.
CONSTRUCTION PROCUREMENT					
	Finalize Bid Package and Bid Documents	7/5/2018	7/12/2018	7	1 Week Period After Construction Docs
	Release Issue for Bid (IFB) Documents	7/12/2018	7/12/2018	1	
	Bid Period	7/12/2018	8/2/2018	21	3 Week Period After IFB
	Bids Due	8/2/2018	8/2/2018	1	3 Weeks After IFB
	Bid Review	8/2/2018	8/5/2018	3	
	Draft Committee Report Due	8/9/2018	8/9/2018	1	2nd Thursday of Month
	Committee Meeting	8/27/2018	8/27/2018	1	4th Monday of Month
CONSTRUCTION PERIOD					
	Commission Meeting (Notice of Award/ NTP)	9/12/2018	9/12/2018	1	2nd Wednesday of Month
	Construction Period	9/12/2018	2/9/2019	150	5 Month Period
	City of Corona Certificate of Occupancy	2/9/2019	2/23/2019	14	2 Week Period
	Move-in/Setup Period	2/23/2019	2/26/2019	3	Assume Weekend Cut-Over
	CSC Switchover	2/27/2019	2/27/2019	1	

Exhibit "B"



Please note that the terms "Seller" and "Buyer" are defined by the CA Civil Code to include a lessor and lessee, respectively.

This form must be delivered before or concurrently with the signing of the purchase and sale contract (or lease). In lieu of this form, such confirmation may also be set forth in the purchase and sale contract (or lease).

REPRESENTATION CONFIRMATION

Date: _____
Seller/Lessor: _____
Buyer/Lessee: _____
Property Name: _____
Street Address, City, State: _____
Further described as: _____

A real estate agent, either acting directly or through one or more associate licensees, can legally be the agent of both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the Buyer. In a dual agency situation, the agent has the following affirmative obligations to both the Seller and the Buyer:

- (a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either the Seller or the Buyer.
- (b) Other duties to the Seller and the Buyer as stated above in their respective sections.

In representing both Seller and Buyer, the agent may not, without the express permission of the respective party, disclose to the other party that the Seller will accept a price less than the listing price or that the Buyer will pay a price greater than the price offered. The above duties of the agent in a real estate transaction do not relieve a Seller or Buyer from the responsibility to protect his or her own interests. You should carefully read all agreements to assure that they adequately express your understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional. Throughout your real property transaction you may receive more than one disclosure form, depending upon the number of agents assisting in the transaction. The law requires each agent with whom you have more than a casual relationship to present you with this disclosure form. You should read its contents each time it is presented to you, considering the relationship between you and the real estate agent in your specific transaction.

_____ is the Agent of **(check one)**
Name of Listing Agent (Brokerage Firm)

☐ **the seller exclusively;** or ☐ **both the buyer and seller.**

Rick Warner Peter Andrich (CBRE, Inc.) _____ is the Agent of **(check one)**
Name of Selling Agent/Procuring Broker (Brokerage Firm)

☒ **the buyer exclusively;** or ☐ **the seller exclusively;** or ☐ **both the buyer and seller.**

SELLER/LESSOR

BY: _____

PRINT NAME: _____

TITLE: _____

BUYER/LESSEE

BY: _____

PRINT NAME: _____

TITLE: _____

Please note that the terms "Seller" and "Buyer" are defined by the CA Civil Code to include a lessor and lessee, respectively.

If you are a Listing Agent - you must deliver the form to the seller/lessor before entering into the listing agreement. If the buyer/lessee is not represented by an agent, you must also deliver the form to it within one business day after receiving an offer from the buyer/lessee.

If you are the Buyer's Agent - you must deliver the form to the buyer/lessee as soon as the buyer/lessee seeks your services, but in any event before the buyer/lessee signs an offer. In addition, you must also deliver the form to the seller/lessor before or concurrently with presenting an offer.

DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP

(As required by the Civil Code)

When you enter into a discussion with a real estate agent regarding a real estate transaction, you should from the outset understand what type of agency relationship or representation you wish to have with the agent in the transaction.

SELLER'S AGENT

A Seller's agent under a listing agreement with the Seller acts as the agent for the Seller only. A Seller's agent or a subagent of that agent has the following affirmative obligations:

To the Seller: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Seller.

To the Buyer and the Seller:

- (a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
- (b) A duty of honest and fair dealing and good faith.
- (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties.

An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

BUYER'S AGENT

A selling agent can, with a Buyer's consent, agree to act as agent for the Buyer only. In these situations, the agent is not the Seller's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Seller. An agent acting only for a Buyer has the following affirmative obligations:

To the Buyer: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Buyer.

To the Buyer and the Seller:

- (a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
- (b) A duty of honest and fair dealing and good faith.
- (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties. An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

AGENT REPRESENTING BOTH SELLER AND BUYER

A real estate agent, either acting directly or through one or more associate licensees, can legally be the agent of both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the Buyer. In a dual agency situation, the agent has the following affirmative obligations to both the Seller and the Buyer:

- (a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either the Seller or the Buyer.
- (b) Other duties to the Seller and the Buyer as stated above in their respective sections.

In representing both Seller and Buyer, the agent may not, without the express permission of the respective party, disclose to the other party that the Seller will accept a price less than the listing price or that the Buyer will pay a price greater than the price offered. The above duties of the agent in a real estate transaction do not relieve a Seller or Buyer from the responsibility to protect his or her own interests. You should carefully read all agreements to assure that they adequately express your understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional. Throughout your real property transaction you may receive more than one disclosure form, depending upon the number of agents assisting in the transaction. The law requires each agent with whom you have more than a casual relationship to present you with this disclosure form. You should read its contents each time it is presented to you, considering the relationship between you and the real estate agent in your specific transaction. This disclosure form includes the provisions of Sections 2079.13 to 2079.24, inclusive, of the Civil Code set forth on the reverse hereof. Read it carefully.

CBRE, INC.

Agent

Associate Licensee Signature (Date)

Rick Warner Peter Andrich

Associate Licensee Printed Name

Buyer/Lessee Signature (Date)

Buyer/Lessee Printed Name

Seller/Lessor Signature (Date)

Seller/Lessor Printed Name

Exhibit "B" Page 3 of 3

2079.13. As used in Sections 2079.14 to 2079.24, inclusive, the following terms have the following meanings:

- (a) "Agent" means a person acting under provisions of Title 9 (commencing with Section 2295) in a real property transaction, and includes a person who is licensed as a real estate broker under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code, and under whose license a listing is executed or an offer to purchase is obtained.
- (b) "Associate licensee" means a person who is licensed as a real estate broker or salesperson under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code and who is either licensed under a broker or has entered into a written contract with a broker to act as the broker's agent in connection with acts requiring a real estate license and to function under the broker's supervision in the capacity of an associate licensee.
- The agent in the real property transaction bears responsibility for his or her associate licensees who perform as agents of the agent. When an associate licensee owes a duty to any principal, or to any buyer or seller who is not a principal, in a real property transaction, that duty is equivalent to the duty owed to that party by the broker for whom the associate licensee functions.
- (c) "Buyer" means a transferee in a real property transaction, and includes a person who executes an offer to purchase real property from a seller through an agent, or who seeks the services of an agent in more than a casual, transitory, or preliminary manner, with the object of entering into a real property transaction. "Buyer" includes vendee or lessee.
- (d) "Commercial real property" means all real property in the state, except single-family residential real property, dwelling units made subject to Chapter 2 (commencing with Section 1940) of Title 5, mobilehomes, as defined in Section 798.3, or recreational vehicles, as defined in Section 799.29.
- (e) "Dual agent" means an agent acting, either directly or through an associate licensee, as agent for both the seller and the buyer in a real property transaction.
- (f) "Listing agreement" means a contract between an owner of real property and an agent, by which the agent has been authorized to sell the real property or to find or obtain a buyer.
- (g) "Listing agent" means a person who has obtained a listing of real property to act as an agent for compensation.
- (h) "Listing price" is the amount expressed in dollars specified in the listing for which the seller is willing to sell the real property through the listing agent.
- (i) "Offering price" is the amount expressed in dollars specified in an offer to purchase for which the buyer is willing to buy the real property.
- (j) "Offer to purchase" means a written contract executed by a buyer acting through a selling agent that becomes the contract for the sale of the real property upon acceptance by the seller.
- (k) "Real property" means any estate specified by subdivision (1) or (2) of Section 761 in property that constitutes or is improved with one to four dwelling units, any commercial real property, any leasehold in these types of property exceeding one year's duration, and mobilehomes, when offered for sale or sold through an agent pursuant to the authority contained in Section 10131.6 of the Business and Professions Code.
- (l) "Real property transaction" means a transaction for the sale of real property in which an agent is employed by one or more of the principals to act in that transaction, and includes a listing or an offer to purchase.
- (m) "Sell," "sale," or "sold" refers to a transaction for the transfer of real property from the seller to the buyer, and includes exchanges of real property between the seller and buyer, transactions for the creation of a real property sales contract within the meaning of Section 2985, and transactions for the creation of a leasehold exceeding one year's duration.
- (n) "Seller" means the transferor in a real property transaction, and includes an owner who lists real property with an agent, whether or not a transfer results, or who receives an offer to purchase real property of which he or she is the owner from an agent on behalf of another. "Seller" includes both a vendor and a lessor.
- (o) "Selling agent" means a listing agent who acts alone, or an agent who acts in cooperation with a listing agent, and who sells or finds and obtains a buyer for the real property, or an agent who locates property for a buyer or who finds a buyer for a property for which no listing exists and presents an offer to purchase to the seller.
- (p) "Subagent" means a person to whom an agent delegates agency powers as provided in Article 5 (commencing with Section 2349) of Chapter 1 of Title 9. However, "subagent" does not include an associate licensee who is acting under the supervision of an agent in a real property transaction.

