



County of Los Angeles
**CHIEF EXECUTIVE OFFICE
OPERATIONS CLUSTER**

SACHI A. HAMAI
Chief Executive Officer

DATE: September 1, 2016
TIME: 1:00 p.m.
LOCATION: Kenneth Hahn Hall of Administration, Room 830

AGENDA

Members of the Public may address the Operations Cluster on any agenda item by submitting a written request prior to the meeting.
Three (3) minutes are allowed for each item.

1. Call to order – James Blunt / Gevork Simdjian
 - A) **Board Letter – BOND ANTICIPATION NOTES AUTHORIZATION AND REIMBURSEMENT RESOLUTION**
CEO – Dave Howard or designee(s)
 - B) **Board Memo – ANALYSIS OF THE APPLICABILITY OF THE COUNTY'S TRANSIENT OCCUPANCY TAX AND BUSINESS LICENSE ORDINANCE TO ONLINE HOSTING PLATFORMS**
TTC/Regional Planning – Joseph Kelly and Richard Bruckner or designee(s)
 - C) **Board Letter – AUTHORIZE THE ASSESSOR TO EXECUTE A CONSULTING SERVICES AGREEMENT FOR PHASE II OF THE ASSESSOR'S MODERNIZATION PROJECT**
Assessor – Jeffrey Prang or designee
2. Public Comment
3. Adjournment



County of Los Angeles
CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
<http://ceo.lacounty.gov>

SACHI A. HAMAI
Chief Executive Officer

Board of Supervisors
HILDA L. SOLIS
First District
MARK RIDLEY-THOMAS
Second District
SHEILA KUEHL
Third District
DON KNABE
Fourth District
MICHAEL D. ANTONOVICH
Fifth District

September 20, 2016

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**BOND ANTICIPATION NOTES
AUTHORIZATION AND REIMBURSEMENT RESOLUTION
ALL DISTRICTS
(3 VOTES)**

SUBJECT

These actions will provide for interim financing of equipment acquisitions for various County departments and enable the County to maximize reimbursement for costs related to the financing of this equipment.

IT IS RECOMMENDED THAT THE BOARD:

1. Approve the issuance of short-term Bond Anticipation Notes in an aggregate amount not-to-exceed \$31,000,000 to finance the acquisition of various equipment needs through the Los Angeles County Capital Asset Leasing Corporation.
2. Adopt the Resolution of the Board of Supervisors of the County of Los Angeles Declaring its Intention to Reimburse Certain Capital Expenditures from the Proceeds of Taxable or Tax-Exempt Obligations (2016-17 Equipment BANs Program).

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Approval of the recommended actions will allow the issuance of new short-term Bond Anticipation Notes (BANs) to provide interim financing of equipment acquisitions for

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various County departments in accordance with federal tax regulations and enable the County to maximize reimbursement for costs related to the financing of this equipment.

BANs Authorization for Equipment Acquisition

The recommended actions will authorize the issuance of BANs in an aggregate amount not-to-exceed \$31,000,000 to provide interim financing for equipment acquisitions by various County departments. The summary of the \$31,000,000 in authorized equipment purchases using the Los Angeles County Capital Asset Leasing Corporation (LAC-CAL) Equipment Financing Program is attached to the Reimbursement Resolution (Attachment) recommended for approval as part of this action.

The authorized LAC-CAL equipment financing that the Board approved as part of the 2016-17 Recommended Budget was \$28,000,000. As a result of changes in departmental requests, the revised LAC-CAL equipment financing authorization is now \$31,000,000.

The BANs will be issued by LAC-CAL and purchased as an investment by the County Treasury Pool in an amount sufficient to acquire and deliver the identified equipment. Subsequently, the BANs will be redeemed and the County Treasury Pool will be reimbursed through the issuance of intermediate-term lease-revenue bonds, notes, certificates of participation, or through an equipment lease with a third-party.

Due to procurement or delivery delays, authorized LAC-CAL equipment acquisitions occasionally are received in the fiscal year following the one in which they were initiated. The BANs authorization may be carried over into a subsequent fiscal year to fund these acquisitions.

Reimbursement Resolution

In addition to the approval of the BANs issuance for equipment acquisition, we are requesting that the Board execute the attached Reimbursement Resolution, which has been approved by County Counsel. The Reimbursement Resolution is required by federal tax regulations to enable the County to be reimbursed for prior capital expenditures from the issuance of taxable and tax-exempt bonds. Execution of the Reimbursement Resolution will enable the County to maximize reimbursement for costs related to the financing of equipment for various County departments.

