



AGENDA

Finance and Administration Committee Meeting

Committee Members

Michael Hennessey, Chairman
Richard Murphy, Vice Chairman
Andrew Do
Gene Hernandez
Steve Jones
Michelle Steel

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

Wednesday, April 10, 2019 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 Jones

1. Public Comments

Special Calendar

2. Investment Management Presentation

Sean Murdock/Andrew Oftelie

Payden & Rygel is one of four firms Orange County Transportation Authority contracts with to actively manage the Short-term Investment Portfolio. Jim Sarni is the Managing Principal from Payden & Rygel and will provide commentary on economic trends including the recent inversion of the yield curve.



Consent Calendar (Items 3 and 4)

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

Approval of the minutes of the Finance and Administration Committee meeting of March 27, 2019.

4. Federal Incentive Payment Program and Modified Settlement Delegation Authority for the State Route 55 Improvement Project Between Interstate 405 and Interstate 5

Joe Gallardo/James G. Beil

Overview

The Orange County Transportation Authority is implementing the State Route 55 Improvement Project between Interstate 405 and Interstate 5, which requires acquisition of property from public and private parties for the construction of freeway improvements. The Orange County Transportation Authority's ability to enter into agreements with property owners to acquire needed right-of-way in an expedited manner is necessary to assist in maintaining the project delivery schedule.

Recommendations

- A. Authorize the Chief Executive Officer, or his designee, to implement State Route 55 Acquisition - Incentive Payment Program to acquire needed right-of-way for the State Route 55 Improvement Project, which is consistent with Federal Highway Administration and California Department of Transportation guidelines.
- B. Authorize the Chief Executive Officer, or his designee, to execute agreements to acquire needed right-of-way in accordance with the modified settlement delegation authority for the State Route 55 Improvement Project.

Regular Calendar

There are no Regular items scheduled.



Discussion Items

- 5. Chief Executive Officer's Report**
- 6. Committee Members' Reports**
- 7. Closed Session**

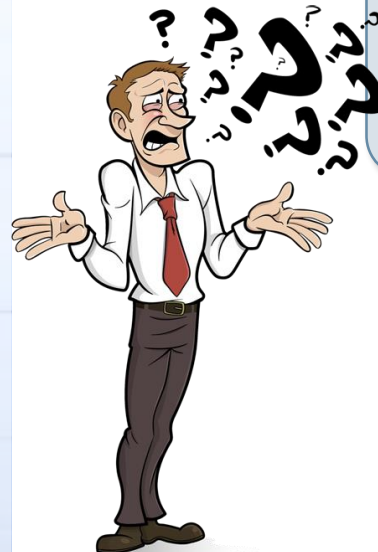
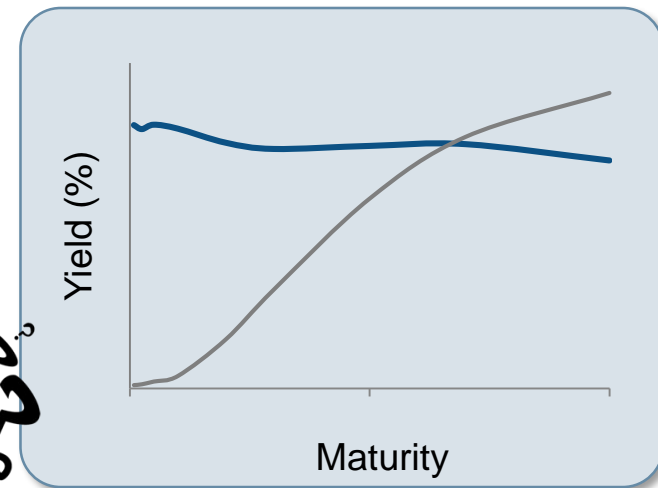
There are no Closed Session items scheduled.

- 8. Adjournment**

The next regularly scheduled meeting of this Committee will be held at **10:30 a.m. on Wednesday, April 24, 2019**, at the Orange County Transportation Authority Headquarters, 550 South Main Street, Board Room - Conference Room 07, Orange, California.

The U.S. Yield Curve Inverted...Now What?

April 2019



James P. Sarni, CFA
Managing Principal

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jsarni@payden.com



James P. Sarni, CFA®
Managing Principal

1991 – Joined Payden & Rygel

James Sarni, CFA®, is a Managing Principal at Payden & Rygel and a member of the board of directors. Sarni is a member of the firm's Investment Policy Committee and serves as a Senior Portfolio Manager advising pension funds, insurance companies, corporations, health care organizations, Taft-Hartley plans, universities and endowments. Sarni is also a trustee of The Payden & Rygel Investment Group, the sponsor of the Paydenfunds, for which Payden & Rygel is the investment advisor and a frequent speaker with financial media and is regularly quoted on topics related to investing and the economy.

Prior to joining Payden & Rygel, Sarni was a Vice President and senior portfolio manager at First Interstate Bank where he managed the trust department's commingled bond funds as well as institutional client portfolios.

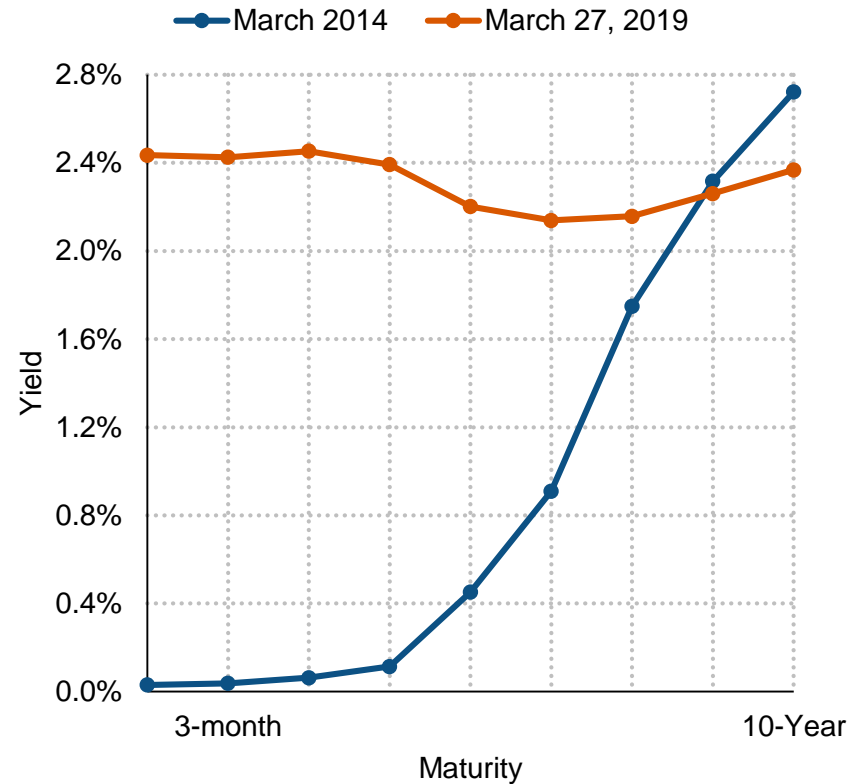
James Sarni is a member of the University of Southern California's (USC) Marshall School of Business Board of Leaders and also the Board of Directors of USC's Center for Investment Studies, the Pasadena City College Foundation, Descanso Gardens and Mayfield Junior School. He is also a member of the CFA® Institute. He is past president of the Washington, DC-based Investment Adviser Association, CFA® Society of Los Angeles and St. Philip the Apostle School board of trustees.

Sarni holds the Chartered Financial Analyst® designation. He earned an MBA with an emphasis in finance and a BS from the University of Southern California.

The Yield Curve Inverted...So What Does It Mean?



