



# ***Agenda Report***

## ***Fullerton City Council***

**MEETING DATE:** NOVEMBER 20, 2018

**TO:** CITY COUNCIL / SUCCESSOR AGENCY

**SUBMITTED BY:** KENNETH A. DOMER, CITY MANAGER

**SUBJECT:** CONSIDERATION OF COOPERATIVE AGREEMENT FOR THE ADMINISTRATION OF THE ORANGE COUNTY TAXI ADMINISTRATION PROGRAM (OCTAP)

### **SUMMARY**

Since the spring of 2016, the Orange County City Managers Association has collaborated with the Orange County Transportation Authority and Orange County taxi industry stakeholders to identify a financially sustainable future for the Orange County Taxi Administration Program. City Council approval is requested to execute a cooperative agreement with the Orange County Transportation Authority for the administration of the Orange County Taxi Administration Program from January 1, 2019 through December 31, 2020.

### **RECOMMENDATION**

Authorize the City Manager to execute the Cooperative Agreement (C-8-2015) with the Orange County Transportation Authority for administration of the Orange County Taxi Administration Program.

### **PRIORITY POLICY STATEMENT**

This item matches the following Priority Policy Statements:

- Fiscal and Organizational Stability.

### **FISCAL IMPACT**

By cooperating with Orange County Transportation Authority the City avoids the necessity to administer its own program which has unknown, but potentially exceeding \$25,000 a year administration costs. Costs as estimated through participating in the Cooperative Agreement are as follows: Fiscal Year 2018-19 (six months): \$4,229.27; Fiscal Year 2019-20: \$10,181.43; and, Fiscal Year 2020-21 (six months): \$7,568.31. Existing budget appropriations within the general fund are sufficient for the FY 2018-19 expenditures and appropriations for future fiscal years' expenditures will be included in future year general

fund budgets. These costs are estimates based on participation of all 34 cities and the County of Orange, as well as revenues from applicable taxi permits.

## DISCUSSION

The Orange County Transportation Authority (OCTA) has administered the Orange County Taxi Administration Program (OCTAP) on behalf of Orange County cities and the County of Orange since 1998. At that time, OCTAP was created to consolidate the licensing, application, and administrative functions to assist the cities and the County of Orange (member agencies) in meeting their requirements set forth in Government Code Section 53075.5 and Vehicle Code Section 21100, *et seq.* OCTA was asked to administer the program, and the member agencies entered into interagency agreements. Each agency adopted and enforced OCTAP regulations in their respective jurisdictions.

Since its inception, OCTAP was designed to be funded entirely through permit and license fees collected from taxi operators and drivers. With the arrival of transportation network companies (TNC), such as Uber, Lyft, and others, the marketplace has greatly reduced the number of taxi permits in the county, which, in turn, has reduced revenues and, thereby, created a financially unsustainable condition for OCTAP as currently funded and regulated.

In June 2016, OCTA provided a one-year notice to member agencies, pursuant to the interagency agreements, that OCTA only had sufficient funds to continue administering OCTAP through June 2017, and would, thereafter, be required to withdraw as the administrator. Given that costs to administer OCTAP continued to exceed revenues, in May 2017, the Orange County City Managers Association (OCCMA) recommended that member agencies cover the shortfall in funding for OCTAP administration. Subsequently, all OCTAP member agencies have been invoiced on a population-based cost sharing basis for costs needed to cover this funding gap and continue the operation of the OCTAP program through 2018. This was a stop-gap measure as numerous pieces of legislation were working their way through the State Legislature to revamp existing law on regulation of the taxi industry in order to make the regulations more in line with the regulations for the TNC companies such as Uber, Lyft, and others.

With Governor Brown's signing of taxi regulation legislation AB 1069 (Chapter 753, Statutes of 2017) in October 2017, OCTAP, as it exists today, cannot continue. At the May 25, 2018 OCTA Board meeting, OCTA staff was directed to take necessary steps to cease OCTA administration of OCTAP effective December 31, 2018, absent a viable solution from OCTAP member agencies that would include OCTA. This action was communicated to member agencies and OCCMA, and discussions to identify a solution continued.

As stated previously, all cities and the County of Orange have historically been required by Government Code to regulate taxicabs. Under AB 1069, however, only those certain cities and counties where taxicabs are "substantially located" are permitted to regulate taxicabs, unless the cities form a joint powers authority or *enter into an agreement with a transit agency* for administering or regulating taxicabs. Currently, Fullerton is one of the

cities that would need to independently regulate taxicabs since it meets the definition under AB 1069. While clean-up legislation (AB 939, Chapter 472, Statutes of 2018) for AB 1069 was recently passed and signed into law by Governor Brown, it did not substantially change the process of regulating taxis.

Following further discussions between OCTA, OCCMA, and OCTAP stakeholders, the OCCMA queried all OCTAP member agencies which then unanimously agreed to request that OCTA continue to administer OCTAP beginning January 1, 2019, for an initial term of two years (term may be extended upon agreement among the parties). In addition, estimated costs for all participating agencies were also agreed upon using the same population-based cost sharing model.

OCTA Staff prepared a cooperative agreement which is similar to other agreements OCTA has with local agencies. The OCTA Board approved the Cooperative Agreement and now this agreement has been sent to all OCTAP member agencies for their consideration with the goal of having all agreements fully executed prior to January 1, 2019. Should a city decide not to enter into this agreement or delays action, they do so at their own risk with respect to state law.

The Orange County cities and OCTA agree that while this agreement and path appear prudent today, the industry continues to change which could result in additional changes to OCTAP in the future. Two variables that neither the cities nor OCTA has any control over are that the taxi industry and TNCs operate in a market economy, and the possibility that future legislation further affects the taxi industry. Both of these variables could lead to a situation where OCTA and local agencies are forced to react. As such, OCCMA and OCTA Staff remain committed to following the issue closely and working with each other to ensure that we all abide by State law, in addition to being flexible to changing market conditions. Accordingly, the OCTAP regulations will be stripped down to closely match those for the TNC industry to encourage a level playing field. AB 1069 introduced the ability of the taxi industry to use mobile application metering (similar to use by Uber and Lyft) for determining fares all the while allowing the taxi industry to still obtain fares by being flagged down (whereas the TNC industry is only allowed pre-arranged pickups through mobile applications).

If approved, City Staff will continue to work with all other OC cities and OCTA to take steps necessary to continue to administer OCTAP beginning January 1, 2019. There is a strong desire in both the taxi industry to level the playing field with TNCs in terms of regulations and by OCTAP member agencies to reduce or eliminate regulations as they current exist under previous law as well as outside costs to support OCTAP. It is the stated goal that all city subsidies for the program cease as soon as possible and therefore it may be possible within the two-year period that greater efficiencies are achieved, thereby lowering or eliminating city costs.

Attachments:

- Attachment 1 – Cooperative Agreement (C-8-2015)