Internal Revenue Service Requirements

In 1991, the Internal Revenue Service (IRS) introduced regulations governing the reimbursement of expenditures from bond or Certificates of Participation (COP) proceeds. In order to ensure the continued recovery of allowable expenditures, which are related to equipment acquisitions, the regulations require the Board to adopt a Resolution, which states the following:

- The Board's intention to finance expenditures related to equipment acquisitions;
- A statement that any such expenditures would be financed through the issuance of tax-exempt or taxable bonds or COPs;
- A qualitative description of the proposed project whose expenditures would be reimbursed from the proceeds of such an issue; and
- Identification of the expected source(s) of funds, which would initially pay for such expenditures and ultimately be utilized to repay the bond or COP obligation.

The attached Reimbursement Resolution meets IRS regulations and will allow for maximum reimbursement of County expenditures for equipment from future bond sales. Prior and current year costs have been included to allow reimbursement from a future bond sale. A description of the proposed equipment is attached to the Reimbursement Resolution for your review.

FISCAL IMPACT/FINANCING

Approval of the recommended actions will enable the County to issue BANs to provide interim financing for equipment acquisition and maximize reimbursement of County expenditures for equipment from future bond sales. Repayment of equipment financing has a term determined by the useful life of the asset (between three to five years). The Auditor-Controller collects monthly payments from departments utilizing the program. Funding for equipment financing payments due in 2016-17 has been included in the Final 2016-17 Budget.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The attached Reimbursement Resolution has been approved by County Counsel.

The Honorable Board of Supervisors
September 20, 2016
Page 4

IMPACT ON CURRENT SERVICES (OR PROJECTS)

The recommended actions will ensure the continuation of the County's long-standing LAC-CAL Equipment Program.

CONCLUSION

Upon approval of the recommendations, please forward an adopted copy of this Board letter and an executed copy of the Reimbursement Resolution to the Chief Executive Office, Capital Programs Division.

Respectfully submitted,

SACHI A. HAMA
Chief Executive Officer

SAH:DPH:BMB
FC:LQ:rp

Enclosures

c: Executive Office, Board of Supervisors
County Counsel
Auditor-Controller
Treasurer and Tax Collector

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF LOS ANGELES DECLARING ITS INTENTION TO
REIMBURSE CERTAIN CAPITAL EXPENDITURES FROM THE
PROCEEDS OF TAXABLE OR TAX-EXEMPT OBLIGATIONS
(2016-17 EQUIPMENT BANs PROGRAM)

WHEREAS, from time to time the County of Los Angeles (the "County") desires and intends to undertake the purchase of tangible personal property having a useful life of three years or more (the "Equipment"), as set forth in the schedule attached hereto; and

WHEREAS, no funds of the County or of any other entity which is a part of the controlled group of which the County is a part (the "Controlled Group") as such term is defined in Section 1.150-1 of the regulation of the United States Treasury under the Internal Revenue Code of 1986, as amended (the "Treasury Regulations") are, or are reasonably expected to be, allocated, reserved or otherwise set aside in the County's budget or in the Controlled Group's budget on a long-term basis to pay the costs of the Equipment; and

WHEREAS, the costs of the Equipment will initially be paid from the proceeds of Bond Anticipation Notes ("BANs") issued by the Los Angeles County Capital Asset Leasing Corporation ("LAC-CAL") and purchased by the Treasurer and Tax Collector of the County; and

WHEREAS, the costs of the Equipment paid with the proceeds of the BANs are expenditures of a type which are properly chargeable to a capital account under general federal income tax principles in connection with the Equipment, and

WHEREAS, the County expects to issue taxable or tax-exempt bonds, notes, or certificates of participation, or enter into a tax-exempt lease with a third-party lessor (“Obligations”) to redeem the BANs and reimburse the capital expenditures of the County with respect to the Equipment which were paid with the proceeds of the BANs; and

WHEREAS, upon issuance of the Obligations, the County will: (1) evidence the reimbursement allocation with an entry in the books or records which it maintains with respect to the Obligations, (2) identify in such entry the actual prior expenditure being reimbursed or the fund from which the expenditure was paid, and (3) be relieved of any restrictions under the relevant legal documents and applicable state law with respect to the amount received as reimbursement as a result of the reimbursement allocation; and