2079.14. Listing agents and selling agents shall provide the seller and buyer in a real property transaction with a copy of the disclosure form specified in Section 2079.16, and, except as provided in subdivision (c), shall obtain a signed acknowledgment of receipt from that seller or buyer, except as provided in this section or Section 2079.15, as follows:

- (a) The listing agent, if any, shall provide the disclosure form to the seller prior to entering into the listing agreement.
- (b) The selling agent shall provide the disclosure form to the seller as soon as practicable prior to presenting the seller with an offer to purchase, unless the selling agent previously provided the seller with a copy of the disclosure form pursuant to subdivision.
- (c) Where the selling agent does not deal on a face-to-face basis with the seller, the disclosure form prepared by the selling agent may be furnished to the seller (and acknowledgment of receipt obtained for the selling agent from the seller) by the listing agent, or the selling agent may deliver the disclosure form by certified mail addressed to the seller at his or her last known address, in which case no signed acknowledgment of receipt is required.
- (d) The selling agent shall provide the disclosure form to the buyer as soon as practicable prior to execution of the buyer's offer to purchase, except that if the offer to purchase is not prepared by the selling agent, the selling agent shall present the disclosure form to the buyer not later than the next business day after the selling agent receives the offer to purchase from the buyer.

2079.15. In any circumstance in which the seller or buyer refuses to sign an acknowledgment of receipt pursuant to Section 2079.14, the agent, or an associate licensee acting for an agent, shall set forth, sign, and date a written declaration of the facts of the refusal.

2079.17.

- (a) As soon as practicable, the selling agent shall disclose to the buyer and seller whether the selling agent is acting in the real property transaction exclusively as the buyer's agent, exclusively as the seller's agent, or as a dual agent representing both the buyer and the seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller, the buyer, and the selling agent prior to or coincident with execution of that contract by the buyer and the seller, respectively.
- (b) As soon as practicable, the listing agent shall disclose to the seller whether the listing agent is acting in the real property transaction exclusively as the seller's agent, or as a dual agent representing both the buyer and seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller and the listing agent prior to or coincident with the execution of that contract by the seller.
- (c) The confirmation required by subdivisions (a) and (b) shall be in the following form:

SAMPLE ONLY – DO NOT FILL OUT

_____ is the Listing agent of (check one): () the seller exclusively; or () both the buyer and seller.
_____ is the Selling agent, if not the same as the Listing Agent, of (check one): () the buyer exclusively; or () the seller exclusively; or () both the buyer and seller.

- (d) The disclosures and confirmation required by this section shall be in addition to the disclosure required by Section 2079.14.

2079.18. No selling agent in a real property transaction may act as an agent for the buyer only, when the selling agent is also acting as the listing agent in the transaction.

2079.19. The payment of compensation or the obligation to pay compensation to an agent by the seller or buyer is not necessarily determinative of a particular agency relationship between an agent and the seller or buyer. A listing agent and a selling agent may agree to share any compensation or commission paid, or any right to any compensation or commission for which an obligation arises as the result of a real estate transaction, and the terms of any such agreement shall not necessarily be determinative of a particular relationship.

2079.20. Nothing in this article prevents an agent from selecting, as a condition of the agent's employment, a specific form of agency relationship not specifically prohibited by this article if the requirements of Section 2079.14 and Section 2079.17 are complied with.

2079.21. A dual agent shall not disclose to the buyer that the seller is willing to sell the property at a price less than the listing price, without the express written consent of the seller. A dual agent shall not disclose to the seller that the buyer is willing to pay a price greater than the offering price, without the express written consent of the buyer. This section does not alter in any way the duty or responsibility of a dual agent to any principal with respect to confidential information other than price.

2079.22. Nothing in this article precludes a listing agent from also being a selling agent, and the combination of these functions in one agent does not, of itself, make that agent a dual agent.

2079.23. (a) A contract between the principal and agent may be modified or altered to change the agency relationship at any time before the performance of the act which is the object of the agency with the written consent of the parties to the agency relationship.

(b) A lender or an auction company retained by a lender to control aspects of a transaction of real property subject to this part, including validating the sales price, shall not require, as a condition of receiving the lender's approval of the transaction, the homeowner or listing agent to defend or indemnify the lender or auction company from any liability alleged to result from the actions of the lender or auction company. Any clause, provision, covenant, or agreement purporting to impose an obligation to defend or indemnify a lender or an auction company in violation of this subdivision is against public policy, void, and unenforceable.

2079.24. Nothing in this article shall be construed to either diminish the duty of disclosure owed buyers and sellers by agents and their associate licensees, subagents, and employees or to relieve agents and their associate licensees, subagents, and employees from liability for their conduct in connection with acts governed by this article or for any breach of a fiduciary duty or a duty of disclosure.



April 25, 2018

To: Finance and Administration Committee
From: Darrell E. Johnson, Chief Executive Officer
Subject: Adopt Resolution Approving the Updated Real Property Policies and Procedures Manual

Overview

The Orange County Transportation Authority is currently acquiring and managing numerous properties required for the construction and delivery of capital improvement projects. As part of the acquisition and management process, the Orange County Transportation Authority must, by general resolution, authorize certain policies and procedures to implement this process in compliance with federal and state laws. The current Real Property Policies and Procedures Manual of May 2013 was approved by the Board of Directors on June 10, 2013. An update of the Real Property Policies and Procedures Manual is required.

Recommendation

Adopt Resolution No. 2018-050 approving the Real Property Policies and Procedures Manual, dated April 2018, to replace the current Real Property Policies and Procedures Manual of May 2013, previously adopted by the Board of Directors.

Background

In the course of developing and delivering transportation projects, the acquisition of public and private properties is often required to implement the project. Although extensive efforts are made during the design process to minimize the impacts to property owners, some projects require the acquisition of public and private properties. Orange County Transportation Authority (OCTA) staff follows the current Real Property Policies and Procedures Manual of May 2013 (Current Policies Manual) to properly handle the acquisition and management of property, which was approved by the Board of Directors (Board) on June 10, 2013. The Current Policies Manual was intended to describe the internal steps that OCTA takes to ensure compliance with federal and state laws. The Current Policies Manual requires clarification of its "Conflict of Interest:

Employee or Board of Director Owned Property” policy and requires a clarification of its disposal of excess land policy, as well as address administrative changes within OCTA over the past five years.

Discussion

Staff is seeking approval to implement the Real Property Policies and Procedures Manual, dated April 2018 (2018 Policies Manual), to describe steps OCTA will take to ensure federal and state laws and regulations are followed (Attachment A). The 2018 Policies Manual states OCTA will comply with the requirements of all federal and state laws, statutes and regulations, particularly, 49 CFR part 24, Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended (Uniform Act); Title 25, California Code of Regulations Chapter 6, Article 1, Section 6000 et seq., Relocation Assistance and Real Property Acquisition Guidelines; California Code of Civil Procedure; California Government Code Section 7260-7277; Uniform Standards of Professional Appraisal Practice. Provided there are future changes to federal and state laws described above, the 2018 Policies Manual will automatically adopt the legislative changes and obligate OCTA to comply.

When implementing all right-of-way (ROW) and property management activities, the 2018 Policies Manual describes how OCTA shall adhere to the California Department of Transportation (Caltrans) ROW Manual, if applicable. There are certain internal procedures described in the Caltrans ROW Manual which are not applicable to OCTA’s internal administrative processes. The 2018 Policies Manual describes how OCTA staff will implement internal OCTA procedures not covered within the Caltrans ROW Manual, which include certain appraisal, acquisition, and relocation assistance procedures, appeal procedures, utility relocation procedures, project development procedures, the adoption of resolutions of necessity procedures, settlement authorizations, contract execution authorizations, use of consultant services, as well as internal administrative processes.

OCTA staff recommends the Board adopt, by Resolution No. 2018-050, the approval of the 2018 Policies Manual (Attachment B). The approved resolution will provide documentation to title insurance companies that validates the Chief Executive Officer (CEO), or designee, the authority to execute ROW and real estate-related documents on behalf of OCTA, such as conveyance deeds. Also, as part of the property acquisition process, the Board has delegated settlement authority to the CEO, or designee, in an effort to streamline negotiations with property owners and businesses impacted by OCTA projects. This settlement authority allows for agreements to be approved by the CEO, or designee, above the appraised value for needed properties or business impact valuations. The CEO’s Settlement Delegation Authority, Paragraph VI, as

described in the 2018 Policies Manual, remains unchanged from the Current Policies Manual as approved by the Board.

The majority of the revisions described in the 2018 Policies Manual provides clarification for the Real Property Manager and the Executive Director of Capital Programs to implement the Caltrans ROW Manual, as well as address changes that have occurred over the past five years regarding internal OCTA administrative processes.

The primary revisions to the 2018 Policies Manual is the result of an Incurred Cost Audit (Audit) performed by the Caltrans Office of Audit and Investigations on behalf of the Federal Highway Administration. The Audit was conducted to ensure state and federal funds were properly expended on the Orangethorpe Avenue Railroad Grade Separation Project. This Audit included a review of five OCTA business relocation assistance files and a review of OCTA's Current Policies Manual.