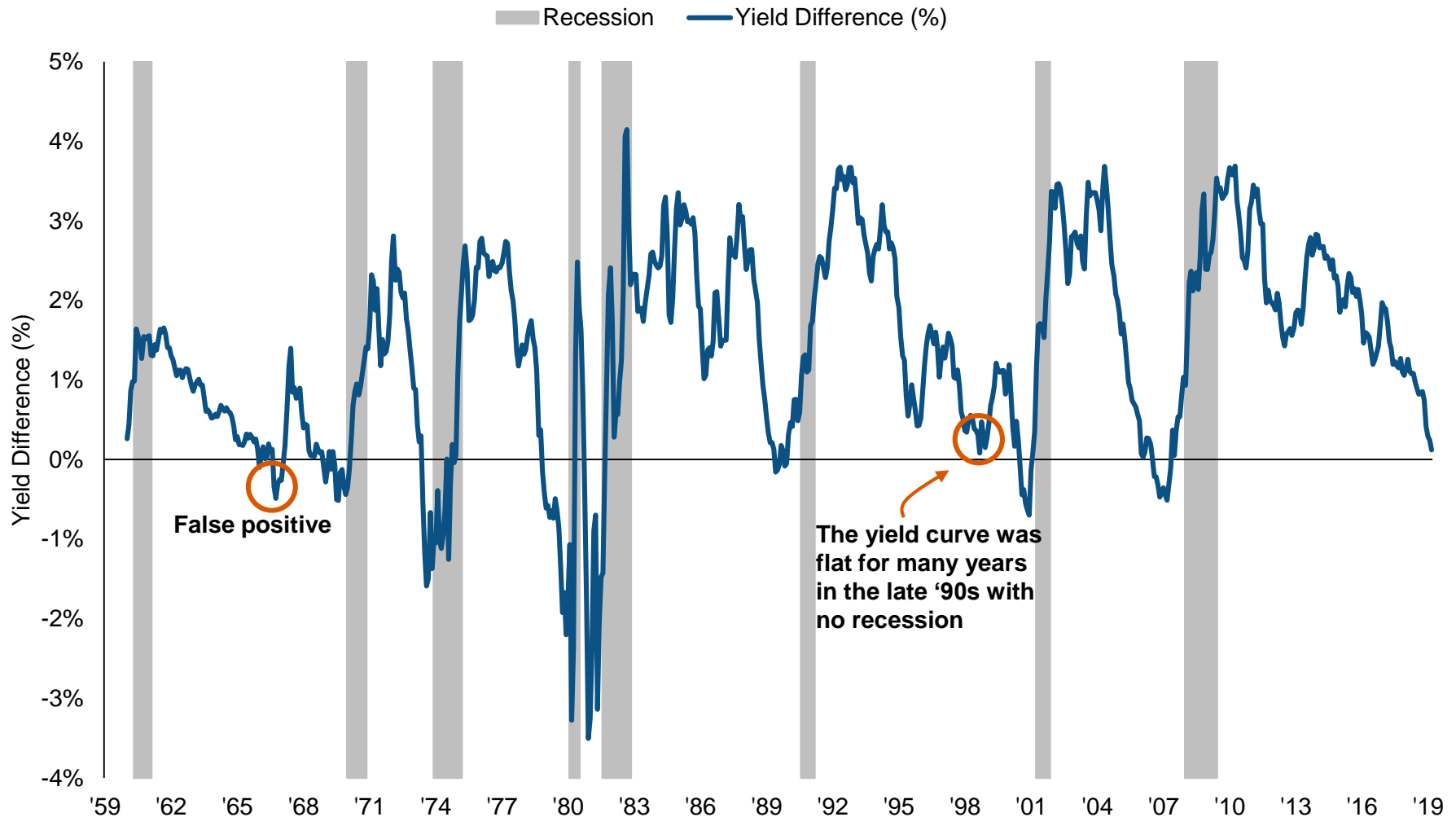
- The so-called “yield curve” has inverted. In late March 2019, the yield on the 3-month U.S. Treasury bill rose above the yield on the 10-year Treasury note for the first time since 2007.
- We have long touted the yield curve as a leading indicator of the business cycle, but the “lead time” can be long and variable.
- While we think yield curve inversion remains a useful warning sign, there are important caveats – this time may be different.
- Pay attention to the shape of the curve, but keep calm and carry on for now. Other economic indicators suggest the current business cycle has a ways to go!
- Is there something that worries us? Housing.



Yield Curve Inversions Often Precede Recessions... But Not Always!



10-Year U.S. Treasury Note Yield Minus 3-Month U.S. Treasury Bill Yield

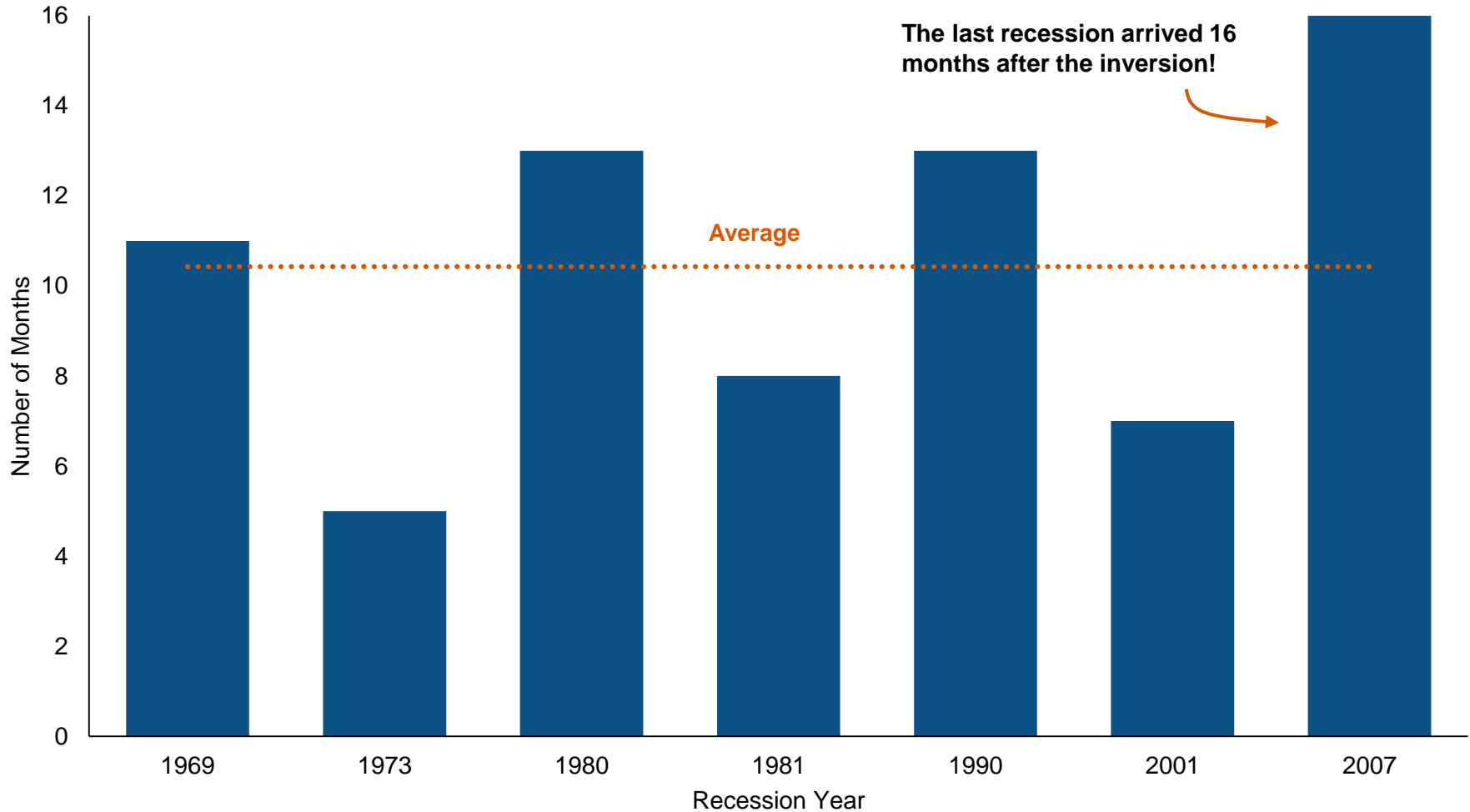


Sources: Federal Reserve, Payden Economics

Yield Curve Inversion Can Be Predictive...With Long and Variable Lags.