WHEREAS, this Resolution will be reasonably available for public inspection within a reasonable period of time after its date of adoption and in the same manner governing the public availability of records of other official acts of the County Board of Supervisors; and

WHEREAS, this Resolution is intended to be a “declaration of official intent” in accordance with Section 1.150-2 of the Treasury Regulations;

NOW, THEREFORE, this Board does find, resolve, determine and order that in accordance with Section 1.150-2 of the Treasury Regulations, the County declares its intention to issue Obligations to finance the Equipment in an amount not to exceed \$31,000,000 the proceeds of which will be used to reimburse the County for capital expenditures paid for the Equipment prior to the issuance of said Obligations.

The foregoing resolution was on the _____ day of _____, 2016 adopted by the Board of Supervisors of the County of Los Angeles and *ex-officio* the governing body of all other special assessment and taxing districts, agencies and authorities for which said Board so acts.

LORI GLASGOW, Executive Officer,
Board of Supervisors of the County
of Los Angeles

By _____
Deputy

APPROVED AS TO FORM:

MARY C. WICKHAM
COUNTY COUNSEL

By _____
Principal Deputy County Counsel

SCHEDULE ATTACHMENT

TO

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF LOS ANGELES DECLARING ITS INTENTION TO
REIMBURSE CERTAIN CAPITAL EXPENDITURES FROM THE
PROCEEDS OF TAXABLE OR TAX-EXEMPT OBLIGATIONS
(2016-17 EQUIPMENT BANs PROGRAM)

**LOS ANGELES COUNTY CAPITAL ASSET LEASING (LAC-CAL) EQUIPMENT PROGRAM
ACQUISITION**

Summary of Authorized Transactions/Financing Uses by Department - All Funds

Department	Equipment Category	Anticipated 2016-17 Acquisitions
General Fund		
Beaches and Harbors	Vehicles and Transportation Equipment	\$ 1,439,000
Beaches and Harbors	Heavy Maintenance Equipment	299,000
Internal Services	Computers, Midrange/Department	6,065,000
Sheriff	Vehicles and Transportation Equipment	15,820,000
Sheriff	Non-Medical Laboratory and Testing Equipment	<u>3,125,000</u>
Total General Fund		\$ 26,748,000
Hospital Enterprise Funds		
LAC+USC Healthcare Network	Medical-Major Movable Equipment	\$ 1,542,000
LAC+USC Healthcare Network	Medical-Minor Equipment	106,000
LAC+USC Healthcare Network	Vehicles and Transportation Equipment	118,000
LAC+USC Healthcare Network	Machinery Equipment	51,000
Rancho Los Amigos NRC	Medical-Fixed Equipment	1,147,000
Rancho Los Amigos NRC	Vehicles and Transportation Equipment	80,000
ValleyCare Network	Medical-Major Equipment	844,000
ValleyCare Network	Medical-Fixed Moveable Equipment	149,000
ValleyCare Network	Machinery Equipment	137,000
ValleyCare Network	Vehicles and Transportation Equipment	<u>78,000</u>
Total Hospital Enterprise Funds		\$ 4,252,000
Total Financing		\$ 31,000,000

The equipment identified on this page reflects County equipment requirements to be financed through the LAC-CAL Corporation in 2016-17. The Board has not allocated, reserved or otherwise set aside any funds in the County's 2016-17 Adopted Budget to purchase the equipment identified above.

It is officially the intention of the Board that the acquisition of such equipment be initially funded through the issuance of Bond Anticipation Notes (BANs) or another short-term financing mechanism. The BANs will be issued by the LAC-CAL Equipment Program and purchased as an investment by the County Treasury Pool in an amount sufficient to acquire and deliver the identified equipment. Any such costs, which are initially funded by BANs, will be properly capitalized under general federal income tax principles.

Further, the Board expects the outstanding BANs to be redeemed and the County Treasury Pool to be

reimbursed, through the issuance of taxable or tax-exempt, intermediate-term lease revenue bonds, certificates of participation, or through a lease with a third-party lessor. The amounts specified above represent the maximum principal amounts of such intermediate-term obligations to be issued for the specified equipment.

These official intentions of the Board with respect to the LAC-CAL Equipment Program have been specified in accordance with U.S. Treasury Regulation 1.150-2.