The draft Audit findings recommended improvement of OCTA's Conflict of Interest: Employee or Board of Director Owned Property (Conflict of Interest Policy). The auditor's finding stated OCTA's current Conflict of Interest Policy did not allow for negotiations in instances where property owned by an OCTA employee or OCTA Board Member would be obtained for needed ROW, and is in violation of California Government Code 7267.1 (a), which requires acquisition by negotiations. The auditor's finding also stated OCTA's current Conflict of Interest Policy could be potentially coercive and in violation of 49 CFR 24.102 (h) on coercive action. Therefore, OCTA's General Counsel revised the Conflict of Interest Policy described in the 2018 Policies Manual, Paragraph IX, to address the audit finding while still ensuring that the acquisition process did not violate conflict of interest laws. The proposed revision to the Conflict of Interest Policy has been reviewed by Caltrans District 12 and the Caltrans Office of Audit and Investigations, and both parties have concurred that the draft Conflict of Interest Policy will satisfy the audit finding. Attached is a comparison of the current Conflict of Interest Policy approved by the Board in June 2013 to the proposed Conflict of Interest Policy to be included in the 2018 Policies Manual (Attachment C).

Also as a result of the draft Audit, staff proposes a clarification to OCTA disposal of excess property processes. The Current Policies Manual states that OCTA shall follow California Government Code Sections 54220-54232 in the disposal and sale of excess or surplus properties. The auditor's finding is OCTA's policy to dispose of excess land under California Government Code Sections 54220-54232 appears to give precedence to low and moderate income housing or park and recreations purposes, at a lower than fair market value instead of for transportation purposes as required by 23 CFR 710.403 (d). OCTA

is a County Transportation Commission formed pursuant to Public Utilities Code Sections 130000 et seq., and is not required to follow Government Code Sections 54220-54232. In February 2015, OCTA staff obtained Board approval to dispose of excess land at the highest possible value through a commercial real estate brokerage consultant that has successfully disposed of properties on behalf of OCTA. By contracting the commercial real estate brokerage consultant, OCTA does comply with 23 CFR 710.403 (d); however, since the adoption of the Current Policies Manual, OCTA has not disposed of excess land that requires federal reimbursement.

Minor administrative changes to the 2018 Policies Manual may be amended by a recommendation for approval from the Real Property Manager and the Executive Director of Capital Programs to the CEO. Any recommended amendment must be in compliance with the requirements of all federal and state laws, statutes and regulations, as referenced above, and must be concurred with by OCTA's General Counsel. A recommended amendment must also be in compliance and cannot conflict with any action approved by the Board.

The replacement of the Current Policies Manual with the recommended updated 2018 Policies Manual will facilitate OCTA's ability to comply with all ROW and property management requirements under the law.

Summary

Staff recommends the Board of Directors adopt Resolution No. 2018-050 approving the Real Property Policies and Procedures Manual, dated April 2018, to replace the current Real Property Policies and Procedures Manual of May 2013.

Attachments

- A. Orange County Transportation Authority Real Property Policies and Procedures Manual, Dated April 2018
- B. [Proposed] Resolution No. 2018-050
- C. Conflict of Interest: Employee or Board of Director Owned Property Comparison

Prepared by:



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Approved by:



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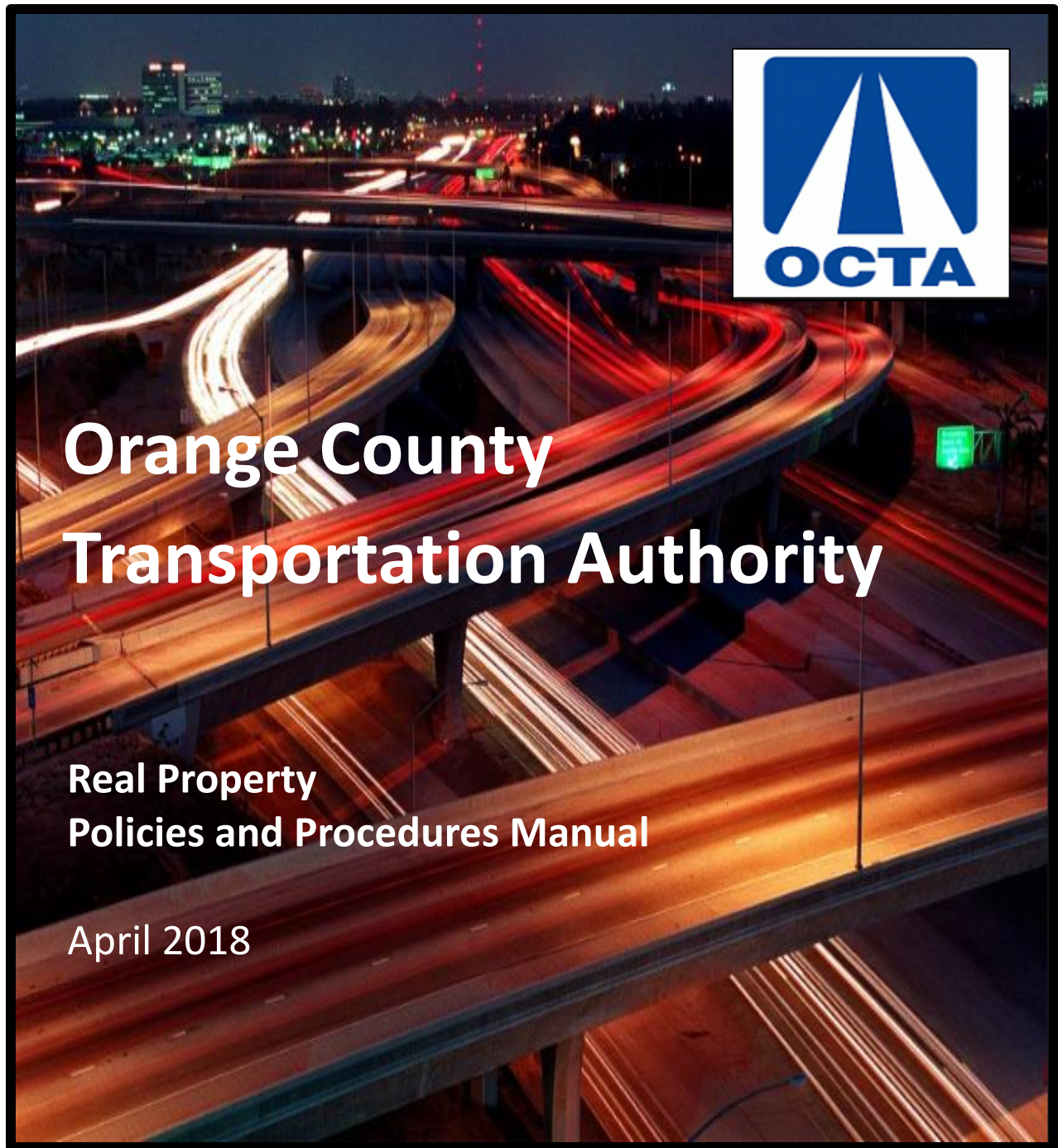


Table of Contents

General Policies.....	3
I. Right of Way Engineering.....	4
II. Environmental Soil Assessment, Remediation and Mitigation.....	4
III. Appraisals.....	4
IV. Acquisition and Negotiations.....	5
V. Title and Escrow Services.....	6
VI. Settlement Delegation Authority	7
VII. Administrative and Legal Settlements.....	7
VIII. Eminent Domain: Resolutions of Necessity (RONs)	8
IX. Conflict of Interest: Employee or Board of Director Owned Property	9
X. Relocation Assistance Program.....	9
XI. Utility Relocations	10
XII. Right of Way Certification.....	11
XIII. Environmental Mitigation Program	11
XIV. Property Management	12
XV. Project Development.....	14
XVI. Department Administrative Procedures	14
XVII. Procedure Amendments.....	15
XVIII. Supplemental Guidelines and Procedures	15

Orange County Transportation Authority Real Property Policies and Procedures Manual

General Policies

This manual and its addendums contain the regulations, requirements and procedural directives governing the operations of the Real Property Department, reporting directly to the Orange County Transportation Authority's (the "OCTA") Capital Programs. This manual will be updated and amended as needed. This manual is neither intended as, nor does it establish, a legal standard for these functions. Policies and practices established herein are for the information and guidance of the officers and employees of OCTA. This manual is not a textbook or a substitute for law, statute, regulation, knowledge, experience, or judgment.

The Real Property Department ("Department") shall be responsible for all Right of Way (ROW) activities including property acquisitions, relocation assistance, utility relocations, property management activities and real estate related activities on behalf of OCTA. The Department shall implement all policies and procedures to assist and advise OCTA personnel in the administration of such policies and procedural requirements. The Department shall consult with General Counsel to determine whether OCTA is in compliance with all applicable federal, state and local laws, regulations, policies, and ordinances. The Department shall be supervised and managed by a Department Manager, hereinafter the "Real Property Manager", as defined by the OCTA Human Resources Department who shall report to the Executive Director, Capital Programs.

OCTA will comply with the requirements of federal and state laws, statutes and regulations, particularly, 49 CFR part 24, Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended (Uniform Act); Title 25, California Code of Regulations Ch 6, Art 1, Section 6000 et seq., Relocation Assistance and Real Property Acquisition Guidelines; California Code of Civil Procedure; California Government Code Section 7260-7277; and Uniform Standards of Professional Appraisal Practice (USPAP). When implementing ROW and Property Management activities, OCTA shall utilize the California Department of Transportation ("Caltrans") Right of Way Manual and the Caltrans Local Assistance Manual, if applicable.

The Real Property Manager, with the concurrence of the Executive Director, Capital Programs, shall interpret the Caltrans Right of Way Manual and the Caltrans Local Assistance Manual to determine how policies and procedures identified within the manuals are applicable to OCTA as a County Transportation Commission formed pursuant to Public Utilities Code sections 130000 et seq. and are applicable to directives as established by OCTA Board of Directors.