Time Lag Between U.S. Yield Curve Inversion and Start of Recession In the Post-War Era

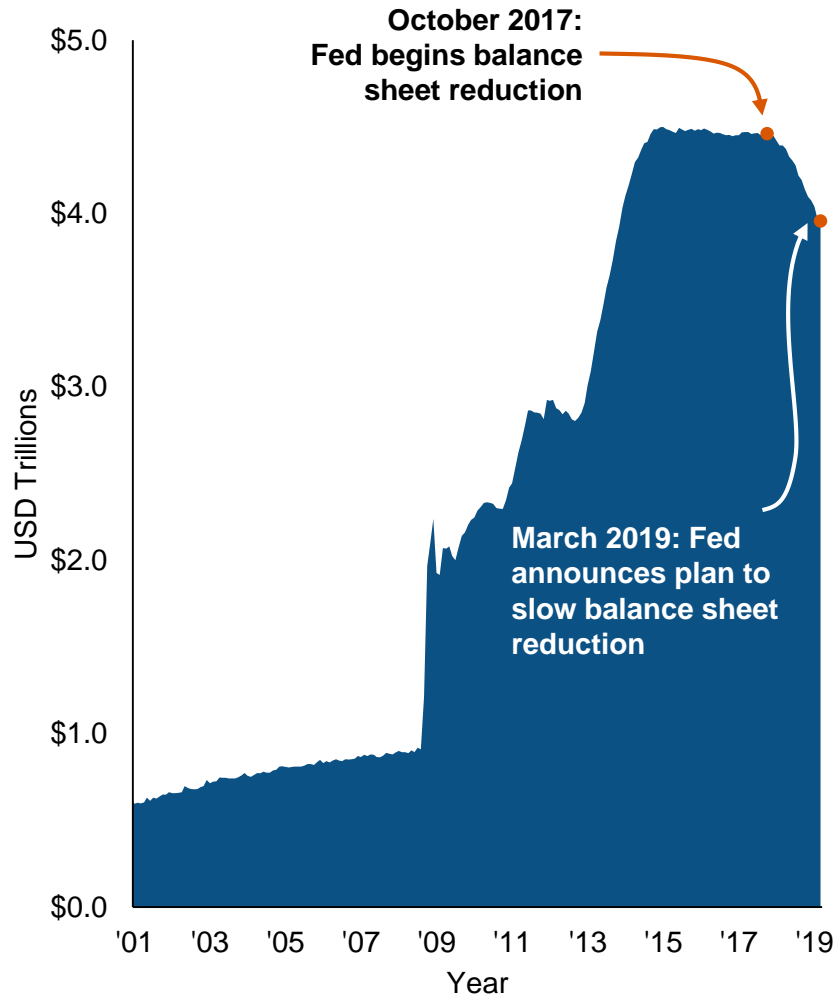


Source: St. Louis Federal Reserve

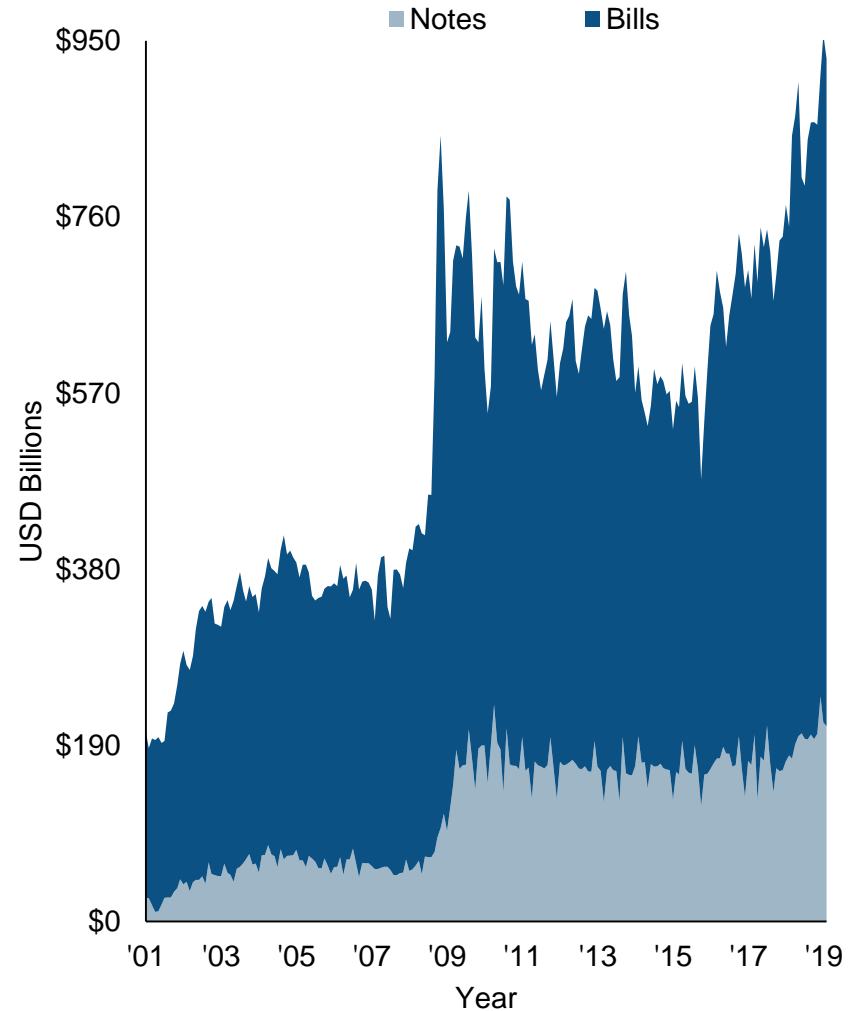
So What About the Fed's Balance Sheet? The Fed Is Now Committed To Keeping It Larger for Longer. Meanwhile, T-Bill Issuance Has Surged.



Federal Reserve Balance Sheet



U.S. Treasury Bills and Notes Gross Issuance (3-Month Moving Average)