DRAFT

DATE

TO: Supervisor Hilda L. Solis, Chair
Supervisor Mark Ridley-Thomas
Supervisor Sheila Kuehl
Supervisor Don Knabe
Supervisor Michael D. Antonovich

FROM: Joseph Kelly
Treasurer and Tax Collector

SUBJECT: **ANALYSIS OF THE APPLICABILITY OF THE COUNTY'S TRANSIENT
OCCUPANCY TAX AND BUSINESS LICENSE ORDINANCE TO
ONLINE HOSTING PLATFORMS**

This report documents our review of the applicability of the Los Angeles County's Transient Occupancy Tax (TOT) Ordinance, Business License Ordinance and Zoning Code to peer-to-peer online hosting platforms, such as Airbnb, and to Online Travel Companies, such as Expedia. This report also seeks Board direction on the treatment of online hosting platforms.

Background

The County's TOT is codified in Title 4 of the County Code (Code). The TOT is a tax for the privilege of occupying a room for transient use, i.e., for stays of 30 consecutive calendar days or less. The TOT rate is 12% of the rent charged by hotel/motel operators in the unincorporated areas of the County.

The following chart lists the Fiscal Year 2015-16 TOT revenue and number of remitters by Supervisorial District. Over half of the TOT revenue is generated from eight hotels in Marina del Rey, which is located in the Fourth District.

Transient Occupancy Tax Revenue Collection
For Fiscal Year 2015-2016

	Amount of Revenue	Number of Remitters
District 1	\$ 1,580,588	19
District 2	\$ 1,385,907	22
District 3	\$ 132,999	3
District 4	\$ 11,609,572	19
District 5	\$ 5,128,463	32
Total	\$ 19,837,529	95

Online hosting platforms, such as Airbnb, utilize a peer-to-peer business model through which a software platform facilitates rentals of lodging space, such as rooms in personal residences, rooms in bed-and-breakfasts, or entire homes or apartments. In general, the online hosting platform allows an “operator/host” to make the property available for rent in exchange for compensation from a “transient/guest.” The rentals can be short-term or long-term, and may be for shared rooms where guests share the entire space with the host or others; private rooms where guests may share common areas but have a private room for sleeping; or entire homes or apartments where guests rent the entire unit and do not share any space with others. The online hosting platform provides the listing service, reservation system, and handles the payments between the hosts and guests. As well, the platform typically keeps 3% of each reservation as a host service fee. Airbnb, which commenced operations in 2008, has forecasted revenues of \$900 million this year, with over one million listings in over 190 countries.

The Online Travel Companies business model has been in existence longer than, and is different from, the peer-to-peer business model. Online Travel Companies, such as Expedia, work with hotels and motels to purchase blocks of rooms at a discount, and/or serve as an intermediary, then markets those rooms online. The guests pay the room rate and applicable taxes to the Online Travel Companies. The Online Travel Companies collect the TOT and forward the TOT to the hotels to remit to the County. The hotel/motel maintains all the records. The County has the authority to audit the records of the hotel/motel. In 2007-08, the Treasurer and Tax Collector (TTC) contracted audits of 60 hotel/motel operators with reported gross rents of \$93.8 million, and \$11.3 million in TOT. The audits determined that 19 operators had receipts from Online Travel Companies and remitted the applicable TOT to the County. Twelve of those operators separately accounted for rents received from Online Travel Companies; these operators received \$2.9 million in gross rents and remitted \$344,000 in TOT related to online rentals. The other seven operators combined online rents received with their overall rental income, remitted the appropriate TOT, but could not separately report the TOT related to online rentals. The remaining 41 operators did not use Online Travel Companies.

Title 4 – TOT Ordinance

Operator vs. Online Hosting Platforms

Title 4, Section 4.72.020 defines the “Operator” to mean the person who is the (1) proprietor of the hotel either as an owner, lessee, sublessee, or in some other capacity, or a person who is the (2) managing agent of the structure. Title 4, Section 4.72.020 defines “Hotel” to mean “any structure in the unincorporated territory of the county, or any portion of any such structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes.”

County Counsel has confirmed that given these definitions, the person or authorized agent who lists lodging space with Airbnb for shared rooms, private rooms, or entire homes or apartments, can be considered an Operator under the Code. Operators are subject to the TOT ordinance, are required to register with the TTC for purposes of obtaining a TOT certificate, and are required to collect and remit the TOT to the County. In addition, certain Operators are required to obtain a business license, as discussed below in Title 7 – Business License Ordinance.