I. Right of Way Engineering

For OCTA projects, Right of Way Engineering will be the responsibility of the Project Designer of record who will report to the assigned Project Manager or Program Manager. The Real Property Department is not the responsible department for this function.

- For Projects On the State Highway System: OCTA will seek the Project Designer's and Caltrans concurrence of ROW requirements prior to completing the appraisal.
- For Projects Off the State Highway System: OCTA will seek the Project Designer's concurrence of ROW requirements prior to completing the appraisal.

II. Environmental Soil Assessment, Remediation and Mitigation

Environmental policies address concerns involving residential, commercial and industrial properties which may be wholly owned by OCTA or jointly held with other owners.

- For Projects On the State Highway System: OCTA will follow the Caltrans Request for Acquisition of Contaminated Property (RACP) policies and procedures.
- If the Hazardous Material Disclosure Documents (HMDD) recommends a Phase II study with remediation and requires concurrence prior to purchase, the acquisition of the property must be approved by the Executive Director, Capital Programs.

III. Appraisals

Appraisals are used to establish a basis for determining just compensation. The Uniform Act requires that an appraisal and a reviewer's analysis be obtained on all parcels proposed for acquisition. Regulations implementing appraisal standards of the Uniform Act are found in 49 CFR Part 24. The Uniform Act applies to any federal or federally-assisted programs or projects and it applies when federal funding is to be used in any phase of the programs or projects. If federal funds are going to be used in any part of the project, but not in acquiring ROW, the Uniform Act applies to the appraisals and acquisitions.

- OCTA will secure an appraisal of all properties to be acquired, exchanged or sold, except those that are exempt under the Uniform Act. Appraisers are instructed that the appraisal shall conform to the requirements of the Uniform Standards of Professional Appraisal Practice (USPAP) and the Uniform Act.
- All acquisition appraisals shall be reviewed by an independent review appraiser who will either approve, amend or reject the appraisal.
- An independent review appraiser shall confirm their review of the appraisal in writing.
- All property owners shall be given notice of the date and time of inspection of their property by the appraiser and shall be given the opportunity to be present or have a representative present

when the appraiser inspects their property. Property owners may submit information as to the value of their property during the appraisal process, and such information shall be considered by the appraiser.

- Property owners will be permitted to review the approved real estate appraisal for their property.
- Fixtures and equipment appraisals, if applicable and available, shall be included in the appraisal report.
- A loss of business goodwill appraisal will be performed upon receipt of a loss of business goodwill claim. The loss of business goodwill appraiser shall review and consider tax returns and any other supporting financial data that is furnished by the business owner.
- The selection of independent appraisers is based on qualifications and experience for the property being appraised in accordance with criteria for appraisals contained in 49 CFR Part 24. Appraisers must be qualified to give expert testimony in support of their value estimates in the event of condemnation proceeds.
- FTA, FHWA and Caltrans (depending on the funding source) concurrence thresholds, appraisal and settlement guidelines should be strictly followed.
- OCTA shall establish a current Roster of Approved Contract Appraisers through the OCTA Procurement Process.
- OCTA shall establish a current Roster of Approved Review Appraisers through the OCTA Procurement Process.

IV. Acquisition and Negotiations

OCTA is empowered by law, to purchase, lease or condemn real or personal property. The intent and purposes of Acquisition and Negotiations Policies and Procedures are to assure uniform acquisition practices, which will provide consistent and equitable treatment of owners and tenants of real property acquired by OCTA for public purposes. In accordance with State of California law, OCTA will make an effort to interpret acquisition policies to the benefit of the property owner while understanding it cannot make interpretations that would result in the gift of public funds.

It is the policy of OCTA that all negotiations shall be expeditious and result in the property owner receiving just compensation. The goal is that any settlement will be just and fair to the property owner and the public. Every courtesy and consideration will be extended to the property owner in order to establish trust in OCTA, the members of its Board of Directors and its employees.

- All property acquisitions must be approved by OCTA Board of Directors.
- For Capital Improvement Projects, upon adoption of the National Environmental Policy Act and the California Environmental Quality Act (NEPA/CEQA) environmental document, OCTA staff will seek OCTA Board of Directors authority to acquire property or property interests based on the preferred design.
- All statutory offers shall comply with Section 7267.2 of the California Government Code.

- All statutory offers will include acquisition of all applicable real property interests, land and improvements, fixtures and equipment, if applicable and available, and tenant interests, if applicable and available.
- For commercial properties, an un-segregated offer for fixtures and equipment will be made to the property owner and business owner, if applicable.
- Owners of appraised fixtures and equipment will be advised of their right to remove fixtures and equipment from a valuation list and be permitted to relocate the fixtures and equipment at the expense of the project.
- An offer for loss of business goodwill, if any, will be made upon an approved loss of business goodwill appraisal. A loss of business goodwill appraisal will be completed after the business owner files a claim for loss of business goodwill.
- Prior to making the loss of business goodwill offer, the acquisition agent shall recognize any “in-lieu” or reestablishment payments that may have been or will be made under relocation assistance in order to avoid duplication of payment.
- The Real Property Manager has the authority to approve Just Compensation based on an appraisal and the independent review appraisal.
- Prior to making the statutory offer, OCTA’s Staff and consultants shall confirm the offer is consistent with the design needs and the appraisal.
- Property owners are entitled to obtain their own independent appraisal of the real property interests being acquired by OCTA in compliance with the California Code of Civil Procedure Section 1263.025.
- OCTA’s Right of Way Consultants, under the direction of the Real Property Manager and/or OCTA’s General Counsel, will conduct negotiations for acquisition of property rights on behalf of OCTA.
- At any time during the acquisition process, if the property owner is represented by legal counsel, OCTA’s General Counsel shall be notified.
- For mobile home acquisitions, condominium complexes, or when there is a home owners’ association ownership involved, a legal opinion as to ownership interests shall be obtained.
- When acquiring real property pertaining to real estate, a mobile home or manufactured dwelling requiring a limited power of attorney to transfer title, the Real Property Manager shall obtain an authorization memorandum from OCTA’s General Counsel’s Office to execute documents on behalf of OCTA.

V. Title and Escrow Services

Title Reports are needed for the purpose of establishing ownership, property lines and transferring clear title to the property or property rights being acquired by OCTA. Title Reports are used in the preparation of surveys, legal descriptions, Right of Way Contracts and utility relocation plans, and to ensure that the title and ownership of properties and property interests acquired by OCTA are free and clear of liens and encumbrances that will adversely affect the use of the property for the Project.

- OCTA will secure title insurance for acquired property interests at the discretion of the Real Property Manager.
- The purchase and sale of permanent interests in real property will be handled through an escrow with a title company at the discretion of the Real Property Manager.
- Matters where there are title issues, vesting is in question, or there is a cloud on title will be referred to OCTA's Legal Counsel.

VI. Settlement Delegation Authority

The Settlement Delegation Authority thresholds described in this paragraph may not be increased by amendment, as described on Page 15, Paragraph XVII, Procedure Amendments. Any increase in thresholds requires approval by OCTA Board of Directors.

Administrative and legal settlement delegation authority thresholds (real property interests only, excludes relocation assistance):

- The Executive Director, Capital Programs, is authorized to approve an administrative or legal settlement when the difference between the approved appraisal and the proposed settlement is no more than 20% over the approved appraisal and no more than \$250,000 over the approved appraisal;
- The Chief Executive Officer is authorized to approve an administrative or legal settlement when the difference between the approved appraisal and the proposed settlement is no more than 50% over the approved appraisal and no more than \$250,000 over the approved appraisal;
- The Chief Executive Officer is also authorized to approve an administrative or legal settlement when the difference between the approved appraisal and the proposed settlement is more than 50% over the approved appraisal, but not more than \$25,000 over the approved appraisal;
- The OCTA Board of Directors must approve an administrative or legal settlement when the difference between the approved appraisal and the proposed settlement is more than 50% and greater than \$25,000 over the approved appraisal, and must approve all administrative or legal settlements when the proposed settlement is \$250,000 over the approved appraisal.

VII. Administrative and Legal Settlements

Administrative settlements are made for the purpose of concluding negotiations for amounts considered reasonable, prudent and in the public interest, after reasonable efforts to negotiate agreements at the approved offers have failed. When federal or state funds pay for or participate in acquisition costs, a written justification shall be prepared which indicates that available information (e.g. appraisals, recent court awards, estimated trial costs or valuation problems) support such a settlement. (see 49 CFR 24.102(i)).

- All administrative settlements must be accompanied by a written recommendation prepared by a Senior Real Property Agent, recommending the administrative settlement to the Real Property Manager, who will determine if the settlement is fair and reasonable. The Real Property Manager shall recommend and seek approval for all administrative settlements from the authorized level of approval.
- All legal settlements shall be accompanied by a written justification prepared by OCTA's General Counsel.

VIII. Eminent Domain and Resolutions of Necessity (RONs)

If negotiations have not reached an agreement with the owner or owners of any property interest required for a project, in an effort to maintain the approved project schedule, eminent domain proceedings may be recommended by the Real Property Manager to the Executive Director, Capital Programs to proceed with a recommendation to the Board of Directors to adopt a Resolution of Necessity (RON). Upon approval of the Chief Executive Officer to proceed with the recommendation, the Real Property Manager and the Executive Director, Capital Programs will coordinate with OCTA'S General Counsel to seek the adoption of the RON.