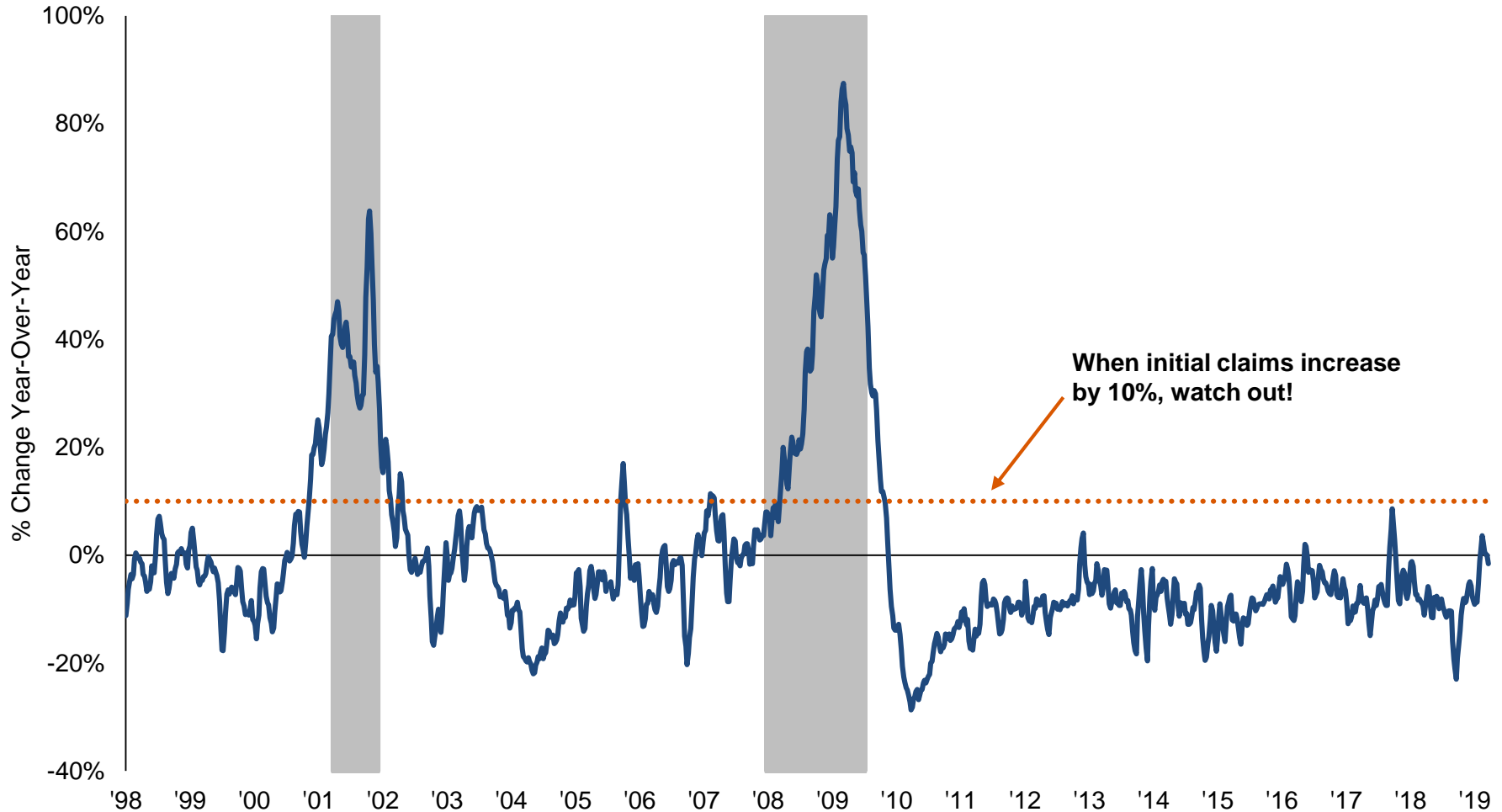


Source: Federal Reserve, SIFMA

Don't Be Too Worried. Initial Claims for Unemployment Insurance Remain Low.

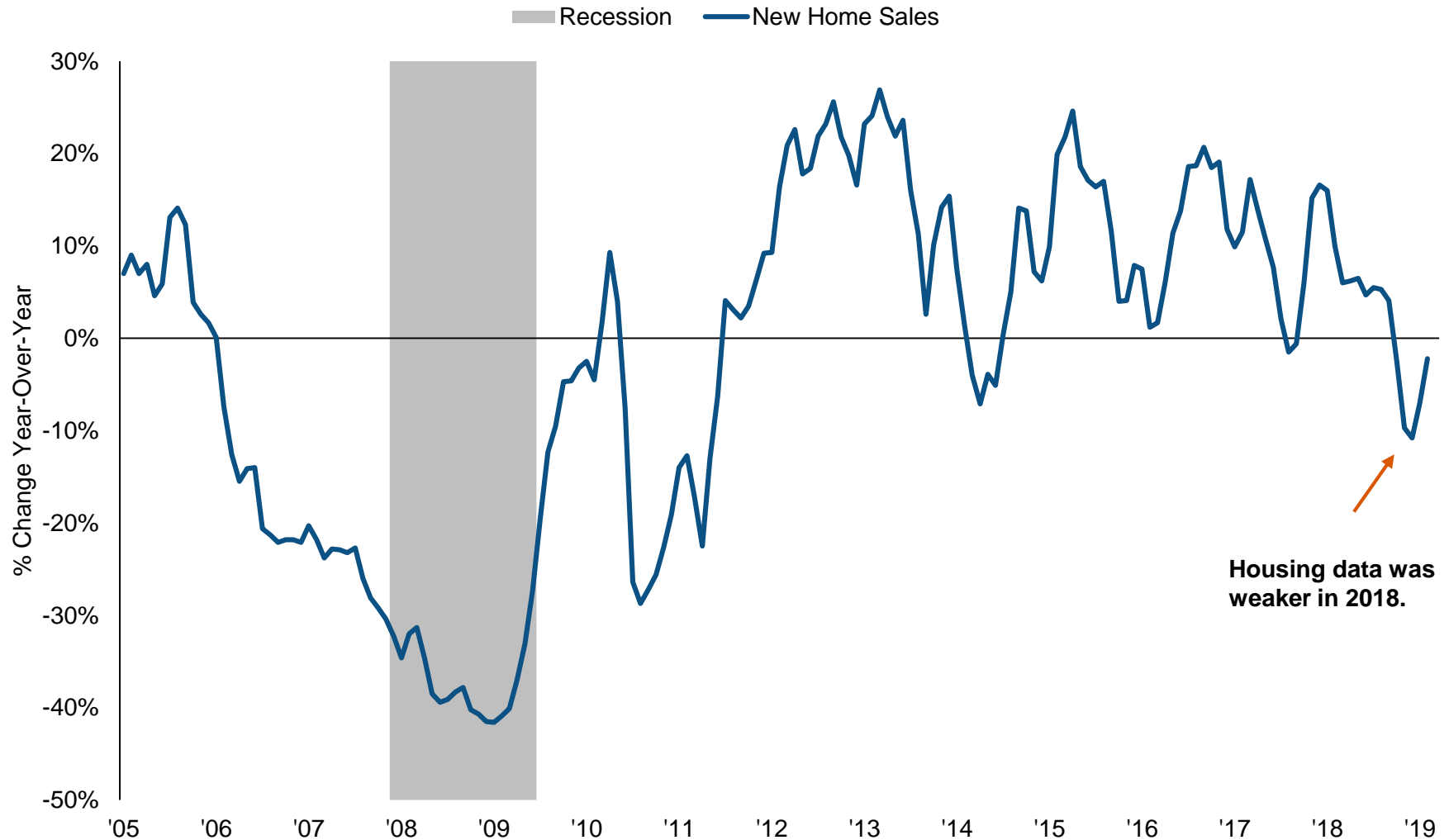


Year-Over-Year Change in Initial Claims for Unemployment Insurance (4-Week Moving Average)



Source: Department of Labor

U.S. New Home Sales 3-Month Moving Average (Seasonally Adjusted Annual Rate)



Source: Census Bureau

**Committee Members Present**

Michael Hennessey, Chairman
Richard Murphy, Vice Chairman
Andrew Do
Gene Hernandez
Steve Jones
Michelle Steel

Staff Present

Darrell E. Johnson, Chief Executive Officer
Ken Phipps, Deputy Chief Executive Officer
Laurena Weinert, Clerk of the Board
Cassie Trapesonian, Assistant General Counsel
OCTA Staff and Members of the General Public

Committee Members Absent

None

Call to Order

The March 27, 2019 regular meeting of the Finance and Administration Committee was called to order by Committee Vice Chairman R. Murphy at 10:33 a.m.

Pledge of Allegiance

Director Steel led in the Pledge of Allegiance.

1. Public Comments

No public comments were received.

Special Calendar

There are no Special Calendar matters.

Consent Calendar (Items 2 through 6)**2. Approval of Minutes**

A motion was made by Director Hernandez, seconded by Director Do, and declared passed by those present, to approve of the minutes of the Finance and Administration Committee meeting of March 13, 2019.

Committee Chairman Hennessey was not present to vote on this item.

3. Local Agency Investment Fund - February 2019

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

Committee Chairman Hennessey was not present to vote on this item.



4. Orange County Treasurer's Management Report - February 2019

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

Committee Chairman Hennessey was not present to vote on this item.