- For Projects On the State Highway System: Consideration of whether to adopt and, if appropriate, the adoption of the RON shall be approved by OCTA's Board of Directors, pursuant to a Cooperative Agreement with Caltrans.
- For Projects Off the State Highway System: Consideration of whether to adopt and, if appropriate, the adoption of the RON shall be approved by OCTA's Board of Directors.
- For Projects On the State Highway System: OCTA will follow the Caltrans Right of Way Manual pertaining to the Notice of a RON Hearing.
- For Projects Off the State Highway System: Property owners shall be given at least thirty (30) days to consider the statutory offer prior to receiving Notice of a RON Hearing.

The following describes the OCTA Administrative Review Process prior to a RON Hearing for Projects On and Off the State Highway System:

- If the property owner has questions or concerns relating to project design and the necessity of the property interests for the project, the property owner can request a Condemnation Evaluation Meeting at any time during the acquisition process.
- If an agreement has not been reached with the property owner and staff intends to proceed with requesting OCTA's Board of Directors to consider the adoption of a RON, the Real Property Manager will request a Condemnation Evaluation Meeting with the property owner prior to the mailing of a Notice of RON Hearing.
- The Capital Programs Division will conduct the Condemnation Evaluation Meeting. The Condemnation Evaluation Meeting will be attended by the property owner(s) and/or their representatives, OCTA Staff and/or OCTA's Right of Way Consultant, the Project Manager or designer of record, OCTA's Legal Counsel, if necessary, and shall be chaired by staff of the Real

Property Department. This Condemnation Evaluation Meeting is an effort to identify and resolve all the property owner's issues. If issues remain unresolved after the Condemnation Evaluation Meeting, a Fact Sheet will be prepared and provided to the Executive Director, Capital Programs by the Real Property Manager. Upon completion of the Condemnation Evaluation Meeting, OCTA staff shall make a property owner or their representatives aware they may request a Condemnation Panel Review Meeting.

- If requested by the property owner, a Condemnation Panel Review Meeting will be scheduled within thirty (30) days after the request. The Condemnation Panel Review Meeting will consist of OCTA management and decision makers consisting of: a Chairperson (Executive Director, Capital Programs or designee), the Real Property Manager, the Director, Highway Programs or Transit Programs, the assigned Program Manager, OCTA's Legal Counsel, if necessary, and a Caltrans representative(s), if applicable, and the designer of record. If issues remain unresolved after the Condemnation Panel Review Meeting, the following documents will be prepared: (a) a written summary of unresolved issues; and (b) a chronology of contacts with the property owner or their representative(s). The Executive Director, Capital Programs will make the final determination to proceed with the recommendation to adopt the RON once the Condemnation Panel Review Meeting is complete.
- If a Condemnation Evaluation or Condemnation Panel Review Meeting has not been conducted with the property owner and/or their representative and they timely submit a request to speak and be heard at the RON adoption hearing, then OCTA will send a request immediately to the property owner and/or their representative to schedule a combined Condemnation Evaluation and Condemnation Panel Review Meeting prior to the RON hearing.

IX. Conflict of Interest: Employee or Board of Director Owned Property

The policies on acquisition of property owned by an OCTA employee or member of OCTA Board of Directors shall be as follows:

- When the property or property rights to be acquired are owned by an OCTA employee or member of OCTA Board of Directors, the Real Property Department shall order one appraisal for the property/property rights to be acquired. If the property owner is a member of OCTA Board of Directors or an OCTA employee, and the Director or employee rejects the appraisal, the Real Property Department shall immediately notify OCTA's General Counsel for further direction. General Counsel shall as soon as possible determine the extent to which negotiations can legally continue and who may conduct negotiations. The Real Property Department may continue to receive information provided by the employee or Director and forward to OCTA's independent appraiser for evaluation.

X. Relocation Assistance Program

The law, regulations, policies, and this manual are intended for the benefit of the displaced person to ensure that such persons receive fair and equitable treatment and do not suffer disproportionate injuries

as the result of programs designed for the benefit of the public as a whole. California state law requires that all right of way determinations/interpretations be construed to affect this intent.

The Relocation Assistance and Payment Program is applicable to all Orange County Transportation Authority projects, regardless of whether the project receives federal or state funds, and other activity which requires the acquisition of real estate by OCTA.

- Anyone who is wholly or partially displaced as a result of an OCTA project is entitled to relocation assistance and benefits as defined in the Uniform Act, 49 CFR part 24 (Implementing Regulations), California Government Code 7260, and Title 25 California Regulations, Chapter 6, Article 1, Section 6000 et seq. (Guidelines); except in cases of voluntary sales where the owner-occupant of the property sells their property to OCTA, after being informed in writing prior to negotiations, that if a mutually satisfactory agreement cannot be reached, the property will not be acquired by eminent domain.
- If the project will cause residential or business displacements, a relocation plan must be prepared in accordance with the Uniform Act and Title 25, California Code of Regulations Ch 6, Art 1, Section 6000 et seq.,
- Eligibility for relocation assistance shall begin on the date of initiation of negotiations.
- Appeals Process: Anyone who is wholly or partially displaced that wishes to appeal the decision to deny or limit relocation assistance shall file an appeal in writing with the relocation agent representing OCTA, who will then forward the appeal to the Real Property Department. The Senior Agent on the project and the Real Property Manager will either concur or disagree with the issues presented in the appeal. If OCTA Staff agrees with the issues presented in the appeal, additional relocation benefits will be awarded and/or eligibility status will be adjusted accordingly. If OCTA Staff does not concur with the issues presented in the appeal, a date will be set within thirty (30) days from the receipt of the appeal request for a review panel to hear the claimant's appeal (the review panel shall be appointed by the Executive Director, Capital Programs). The Chief Executive Officer or designee and a panel of knowledgeable personnel, not a party to the project, will hear the appeal (the "appeal board"). Within thirty (30) days, OCTA Staff will notify the claimant of the appeal board's decision. The appeal board's decision is final; however, the claimant has the right to seek judicial review of the appeal board's decision. The claimant may be represented by legal counsel during any phase of the appeal process; however, there will be no reimbursement to the claimant by OCTA of legal fees incurred.
- The Real Property Manager shall determine if a displacee qualifies for relocation benefits upon a recommendation by OCTA's qualified Relocation Agent. This shall include permanent or temporary relocations.
- The Real Property Manager shall authorize and execute all relocation assistance claims forms and any related documents.

XI. Utility Relocations

During the design and engineering process, utilities affected by the proposed construction will be identified. Typically, the affected utilities may need to be relocated, protected in place or possibly abandoned. Early identification of affected utilities and early coordination with the affected utility

companies is highly recommended as timely design and completion of all utility adjustments affect the OCTA's ability to commence construction.

OCTA is responsible for relocation or removal of utility facilities that are in physical conflict with a proposed project. This responsibility shall be delegated to the Real Property Department to implement OCTA's policies.

- OCTA staff will seek OCTA Board of Directors authority to enter into utility agreements with utilities that have facilities which are in conflict with the preferred design. OCTA will follow the Caltrans Right of Way Manual on all Projects located On the State Highway System and adhere to the cooperative agreement entered into between the Agencies. OCTA will follow the Caltrans Local Assistance Procedures Manual for all federally funded Projects Off the State Highway System.

XII. Right of Way Certification

ROW Certification is a written statement summarizing the status of all right of way related matters pertaining to a proposed construction project. The purpose of the ROW Certification is to document the construction project is ready for advertising and states that, real property interests have been, or are being, secured, physical obstructions including utilities and railroads have been or will be removed, relocated, or protected as required for construction and right of way acquisition and relocation assistance program requirements were conducted in accordance with applicable federal and state laws and procedures.

- For all Projects On and Off the State Highway System with federal funds and Caltrans oversight: OCTA will follow the Caltrans Right of Way Manual and Caltrans Local Assistance Procedures Manual. The Real Property Manager will recommend right of way certification to Executive Director, Capital Programs for approval and will seek Caltrans approval or concurrence.
- For Projects Off the State Highway System with no Caltrans oversight, including rail and FTA projects: OCTA will follow the Caltrans Right of Way Manual and Caltrans Local Assistance Procedures Manual. The Real Property Manager will recommend right of way certification to Executive Director, Capital Programs for approval.

XIII. Environmental Mitigation Program

For the Measure M2 freeway environmental mitigation program acquisition process, the Real Property Department will appraise properties requested by the Planning Division to establish just compensation per the Uniform Standard of Professional Appraisal Practice (USPAP) in accordance with 49 CFR and state rules and regulations. The Planning Division will make a determination, through an analysis, as to the environmental value of the property to be acquired, including the cost of start-up and long-term maintenance. The environmental value will determine a basis for the percentage amount of the established just compensation for which an offer will be presented to a willing seller. This percentage

amount established by the Planning Division will be reviewed and approved by OCTA General Counsel. The terms and conditions agreed upon with the willing seller shall require approval by the OCTA Board of Directors.

XIV. Property Management

OCTA acquires real property for both rail and highway transportation purposes. OCTA strives to manage its real property with the objective of maximizing existing and future public transportation benefits, safety, and financial income by means of professional property management policies and procedures. This includes entering into lease agreements, issuing licenses and rights of entry for authorized third-party uses, as well as investigating and resolving issues regarding uses that are not authorized by OCTA. On certain occasions, OCTA may also grant easements. General maintenance activities and security measures are also part of the property management scope of work on all OCTA properties.

The OCTA Real Property Department shall have management responsibilities for properties acquired and owned by OCTA, including the following:

- Manage existing leases, licenses, and rights of entry through periodic field inspections to ensure compliance with the terms and conditions of their respective agreements.
- Review the terms and conditions of existing agreements, ensuring annual license/lease rates are based on the property's fair market value and consistently implement fair market adjustments (FMA) and Consumer Price Index (CPI) adjustments. The Real Property Department shall, at least every five (5) years, through an independent consultant, conduct a fair market analysis of the revenue generating real estate interest owned by the OCTA. The Real Property Manager will make a recommendation to the Executive Director, Capital Programs whether or not to enforce any FMA in leases. If recommended and approved, the FMA shall be applied in accordance to the terms and conditions of its corresponding Lease.
- If an adjustment is approved, it shall be applied within ninety (90) days (or, per the lease terms). If the adjustment is not applied due to negotiations and/or other considerations, this decision must be documented, validated by the Real Property Manager, and approved by the Executive Director, Capital Programs.
- Maintain a tenant revenue spreadsheet that flags fair market adjustments ninety (90) days in advance of scheduled adjustment dates.
- Implement insurance requirements as determined by the Risk Management Department. Consult with OCTA's Risk Management Department for approval of changes to the standard insurance requirements. Review tenant insurance certificates to ensure compliance with the insurance terms and conditions in their respective agreements.
- Prepare and issue new licenses, leases and rights of entry for use of OCTA property in conformity with OCTA policies.
- Consult with OCTA's General Counsel for approval of changes to the standard rights of entry, licenses and lease agreements.
- Coordinate with OCTA's Accounting Department in the organization and maintenance of a revenue collection system designed to operate in conjunction with other OCTA departments.

- Manage all properties to minimize maintenance and prevent unauthorized uses.
- Identify excess/surplus properties that may be candidates for sale and maximize benefits to be received from sale.
- Manage and oversee demolition services.

OCTA is a County Transportation Commission formed pursuant to Public Utilities Code sections 130000 et seq. and is not required to follow Government Code Sections 54220-54232 in the disposal and sale of excess or surplus properties. The OCTA Board of Directors shall approve the disposal of any property deemed excess. Excess land shall be defined as fee property interests determined to be no longer needed for an OCTA project or no longer needed as an OCTA asset. OCTA shall dispose of excess land under the following guidelines:

- An OCTA Excess Land Committee shall assemble and is empowered by the OCTA Board of Directors to declare OCTA owned property as excess.
- The Excess Land Committee shall include a representative from the OCTA Executive Office, Capital Programs, Finance and Administration, External Affairs, Planning, Risk Management and OCTA's General Counsel. The Real Property Manager may extend an invitation to any staff member that may provide additional input in determining whether the property should be disposed.
- The OCTA Excess Land Committee shall meet when there is a need to present a request to declare a property as excess. The real property department shall provide an appraisal of the excess property.
- Once a property is declared excess, OCTA Staff shall seek OCTA Board of Directors approval of the disposition at the appraisal amount or higher.
- If property is being acquired as part of a capital improvement project, and a remnant is created or the entire property is no longer needed, OCTA staff must seek OCTA Board of Directors approval to sell the property as excess at the appraised amount or higher upon completion of the project. This action would not require the approval of the OCTA Excess Land Committee.
- Provided OCTA's disposition efforts do not achieve an offer to purchase at the appraised amount or higher, OCTA Board of Directors approval is required to sell an excess property at an amount less than an appraised amount.
- It is recommended that the disposition of excess land should be based on an approved appraisal dated no more than two years from the acceptance of a written offer by a prospective Buyer.
- The Executive Director, Capital Programs, as designee of the Chief Executive Officer, may execute deeds that dispose or transfer permanent or temporary easement interests or other real property interests provided the disposition or transfer is in the best interest of OCTA. All documents must be recommended for approval by the Real Property Manager and reviewed by General Counsel.

XV. Project Development

The Real Property Department shall coordinate with assigned Program Managers, Project Managers and consultants to develop and establish all right of way, relocation assistance, utility relocation and property management project cost estimates and budgets needed for the overall project delivery.

- The Real Property Manager shall execute project data sheets and make the final determination of project right of way, utility relocation and property management costs estimates and shall coordinate with management to establish project budgets, including budget amendments.
- The Real Property Department shall coordinate with assigned Program Managers, Project Managers and consultants to develop and establish all right of way, relocation assistance, utility relocation and property requirements project cost estimates and budgets for each fiscal year prior to OCTA Board of Directors approval of the annual budget. The Real Property Manager shall review and approve each project right of way, utility relocation, and property management costs estimates and fiscal year budgets for OCTA Board of Directors Approval.
- The Real Property Department shall coordinate with the assigned Program Managers, Project Managers and designer of record to ensure the preferred design has taken into consideration the least private injury to a property, and recommend design changes if warranted. The Real Property Manager shall seek concurrence of OCTA's General Counsel to make certain that any proposed project is planned in a manner that will be most compatible with the greatest public good and the least private injury.

XVI. Department Administrative Procedures

Execution of Contracts

- The Chief Executive Officer or designee is authorized to execute all contracts and/or agreements and other real estate documents (Real Property Contracts). The Chief Executive Officer designates the Executive Director, Capital Programs to execute real estate agreements, right of way contracts, utility agreements, deeds, certificates of acceptance, leases, licenses, permits or any Real Property Department agreement document. All documents must be recommended for approval by the Real Property Manager and reviewed by OCTA's General Counsel.

Right of Way Consultants

- The Real Property Manager shall assign work to Senior Real Property Agents, Real Property Agents and Associate Real Property Agents and, if required, assign a Right of Way Consultant to assist in the delivery of the assigned work. The Right of Way Consultant shall be selected through the OCTA's Contract Administration and Material Management (Camm) procurement process.
- The Senior Real Property Agents will oversee all work assigned to the Right of Way Consultant to ensure compliance with OCTA's policies and procedures, federal and state regulations, and in cases of On the State Highway System Projects, the Cooperative Agreement with Caltrans.

- The assigned Right of Way Consultant shall make recommendations on given assignments for review and concurrence by a Senior Real Property Agent. The Senior Real Property Agent shall make recommendations to the Real Property Manager for approval. The Real Property Manager shall approve all decisions and execute documents for the Real Property Department within the Real Property Manager's delegated authority or seek approval of the Executive Director, Capital Programs.

Payment Authorization

- The Real Property Manager is authorized to release funds for payment of invoices, escrow fees, just compensation, relocation claims, condemnation deposits, return of security deposits, rent credits, and any other right of way or property management related payments. If the amount to be released exceeds the Real Property Manager's signature authority, the Real Property Manager will submit a request for approval to the Executive Director, Capital Programs, Director, Highway Programs or the Director, Transit Programs.

Document Control

- The Real Property Department shall maintain an electronic file copy and a physical file copy for each parcel which is either being acquired, leased or maintained by OCTA.

XVII. Procedure Amendments

The Real Property Policies and Procedure Manual may be amended by a recommendation for approval to the Chief Executive Officer from the Executive Director, Capital Programs upon recommendation by the Real Property Manager. Any recommendation must be concurred with by OCTA's General Counsel. Any recommended amendment to the Real Property Policies and Procedure Manual must be in compliance with the requirements of all federal and state laws, statutes and regulations, as referenced above. Any recommended amendment to the Real Property Policies and Procedure Manual must be in compliance and must not be in conflict with any action approved by the OCTA Board of Directors.

XVIII. Supplemental Guidelines and Procedures

The Real Property Manager may incorporate and modify additional supplemental guidelines and procedures that detail the day-to-day steps needed to insure work product quality when implementing Policies and Procedure as approved in this Manual, the Caltrans Right of Way Manual and the Local Assistance Manual. These additional supplemental guidelines and procedures are unofficial daily steps intended to assist the Real Property Department when working with OCTA staff and consultants and are not applicable to the authorized provision under Paragraph XVII Procedure Amendments.

[PROPOSED] RESOLUTION NO. 2018-050

A RESOLUTION OF THE ORANGE COUNTY TRANSPORTATION AUTHORITY ADOPTING AND IMPLEMENTING THE REAL PROPERTY POLICIES AND PROCEDURES MANUAL, DATED APRIL 2018.

WHEREAS, the Orange County Transportation Authority (“the Authority”) in the course of developing and delivering transportation projects requires the acquisition and management of public owned and privately owned properties

WHEREAS, part of acquisition and management process, the Authority must, by general resolutions, authorize certain policies and procedures to implement this process in compliance with federal and state laws

NOW, THEREFORE, The Board of Directors of the Orange County Transportation Authority does hereby resolve as follows:

1. Approve and adopt the attached Real Property Policies and Procedures Manual, dated April 2018; and
2. Rescind and terminate the current Real Property Policies and Procedures Manual of May 2013; and
3. This Resolution shall be effective upon adoption.

PASSED, APPROVED and ADOPTED on this ____ day of _____, 2018

LISA A. BARTLETT, CHAIRWOMAN
ORANGE COUNTY
TRANSPORTATION AUTHORITY

APPROVED AS TO FORM:

JAMES M. DONICH
GENERAL COUNSEL

ATTEST:

I, Laurena Weinert, Clerk of Board of Directors of the Orange County Transportation Authority, do hereby certify that the foregoing Resolution No. 2018-050 by the following votes:

AYES:

NOES;

ABSENT:

LAURENA WEINERT
CLERK OF THE BOARD

Conflict of Interest: Employee or Board of Director Owned Property Comparison

CURRENT APPROVED POLICY

Policy and Procedure Manual - May 2013

I. Conflict of Interest: Employee or Board of Director Owned Property

The policies on acquisition of property owned by an OCTA employee or member of the OCTA Board of Directors shall be as follows: When the property or property rights to be acquired is owned by an OCTA employee or member of the OCTA Board of Directors, the Real Property Department will order two (2) appraisals for the property/property rights to be acquired. The offer of just compensation shall be based on the higher of the two appraisals. Should the property owner reject the offer of just compensation, the Real Property Department will not conduct further negotiations with the property owner and immediately refer the acquisition to OCTA's Legal Counsel for condemnation.