5. Orange County Transportation Authority Investment and Debt Programs Report - February 2019

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

Committee Chairman Hennessey was not present to vote on this item.

6. Fiscal Year 2018-19 Second Quarter Grant Reimbursement Status Report

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

Committee Chairman Hennessey was not present to vote on this item.

Regular Calendar

7. Orange County Local Transportation Authority Measure M2 Agreed-Upon Procedures Reports, Year Ended June 30, 2018

Janet Sutter, Executive Director of Internal Audit, presented the results of the selected cities' compliance with the Measure M2 (M2) Ordinance and Eligibility Guidelines related to the M2 Local Fair Share and Senior Mobility Program funds.

Ms. Sutter provided background on the audit process, that the cities are selected for audit by the Audit Subcommittee of the Taxpayers Oversight Committee (TOC), as well as highlighted the audit findings and recommendations.

A discussion ensued regarding:

- The City of Stanton (Stanton) findings are that some of the maintenance of effort (MOE) expenditures were not eligible based on the M2 gas tax guidelines and when removed from Stanton's total expenditures, Stanton fell below the MOE required for the year.

7. (Continued)

- With the Finance and Administration (F&A) Committee's approval of the recommendations, staff will consult with General Counsel, Board of Directors (Board) Chairman Shaw, and F&A Committee Chairman Hennessey.
- Staff will bring forward Stanton's M2 eligibility determination to the Executive Committee on April 1, 2019.
- Stanton's M2 Senior Mobility Program funding was not part of this audit. Stanton had two different M2 issues related to its Senior Mobility Program and Local Fair Share funding.
- The five-year prohibition relates to the actual expenditure of the Local Fair Share funds and MOE is an eligibility issue. The MOE minimum requirement needs to be met in order to be eligible to receive M2 funds.
- One of the recommendations is for legal counsel and staff to develop recommendations for the Board to consider for action because the MOE issue is not specially outlined in the M2 Ordinance.
- The recommendations to be reviewed for the Board's consideration are current suspension or a future year suspension.
- For 29 years, OCTA has never had a negative finding from the TOC, and there are concerns about the impacts of negative findings.
- The follow-up actions are conducted by the M2 program management staff, and for these audits, Internal Audit staff will track and follow-up with staff.
- F&A Committee Chairman Hennessey recommended that if another set of activities needs to be audited, that the city pay for the audit.

A motion was made by Committee Vice Chairman Murphy, seconded by Director Hernandez, and declared passed by those present, to:

- A. Direct staff to monitor implementation of recommendations by cities.
- B. Direct staff to review observations with legal counsel and develop recommendations for Board of Directors' consideration related to reviewed cities' compliance with the Measure M2 Ordinance and Eligibility Guidelines.

Discussion Items

8. Fiscal Year 2019-20 Budget Assumptions

Darrell E. Johnson, Chief Executive Officer (CEO), provided opening comments, and Victor Velasquez, Financial Planning & Analysis Department Manager, provided a PowerPoint presentation for this item as follows:

- Budget Themes;
- Measure M2 Program Assumptions;
- 91 Express Lanes Program Assumptions;
- Transit Program Assumptions;
- Bus Program Revenue Assumptions;
- Bus Operations Service Assumptions;
- Metrolink Assumptions;
- Motorist Services Program Assumptions; and
- Next Steps.

A discussion ensued regarding:

- Non-toll revenues are fees and violations and “other” revenue is interests on cash balances as well as reimbursement from the Riverside County Transportation Commission for its share of operational expenses.
- M2 subsidizes bus fares for seniors and disabled passengers.
- Committee Chairman Hennessey inquired under the Metrolink service assumptions why one Oceanside – Los Angeles roundtrip is added in the evening, and staff will follow-up.
- Placentia Metrolink Station Project:
 - Orange County Transportation Authority (OCTA) and the City of Placentia (Placentia) had discussions to define the project.
 - OCTA has not been able to execute the project due to ongoing complex negotiations with BNSF Railway.
 - In April 2019, Placentia, Metrolink, and OCTA will meet to further discuss the project.
 - OCTA currently is going through a cost updating analysis and expects the costs will need adjustment.
 - Concerns if the overall costs increase, will Placentia be able to make an additional contribution as part of its share of the project.
 - The escrow account agreement has not been executed because OCTA does not have approval from BNSF Railway to build the station.
 - Anticipating 2019 as the start time for the project.



8. (Continued)

- Staff will review the concerns of a potential recession for M2 and bus service.
- Metrolink will present its component of the budget at future F&A Committee and Board meetings.

No action was taken on this information item.

9. MV Transportation, Inc., Follow-up to Internal Audit No. 18-514

Andrew Oftelie, Chief Financial Officer, reported:

- In October 2018, an Internal Audit report came forward to the F&A Committee regarding MV Transportation, Inc., (MV) ACCESS service provision.
- Internal Audit's recommendations were for management to consider an update to OCTA's procurement policy to require Board approval for any contract amendment that obligates OCTA for additional costs exceeding \$250,000 even when an increase can be accommodated within the Board-approved contract maximum.
- The specific issue, in the audit, was regarding an amendment related to providing additional hours at the Call Center for same day taxi services.
- The contract allowed for a Call Center, and the costs for the Call Center were included in an all-inclusive hourly rate paid to MV.
- When the Call Center was expanded, there was no established rate identified in the contract just for a Call Center. The audit found that it was changed to payment terms even though it was within the Board-approved contract maximum.
- Internal Audit recommended that management consider changing the policy to require approval in such an incident.
- Previously, the F&A Committee asked staff to return with its course of action, and the intent of the recommendation is to deal with operations and maintenance contracts.
- Management Comments:
 - Management agrees to consider a policy update, but before making this type of change, staff discussed with OCTA's internal Executive Team to ensure that making this change would not trigger any unintended consequences with other types of contracts, especially with large capital projects.
 - Management believes that changing the policy is not necessary, and the MV incident is an anomaly.
 - The course of action is if this incident happens again, the issue would be noted in the quarterly procurement report and placed as a Regular agenda item for this Committee to discuss.

9. (Continued)

- Management agrees to revisit the incident later this year during the federal triennial review and ask for recommended changes. If this Committee wants to revisit the issue, it can be brought forward as a part of a package of larger changes.

Janet Sutter, Executive Director of Internal Audit, agrees with the managements' recommendation.

No action was taken on this information item.

10. Chief Executive Officer's Report

Darrell E. Johnson, CEO, reported:

- Interstate 5 (I-5) Central County Improvements Project:
 - Construction on the I-5 Central County Improvements Project is underway.
 - The two-year project will add a second carpool lane in each direction on the I-5 between State Route (SR) SR-55 and SR-57.
 - The northbound I-5/Main Street carpool on-ramp will permanently close on April 3rd.
 - The southbound carpool off-ramp will permanently close on April 4th in preparation for demolition.
 - The construction work will also require intermittent closures of the third traffic lane on Main Street in the coming weeks.
 - On Wednesday, April 3rd at 10:00 a.m., OCTA outreach staff will host a stakeholder working group meeting here at OCTA to provide an overview of the project to local community representatives.
- Angels Express:
 - On Friday, April 5th at 5:00 p.m. OCTA will host a kick-off event for the Angels Express at the Irvine Metrolink Station.
 - Angels Hall of Famer Bobby Grich will be signing autographs and it should be a fun event.
 - He, along with Chairman Shaw, will participate at the event and everyone is invited to attend.
- Today, Chapman University is hosting The Future of Transportation 5th Annual Public Policy Conference, and he, along with other transportation experts, will participate on a panel.



11. Committee Members' Reports

There were no Committee Members' Reports.

12. Closed Session

There were no Closed Session items scheduled.

13. Adjournment

The meeting adjourned at 11:12 a.m.

The next regularly scheduled meeting of this Committee will be held at **10:30 a.m. on Wednesday, April 10, 2019**, at the Orange County Transportation Authority Headquarters, 550 South Main Street, Board Room – Conference Room 07, Orange, California.