PROPOSED POLICY

Policy and Procedure Manual - April 2018

IX. Conflict of Interest: Employee or Board of Director Owned Property

The policies on acquisition of property owned by an OCTA employee or member of the OCTA Board of Directors shall be as follows:

- When the property or property rights to be acquired are owned by an OCTA employee or member of the OCTA Board of Directors, the Real Property Department shall order one appraisal for the property/property rights to be acquired. If the property owner is a member of the OCTA Board of Directors or an OCTA employee, and the Director or employee rejects the appraisal, the Real Property Department shall immediately notify OCTA's General Counsel for further direction. General Counsel shall as soon as possible determine the extent to which negotiations can legally continue and who may conduct negotiations. The Real Property Department may continue to receive information provided by the employee or Director and forward to OCTA's independent appraiser for evaluation.



April 25, 2018

To: Finance and Administration Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Orange County Transportation Authority Fiscal Year 2018-19
Budget Workshop Preview

Overview

The Orange County Transportation Authority is developing the fiscal year 2018-19 budget, which identifies available revenues and the costs associated with providing transportation services and programs for Orange County. The proposed budget will be reviewed in detail in a two-hour informal workshop following the May 14, 2018, Orange County Transportation Authority Board of Directors' meeting.

Recommendation

Review the fiscal year 2018-19 proposed budget in a workshop setting following the regularly scheduled Orange County Transportation Authority Board of Directors' meeting on May 14, 2018.

Discussion

The preparation of the Orange County Transportation Authority's (OCTA) annual budget began in December 2017 with the development of initial revenue projections, a service plan, and program goals and objectives for the upcoming fiscal year (FY). The service plan and program goals and objectives were developed in accordance with those of the Board of Directors (Board) and Chief Executive Officer (CEO).

Each division developed and submitted its budget requests in January, which were subject to successive internal reviews. The proposed budget was reviewed by a CEO-appointed internal budget review committee, consisting of the Deputy CEO, Executive Director of Finance and Administration, and Executive Director of Human Resources and Organizational Development, to ensure a balanced and fiscally responsible budget is delivered consistent with the Board's goals, CEO's goals, OCTA Strategic Plan, Comprehensive Business Plan, and the Next10 Plan.

The development of the FY 2018-19 proposed budget was based on a series of programmatic assumptions that were presented to the Finance and Administration (F&A) Committee on February 28, 2018. The presentation covered the guiding principles and assumptions used to develop the budget for OCTA's major programs including: Measure M2 (M2), bus operations, rail, Motorist Services, and the 91 Express Lanes.

In FY 2018-19, the sales tax growth rate for the M2 Program is forecasted to be 3.7 percent, and the growth rate for the ¼ cent Local Transportation Fund sales tax is forecasted to be 3.1 percent, based on the board approved sales tax methodology.

The FY 2018-19 proposed budget includes \$27.5 million of Senate Bill 1 funding. This includes \$6.8 million for streets and roads, \$1.5 million for freeway service patrol, and \$19.2 million for the bus program with approximately \$13.5 million eligible for transit capital and/or operations purposes, and over \$5.7 million annually for capital purposes.

The FY 2018-19 proposed budget represents a balanced plan of sources and uses of funds. Sources of funds include new revenues received within the year, as well as planned uses of prior year designations. Planned uses of prior year designations are funds set aside (designated) in prior FYs to be utilized in the current FY. The uses of these funds are planned and do not represent a utilization of funds as a result of deficit spending. Expenditures include current year expenditures, as well as funds designated in the current FY to be used in a future FY.

The combination of estimated revenues and planned use of reserves produces available funding of \$1,299.1 million, while proposed expenditures and designations yield a total use of funds of \$1,299.1 million. On a year-over-year comparison to the approved FY 2017-18 budget, the FY 2018-19 proposed budget is less than 1 percent, or \$9.3 million, higher than the FY 2017-18 budget. The increase is driven by capital expenditures anticipated for freeway and transit projects funded by M2. Capital expenditures for the transit extensions to Metrolink Program are larger primarily due to anticipated expenditures for the OC Streetcar Project (\$184.7M). Capital expenditures for the Freeways Program are larger primarily due to anticipated expenditures for the I-405 Improvement Project (\$201.7M).

Service levels are proposed to remain the same as the current FY for fixed-route service at 1.6 million revenue hours. The proposed budget continues to include fixed-route service at 60 percent directly-operated and 40 percent of the service delivered by OCTA's contracted service provider. Efforts to increase ridership

will continue with OC Bus 360. In addition, two new services will begin next FY, which include the OCFlex pilot service and the BRAVO 529 express service. No fare increase is assumed in the budget.

Staff will be presenting the FY 2018-19 budget in detail in an informal workshop setting on May 14, 2018. The presentation will include a discussion of program goals and objectives, proposed staffing plan, and the sources and uses of funds planned to meet specified program goals. The presentation will be solely informational for the Board. No public hearing will be held at the meeting, nor will the Board be asked to vote on the budget at the meeting. A public hearing for the budget is scheduled to occur at the June 11, 2018, Board meeting, after which staff anticipates seeking Board approval of the budget.

Summary

Staff will conduct a budget workshop for the OCTA Board immediately following the Directors' Reports scheduled at the May 14, 2018, Board meeting. The presentation will be solely informational for the Board. No public hearing will be held at the meeting, nor will the Board be asked to vote on the budget at the meeting. A public hearing for the budget is scheduled to occur at the June 11, 2018, Board meeting, after which staff anticipates seeking Board approval of the budget.

Attachment

A. Fiscal Year 2018-19 Budget Workshop Preview

Prepared by:



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Fiscal Year 2018-19 Budget Workshop Preview



ATTACHMENT A

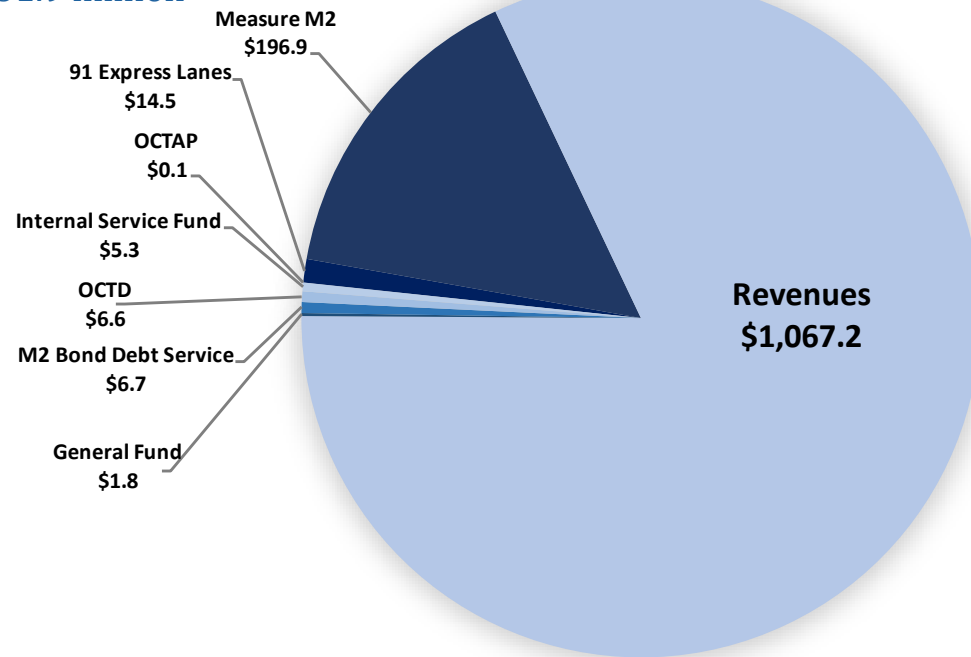
Budget Themes

- Budget delivers on Board initiatives and CEO goals
- Budget is balanced
- Implementation of Next 10 Plan
 - I-405 project moving forward with utilization of M2 and TIFIA funds
 - OC Streetcar project advancing in anticipation of New Starts grant
- Continuation of OC Bus 360°
 - OC Flex pilot launch and additional Bravo! service
 - No fare increase
 - SB-1 funds sustaining service levels
- OCTAP Sunsets