ATTEST

Michael Hennessey
Committee Chairman

Laurena Weinert
Clerk of the Board



April 10, 2019

To: Finance and Administration Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Federal Incentive Payment Program and Modified Settlement Delegation Authority for the State Route 55 Improvement Project Between Interstate 405 and Interstate 5

Overview

The Orange County Transportation Authority is implementing the State Route 55 Improvement Project between Interstate 405 and Interstate 5, which requires acquisition of property from public and private parties for the construction of freeway improvements. The Orange County Transportation Authority's ability to enter into agreements with property owners to acquire needed right-of-way in an expedited manner is necessary to assist in maintaining the project delivery schedule.

Recommendations

- A. Authorize the Chief Executive Officer, or his designee, to implement the State Route 55 Acquisition – Incentive Payment Program to acquire needed right-of-way for the State Route 55 Improvement Project, which is consistent with Federal Highway Administration and California Department of Transportation guidelines.
- B. Authorize the Chief Executive Officer, or his designee, to execute agreements to acquire needed right-of-way in accordance with the modified settlement delegation authority for the State Route 55 Improvement Project.

Background

The State Route 55 (SR-55) Improvement Project between Interstate 405 (I-405) and Interstate 5 (Project) is part of Project F in the Measure M2 (M2) freeway program which will construct an additional high-occupancy vehicle lane in each direction and add one general purpose lane in each direction.

On September 11, 2017, the Orange County Transportation Authority (OCTA) Board of Directors (Board) authorized the negotiation and execution of the cooperative agreement with the California Department of Transportation (Caltrans) for OCTA to perform right-of-way (ROW) support services for the Project and authorized OCTA staff to initiate discussions with property owners and utility owners, make offers, and execute agreements for the acquisition of all necessary real property interests and necessary utility relocations.

OCTA has adopted Real Property Department Policies and Procedures (RPDPP) to properly handle the acquisition of property rights. The RPDPP incorporates requirements set by the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act). The Uniform Act was enacted by the federal government to ensure real property is acquired, and that relocation of persons, businesses, and personal property is performed in an equitable, consistent, and equal manner. The RPDPP also incorporates State of California laws and regulations enacted to provide benefits and safeguards to property owners.

Discussion

The Project requires all ROW to be available to the construction contractor in January 2021. Failure to acquire and obtain possession of the needed property for the Project will create significant risk of construction contractor delay claims against the Project. ROW acquisition is a critical path activity in carrying out the Project implementation. Staff is recommending the following two actions to expedite the acquisition of property.

SR-55 Acquisition – Incentive Payment Program

In accordance with federal and state laws and regulations, statutory offers for purchase will be made for an amount established as just compensation which shall be determined through the appraisal process. Pursuant to these laws, OCTA is required to offer property owners the full amount of the appraisal. In an effort to expedite agreements with property owners, staff requests approval of the proposed SR-55 Acquisition – Incentive Payment Program (Payment Program) to acquire needed ROW for the Project (Attachment A). OCTA's Payment Program will be consistent with Federal Highway Administration (FHWA) and Caltrans-adopted guidelines, as shown in the Caltrans memorandum (Attachment B).

The Payment Program will provide an incentive to all property owners that execute an agreement within 60 days of the first written offer. The Payment Program incentive will allow payment of a lump sum of 20 percent above the appraised value, with a minimum payment of \$1,000, and a maximum payment of \$100,000 for each acquisition. The Payment Program is intended to help maintain the Project's delivery schedule, reduce the possibility of impasses in negotiations with property owners, and reduce Project legal and administrative costs in trying to reach settlements. Considering fluctuating cost trends for real estate and construction labor and materials, as well as legal expense and Project delay cost risks associated with eminent domain, it is in the interest of the public and OCTA to use any method available to produce transportation projects quickly with as little reliance on eminent domain as possible.

Recent studies by FHWA on the use of incentive payments on transportation projects demonstrate that incentive payments can be effective in decreasing the time to acquire needed ROW. Recently, OCTA used incentive payments successfully on the I-405 design-build (DB) project. In 2013, Caltrans District 12 was the first agency to implement this type of incentive program in California on the State Route 91 westbound widening project from SR-55 to Tustin Avenue. Caltrans was successful in acquiring parcels for the project as a result of the incentive payment. OCTA has requested FHWA and Caltrans to recommend that OCTA implement the Payment Program for the Project using a 20 percent incentive payment principle. Upon receiving confirmation from Caltrans and FHWA to implement OCTA's request, staff will proceed with making offers to the owners which include the incentive payment policy.

SR-55 Acquisition Modified Settlement Delegation Authority

A second method recommended to expedite the acquisition of property to help maintain the Project's delivery schedule is to implement modifications to the existing Board-approved settlement delegation authority thresholds approved in the RPDPP. The requested modification would be related to ROW acquisition, negotiation, and eminent domain only for the Project. The proposed modifications authorize the Chief Executive Officer (CEO) to approve a settlement when the difference between the approved appraisal and the proposed settlement is no more than 50 percent over the approved appraisal, and no more than \$500,000. This is an increase in the settlement authority of \$250,000 from the existing policy. The CEO will also be authorized to approve a settlement when the difference between the approved appraisal and the proposed settlement is more than 50 percent over the approved appraisal, but not more than \$100,000. This is an increase in settlement authority of \$75,000 from the existing policy. This \$100,000 threshold is intended to resolve issues

for smaller-valued parcels. A comparison of the existing settlement delegation authority to the proposed Project-related settlement delegation authority is shown in Attachment C. The Project requires OCTA to enter into dozens of ROW agreements with property owners and dozens of settlement agreements with businesses over the next three years. The modifications to the settlement authority are intended to allow staff to react more quickly to reach a resolution of issues with property owners and reduce administrative and legal costs of lengthy negotiations. Based on the cost estimates for the Project, it is anticipated that a majority of the appraised values and subsequent ROW agreements with property owners will fall within the range of the requested modified Project-only settlement delegation authority. All proposed settlements will still require legal review and written justification that the proposed settlement is fair and reasonable.

It is critical to acquire as much ROW as possible prior to the beginning of construction, as shown in the ROW delivery schedule (Attachment D). OCTA has successfully implemented similar modifications to the delegation authority during negotiations on the I-405 DB project. The proposed Payment Program and modifications to the existing settlement delegation authority will be useful tools to allow staff to streamline the delivery of ROW and lessen the risk for construction delays.

Fiscal Impact

The anticipated apparent costs for the Payment Program will be offset by a cost savings through a reduction in legal fees and additional administrative costs. The funding for property acquisitions is in OCTA's Fiscal Year (FY) 2018-2019 Budget and will be proposed for the FY 2019-20 Budget, Capital Programs Division, Account 0017-7519-FF101-OKS, and will be funded through M2 funds.

Summary

Staff requests the Board of Directors to authorize the Chief Executive Officer, or his designee, to implement the State Route 55 Acquisition – Incentive Payment Program and to execute agreements in accordance with the modified State Route 55 settlement delegation authority.

Attachments

- A. Orange County Transportation Authority State Route 55 Acquisition – Incentive Payment Program
- B. State of California Department of Transportation Memorandum, Dated June 12, 2014, Re: Acquisition – Incentive Payment Program
- C. State Route 55 Improvement Project Modified Settlement Delegation Authority
- D. State Route 55 Improvement Project Right-of-Way Delivery Schedule

Prepared by:



Joe Gallardo
Manager, Real Property
(714) 560-5546

Approved by:



James G. Beil, P.E.
Executive Director, Capital Programs
(714) 560-5646

**ORANGE COUNTY TRANSPORTATION AUTHORITY
STATE ROUTE 55 ACQUISITION – INCENTIVE PAYMENT PROGRAM**

The Orange County Transportation Authority (OCTA) Acquisition – Incentive Payment Program (Payment Program) encourages the expeditious acquisition of needed real property and is consistent with the intent of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act). The Federal Highway Administration (FHWA), Office of Real Estate Services, has determined that the FHWA may participate in right-of-way acquisition incentive payments made under the FHWA-approved plan or program. Acquisition incentive payments are payments that are over and above the just compensation offer provided by the Uniform Act.