Budget Overview

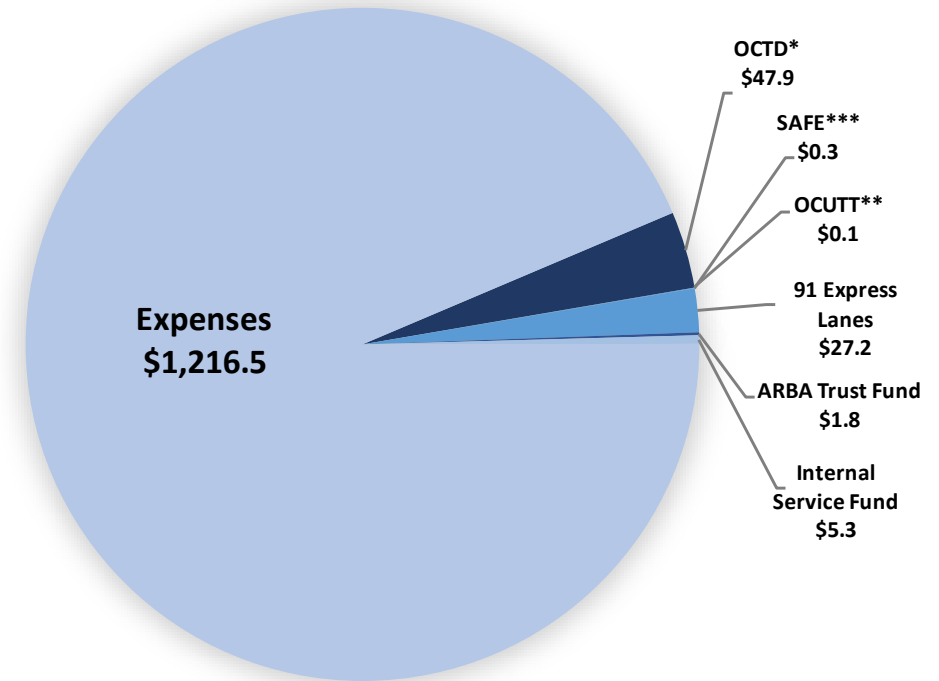
Source of Funds
\$1,299.1 million

Use of Prior Year
Designations
\$231.9 million



Use of Funds
\$1,299.1 million

Designations
\$82.6 million

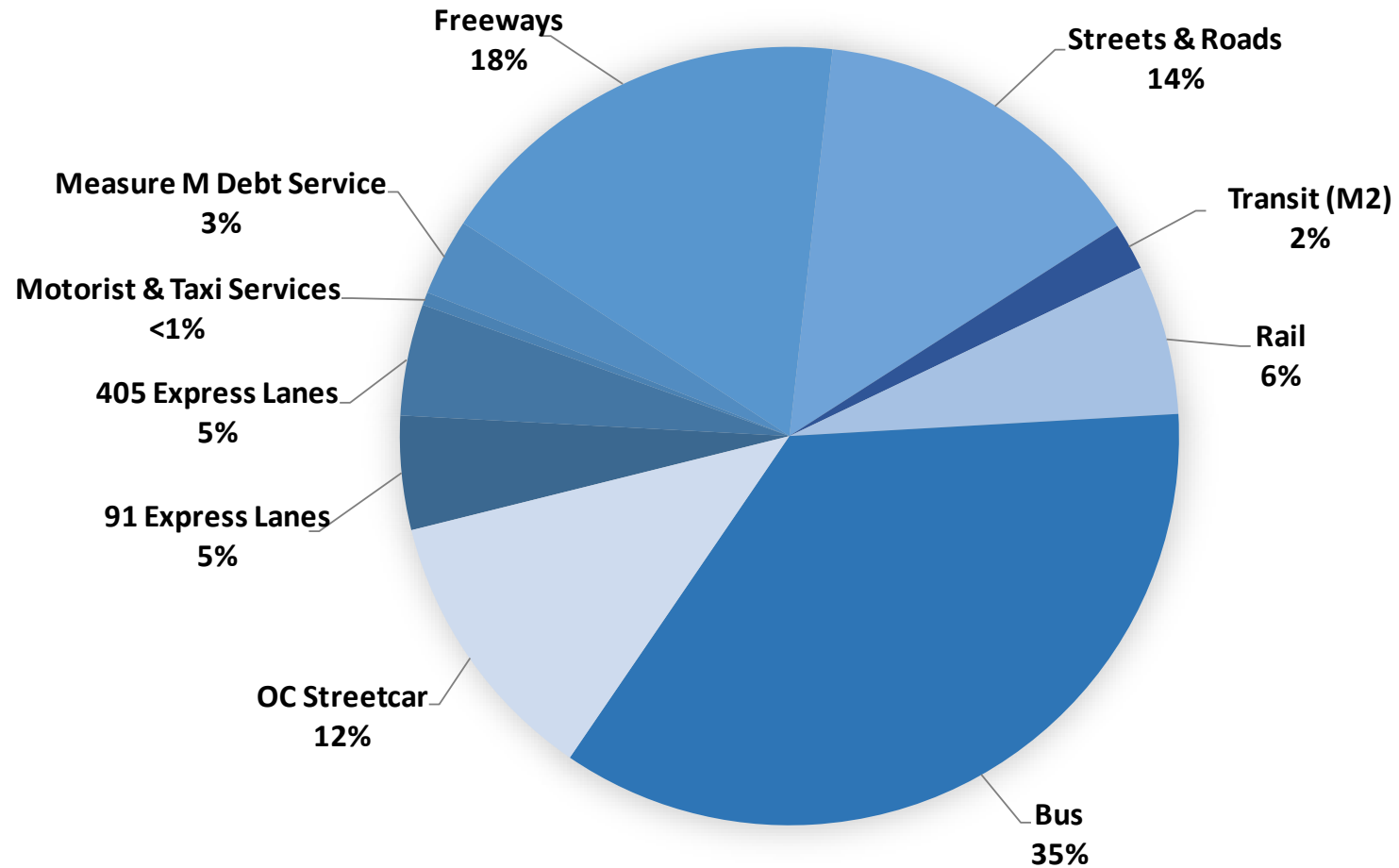


*Orange County Transit District
**Orange County Unified Transportation Trust
***Service Authority for Freeway Emergencies

Budget Sources & Uses

In Millions Sources	FY 2017-18 Approved Budget	FY 2018-19 Proposed Budget	Change \$	Change %
Revenues	\$ 1,057.2	\$ 1,067.2	\$ 10.0	0.9%
Use of Prior Year Designations	232.6	231.9	(0.7)	-0.3%
Total Revenue / Use of Designations	\$ 1,289.8	\$ 1,299.1	\$ 9.3	0.7%
Uses				
Salaries and Benefits	\$ 158.8	\$ 163.6	\$ 4.8	3.0%
LOSSAN Salaries and Benefits	1.4	2.4	1.0	71.4%
Services and Supplies	294.7	325.5	30.8	10.5%
Contributions to Other Agencies	185.9	189.1	3.2	1.7%
Interest/Debt Service	34.6	56.6	22.0	63.6%
Capital	471.7	479.3	7.6	1.6%
Designations	142.7	82.6	(60.1)	-42.1%
Total Expenditures / Designations	\$ 1,289.8	\$ 1,299.1	\$ 9.3	0.7%

Total Budget by Program



Staffing Levels

OCTA Staffing	FY 2017-18 FTE	FY 2018-19 FTE	FY 2018-19 New Hires*	FY 2018-19 Reductions	Difference
Administrative	486.5	493.0	8.0	(1.5)	6.5
Union	851.0	847.0	-	(4.0)	(4.0)
Coach Operators	643.0	639.0	-	(4.0)	(4.0)
Maintenance	171.0	171.0	-	-	-
Facility Technicians and Parts Clerks	37.0	37.0	-	-	-
OCTA Positions	1,337.5	1,340.0	8.0	(5.5)	2.5
LOSSAN	9.0	13.0	4.0	-	4.0
Total Authority Positions	1,346.5	1,353.0	12.0	(5.5)	6.5

*Establishing proper structure for Express Lanes Program

Next Steps

- Budget Workshop Presentation – Board of Directors May 14
- Committee meetings and One-on-One meetings with Board Members May 14-June 8
- Public Hearing Preview – Finance and Administration Committee May 23
- Public Hearing – Board (public hearing and approval) June 11
- Back-up Public Hearing – Board (public hearing and approval) June 25

Update: Senior Mobility Program Operated by the Korean American Senior Association



Wheelchair Accessibility

Vehicle #1



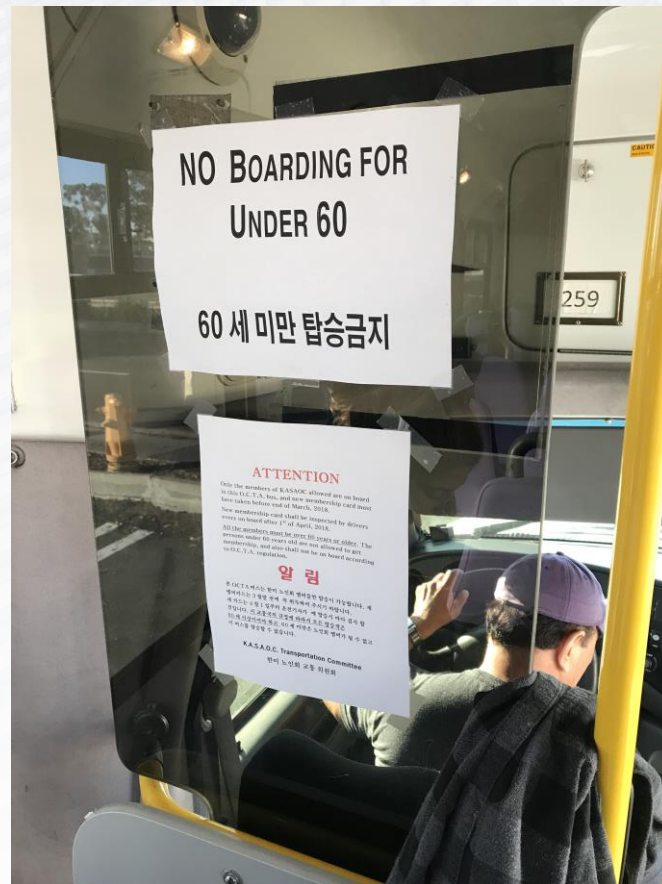
Vehicle #2



Cost Reporting & Support

- Total Expenditures after adjustments to remove unsupported/ineligible costs \$6,594 for January 2018
- Reports for February, March 2018 under review

Minimum Age Requirement



Trips outside of the Service Plan

- Amendment No. 3
 - Effective February 21, 2018
 - Religious Institutions and Restaurants