The authority for the FHWA to participate in incentive payments is found in 23 CFR 710.203(b)(2)(ii) which allows federal participation in relocation assistance and payments provided under the law of the State that may exceed the requirements of 49 CFR Part 24. The FHWA has the general authority to participate in the costs of construction that includes costs of right-of-way acquisition (See 23 U.S.C. §101(a)(3)). The use of incentive programs for right-of-way acquisition is analogous to the use of incentive/disincentive provisions for early completion in contracts for construction of federal aid projects (See 23 CFR 635.127(d)).

On June 12, 2014, the California Department of Transportation (Caltrans) adopted an Acquisition – Incentive Payment Program.

Based on the authority granted by the OCTA Board of Directors and the concurrence of FHWA and Caltrans, OCTA shall implement the SR-55 Payment Program as follows:

Written offers to owners for the purchase of their property shall be based on the fair market value of the property (just compensation). The SR-55 Payment Program payment (Payment) amounts will be based on the appraised value. The use of the Payment does not preclude the use of administrative and legal settlements, and each administrative and legal settlement will require independent support.

The procedures on the Payment shall incorporate the same level of safeguard against coercive negotiation practices as do standard OCTA's Real Estate Policies and Procedures and Caltrans' Right-of-Way Procedures. Per federal regulation, OCTA is required to allow at least 30 days for property owners to consider an offer prior to initiating the condemnation process (See 49 CFR 24.102(f) and Appendix A). Parcels acquired using acquisition incentive offers will be subject to the same quality control and quality assurance processes that are used for OCTA's right-of-way activities.

The Payment will be offered for both permanent and temporary acquisitions.

For all offers, the Payment for a permanent or temporary acquisition will be based on a lump sum payment of 20 percent of the appraised value of all parcels under the same ownership with a minimum payment of \$1,000, and a maximum payment of \$100,000.

The Payment amount will be calculated on the final appraised value and will then be rounded separately from the final appraised value based on the rounding rules found in Section 7.02.11 of the Caltrans' Right-of-Way Manual.

The Payment is a standing offer for 60 days. The 60 days starts with the Initiation of Negotiations (ION) as day one. The 60 days includes weekends and holidays. For mailed offers, it starts on the date the offer was received by certified mail.

If the 60th day falls on a weekend or holiday and the OCTA acquisition agent working with the grantor will not be available to conduct business with the grantor, the agent may end the incentive period on the first working day after the 60-day period is complete. Personal leave of the OCTA acquisition agent working with the grantor will not be cause to extend the incentive period. An alternate OCTA acquisition agent should be identified to address the issue.

The Payment offer will end at the execution of the right-of-way contract or at 5:00 p.m. on the 60th day if a right-of-way contract has not been signed by grantor. The 60 days will restart with a new offer based on an approved appraisal revision if one is deemed necessary by OCTA. An appraisal revision may result in a change in the Payment amount.

The Payment is a standing offer for 60 days regardless of OCTA initiating eminent domain proceedings. Additionally, this time period will be sufficient to allow the property owner the opportunity to obtain their own appraisal where OCTA pays the reasonable cost of the appraisal up to \$5,000, as provided by California Code of Civil Procedure section 1263.025.

The following clause will be used in right-of-way contracts pertaining to the Payment Program for the State Route 55 Improvement Project (Project):

“In addition to the Fair Market Value, it is agreed by and between the parties hereto that the amount in clause XX above includes the sum of \$ _____ as an incentive to the grantor for the timely signing of this Right of Way Contract. This incentive payment offer expires sixty (60) days from the Initiation of Negotiations (DATE).”

The SR-55 Payment Program will be applied to all parcels in the Project, including public agencies, regardless of type, size, appraisal, amount, or ownership.

SR-55 Acquisition – Incentive Payment Program

Acquisition Type	Incentive Amount	Minimum Payment	Maximum Payment
Temporary or Permanent	20% of Appraisal	\$1,000	\$100,000

Example 1 (Minimum Payment)

Appraised Value	\$4,500
Calculated at 20%	\$900
Minimum Payment	\$1,000
Incentive Payment for Acquisition	\$1,000
Total Amount of Just Compensation	\$5,500

Example 2 (20% Payment)

Appraised Value	\$50,000
Calculated at 20%	\$10,000
Incentive Payment for Acquisition	\$10,000
Total Amount of Just Compensation	\$60,000

Example 3 (Maximum Payment)

Appraised Value	\$1,000,000
Calculated at 20%	\$ 200,000
Maximum Payment	\$ 100,000
Incentive Payment for Acquisition	\$ 100,000
Total Amount of Just Compensation	\$1,100,000

M e m o r a n d u m*Serious drought.
Help Save Water!***To:** DISTRICT DIRECTORS
DISTRICT REGION RIGHT OF WAY MANAGERS**Date:** June 12, 2014**File:** Acquisition**From:** BRENT L. GREEN 
Chief
Division of Right of Way and Land Surveys**Subject:** **ACQUISITION – INCENTIVE PAYMENT PROGRAM**

The Federal Highway Administration (FHWA), Office of Real Estate Services has determined that the FHWA may participate in right-of-way acquisition incentive payments made under an FHWA approved plan or program. Acquisition incentive payments (Payments) are payments that are over and above the just compensation offer provided by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act). Recent studies on the use of incentive payments on transportation projects demonstrate that they can be effective in decreasing the time needed to acquire and clear needed rights-of-way.

The authority for the FHWA to participate in incentive payments is found in 23 CFR 710.203(b)(2)(ii) which allows Federal participation in relocation assistance and payments provided under the law of the State that may exceed the requirements of 49 CFR Part 24. The FHWA has the general authority to participate in the costs of construction that includes costs of right-of-way acquisition (See 23 U.S.C. §101(a)(3)). The use of incentive payments for right-of-way acquisition is analogous to the use of incentive/disincentive provisions for early completion in contracts for construction of Federal aid projects (See 23 CFR 635.127(d)).

This policy is consistent with the intent of the Uniform Act in that it encourages the expeditious acquisition of real property. Language in the implementing regulation focuses on the assurance that property owners and displaced persons receive at least the level of benefits to which they are entitled.

Considering fluctuating costs and trends for real estate and construction labor and materials, as well as the negative public perception of the court expense and project delay costs associated with the application of eminent domain, it is clearly in the public interest to use any tool available to produce transportation projects quickly with as little reliance on condemnation as possible.

The California Department of Transportation (Caltrans) is authorized to make incentive payments under California Law. Although California statutes do not specifically address incentive payments, they do require that written offers to owners for the purchase of their property be based on the fair market value of the property (just compensation). Caltrans has long

applied administrative settlements (justified offers above appraised amounts) during negotiations which have as their foundation the appraised value. Similarly, Payment amounts will be based on the appraised value. In fact, the use of Payments does not preclude the use of administrative settlements and each administrative settlement will require independent support.

The procedures on Payments incorporate the same level of safeguard against coercive negotiation practices as do standard Caltrans Right of Way procedures. Per Federal regulation, Caltrans is required to allow at least thirty (30) days for property owners to consider an offer prior to initiating the condemnation process (See 49 CFR 24.102(f) and Appendix A). Projects and parcels acquired using acquisition incentive offers will be subject to the same quality control and quality assurance processes that are used for all Caltrans Right of Way activities.

The Division of Right of Way and Land Surveys is implementing an acquisition incentive program to encourage property owners to sign Right of Way (ROW) contracts within sixty (60) days of the Initiation of Negotiations (ION) or any offer based on an approved appraisal revision. Payments will be offered for both permanent and temporary acquisitions.

The Payment for a permanent or temporary acquisition will be based on a lump sum payment of 10% of the appraised value of all parcels under the same ownership with a minimum payment of \$1,000 and a maximum payment of \$100,000.

Acquisition Type	Incentive Amount	Minimum Payment	Maximum Payment
Temporary or Permanent	10% of Appraisal	\$1,000	\$100,000

The Payment amount will be calculated on the final appraised value and will then be rounded separately from the final appraised value based on the rounding rules found in Section 7.02.11 of the Right of Way Manual.

Example 1:

Appraised Value	\$	22,400.00
Calculated at 10%	\$	2,240.00
Rounded (R/ W Manual 7.02.11)	\$	2,250.00
Incentive Payment for Acquisition	\$	2,250.00

Example 2:

Appraised Value	\$	359,000
Calculated at 10%	\$	35,900
Rounded (R/ W Manual 7.02.11)	\$	35,900
Incentive Payment for Acquisition	\$	35,900

Example 3:

Appraised Value	\$	2,658,000
Calculated at 10%	\$	265,800
Maximum Incentive Payment = \$100,000.00	\$	100,000
Incentive Payment for Acquisition	\$	100,000

The Payment is a standing offer for sixty (60) days. The 60 days starts with the Initiation of Negotiations (ION) as day one (1). The 60 days includes weekends and holidays. For mailed offers it starts on the date the offer was received by certified mail.

If the 60th day falls on a weekend or holiday and the agent working with the grantor will not be available to conduct business with the grantor, the agent may end the incentive period on the first state working day after the 60 day period is complete. Personal leave of the agent working with the grantor will not be cause to extend the incentive period. An alternate agent should be identified to address the issue.

The Payment offer will end at the execution of the right of way contract or at 5:00 pm of the 60th day if a right of way contract has not been signed by the grantor. The 60 days will restart with a new offer based on an approved appraisal revision if one is deemed necessary by Caltrans. An appraisal revision may result in a change in the Payment amount.

The Payment is a standing offer for sixty days regardless of Caltrans initiating eminent domain proceedings. Additionally, this time period will be sufficient to allow the property owner the opportunity to obtain their own appraisal where Caltrans pays the reasonable cost of the appraisal up to \$5,000 as provided by California Code of Civil Procedure section 1263.025.

The following clause will be used in Right of Way contracts when the Payment program is used on a project:

“In addition to the Fair Market Value, it is agreed by and between the parties hereto that the amount in clause ## above includes the sum of \$_____ as an incentive to the grantor for the timely signing of this Right of Way Contract. This incentive payment offer expires sixty (60) days from the Initiation of Negotiations (DATE).”

The Payment program may be used on any project that will benefit a district or region. If the Payment program is used on a project it must be applied to all parcels in the project regardless of type, size, appraisal amount, or ownership including public agencies.

The Payment program has the potential to add significant costs to Right of Way capital expenses. Project estimates (i.e., ROW data sheets and/or related documents) may need to be updated to reflect additional costs of Payments. It is advisable to consult with the District/Regional Right of Way Planning and Management Office and the Project Manager to ensure the project has funds available to participate in the Payment program. In order to track these Payments, attached is a sample Federal Participation Memo with the appropriate coding to be used.

While this is the initial Caltrans Payment program, other similar incentive programs may be developed that have different formulae for determining the amounts and/or situations (i.e. Relocation Assistance Program incentives). Such other incentive programs will be established via separate memoranda.

cc: Suzette M. Musetti, Chief, Office of Appraisals and Local Programs, ROW/LS
Mark Turner, Chief, Office of Land Surveys, ROW/LS
Michael J. Rodrigues, Chief, Office of Real Property Services, ROW/LS
Rene Fletcher, Chief, Office of Project Delivery, ROW/LS
Ben Martin, Chief, Office of Railroads & Utility, ROW/LS
Lori Brownell, Chief, Office of Planning & Management, ROW/LS
Paul Pham, Senior Right of Way Agent, ROW/LS
Robert W. Dauffenbach, Senior Right of Way Agent, ROW/LS
Mark Zgombic, Senior Right of Way Agent, ROW/LS
Melani Millard, FHWA

DEPARTMENT OF TRANSPORTATION

DISTRICT 12

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TTY 711

www.dot.ca.gov



*Serious Drought.
Serious drought.
Help save water!*

July 14, 2015

Mr. Joe Gallardo, Manager
Real Property
Orange County Transportation Authority
550 South Main Street
P.O. Box 14184
Orange, CA 92863-1584

Via email: jgallardo@octa.net

Dear Mr. Gallardo;

In response to Orange County Transportation Authority's (OCTA) letter, dated February 3, 2015, requesting use and modification of the Acquisition Incentive Payment Program (Program) on the Interstate 405 Improvement Design-Build Project (Project), California Department of Transportation has approved a modified proposal. OCTA can proceed with the standard 10% incentive payment for all property owners on the Project or a one-time 20% incentive payment to all property owners on the Project, regardless of the appraised value of the parcel, with limits remaining the same, minimum \$1,000 to maximum \$100,000.

Per the Federal Highway Administration, Uniform Act compliance standards require fair and equitable treatment of all property owners and should be afforded to all participants.

Should you have any questions or require further information, please do not hesitate to contact me at (949) 724-2386. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ricky Rodriguez", written over a blue circular stamp.

RICKY RODRIGUEZ

Office Chief

Office of Right of Way & Land Surveys

District 12

**State Route 55 Improvement Project
Modified Settlement Delegation Authority**

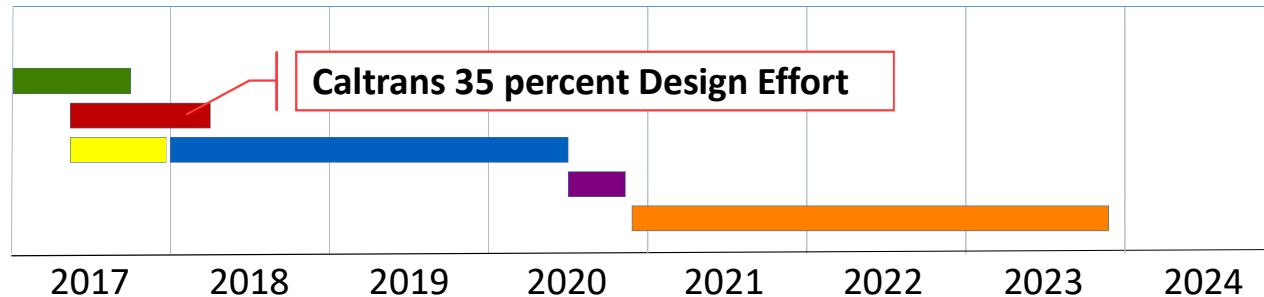
Administrative and legal settlement delegation authority threshold (real property interests only, excludes relocation assistance):

1. 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 \$500,000 over the approved appraisal;
2. 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 \$100,000 over the approved appraisal;
3. The Orange County Transportation Authority (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 more than \$500,000 over the approved appraisal, and must approve all administrative or legal settlements when the proposed settlement is more than 50% over the approved appraisal and is more than \$100,000 over the approved appraisal.

The Executive Director Capital Programs settlement authority described in the Real Property Department Policy and Procedures remains unchanged. The State Route 55 Improvement Project Modified Settlement Delegation Authority thresholds described in this sub-paragraph may not be increased by amendment, as described on Page 12, Paragraph XIV, Procedures Amendments of the OCTA Policies and Procedures Manual. Any increase in thresholds require approval by the OCTA Board of Directors.

State Route 55 Improvement Project

Right-of-Way Delivery Schedule



- Design partnership with California Department of Transportation (Caltrans)
- Complete design and ROW efforts by mid-2020
- Begin construction end of 2020

- Environmental
- Design Procurement for Orange County Transportation Authority Consultant
- Design/Right-of-Way (ROW)
- Advertise/Award
- Construction