Airbnb provides a software platform that connects a person wanting to rent lodging space with a person who has such a space for rent. Since Airbnb is providing a software platform for purposes of introducing these two parties, it is not the proprietor or managing agent of the lodging, and it is not considered to be an Operator within the definition of the Code. Similarly, Expedia provides a software platform that sells hotel/motel rooms online. As such, it is also not considered an Operator under the Code since it is not the proprietor or managing agent of the hotel/motel room. Consequently, software platform providers like Airbnb and Expedia are not subject to the TOT ordinance, and are not required to register with the County or collect and remit TOT to the County.

Title 7 - Business License Ordinance

Title 7, Chapter 7.50-Housing, requires every person conducting a hotel, motel, apartment house, or certain boarding houses to obtain a business license before operating.

These provisions are not applicable to Airbnb because Airbnb provides a software platform that connects interested parties; it does not operate hotel, motel or apartment businesses. These provisions are applicable to the person or authorized agent who lists lodging space with Airbnb because such persons are the ones conducting a hotel, motel, apartment house or boarding house.

Prior to accepting a business license application, the TTC refers the application to the Department of Regional Planning (DRP). DRP confirms the type of business based on

their records and Title 22 – Planning and Zoning Ordinance, which has its own definitions for apartment house, hotel, motel, and rooming/boarding house.

The following are definitions from Title 22, Chapter 22.08, of the Code:

- "Apartment house" means a building, or a portion of a building, designed or used for occupancy by three or more families living independently of each other, and containing three or more dwelling units.
- "Hotel" means any building containing six or more guest rooms or suites of guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied on a temporary basis by guests.
- "Motel" means a group of attached or detached buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage attached or automobile parking space conveniently located on the lot or parcel of land, and which is designed, used or intended to be used wholly or in part for the accommodation of automobile transients. Motels include auto courts, motor lodges and tourist courts.
- "Rooming house" or "boarding house" means a lodging house, or other building or structure maintained, advertised or held out to the public as a place where sleeping or rooming accommodations are furnished to the whole or any part of the public, whether with or without meals. "Rooming house" includes fraternity and sorority houses.

Section 22.20.080, which regulates accessory uses in zone R-1 (single family zone), states "if the residence is not used for either a home for children, foster family, or home for the aged, rooms may be rented to not more than four roomers, with or without table board in a single-family residence." Under this language, DRP currently considers a single-family residence that accommodates more than four "roomers" as a "Rooming house," which are limited to zone R-3 and higher.

Section 7.50.010 states that "places which provide sleeping and living accommodations to five or more persons unrelated to the operator, which are not otherwise licensed under this title as an apartment house, hotel or motel, shall be required to obtain a license as a boarding house."

Accordingly, a person who lists with Airbnb sleeping and living accommodations that can house five or more guests is required to obtain a business license. If the type of business does not qualify under apartment house, hotel, or motel, then the person who offers accommodations for five or more guests must obtain a business license as a boarding house. A business license is not required if the accommodations are for up to four guests. The first year fee for a boarding house business license is \$282. The annual renewal fee is \$200 thereafter.

The following chart illustrates the current applicability of the TOT and Business License ordinances to the peer-to-peer online hosting platform, the Online Travel Company, and the operator of a residence, or of a hotel or motel.

Applicability of TOT and Business License Ordinances

	Subject to Transient Occupancy Tax?	Subject to Business License?
Airbnb (Peer-to-peer online hosting company)	No, does not meet definition of Operator per the Code. Provides software platform that connects operators of rooms/accommodations and travelers.	No, does not conduct hotel, motel, apartment house, or boarding house. Provides software platform that connects persons who conduct a hotel, motel, apartment house, or boarding house with travelers.
Airbnb Host (Proprietor or managing agent of residence/lodging space)	Yes. Operator, pursuant to Title 4, Section 4.72.020 F.	No, if provides accommodations to less than 5 persons.
		Yes, if provides accommodations to 5 or more persons. Person providing rooming accommodations to 5 or more persons requires a business license, pursuant to Title 7, Section 7.50.010.
Expedia (Online Travel Company)	No, does not meet definition of Operator per Code. Provides software platform that connects operators of rooms/accommodations and travelers.	No, does not conduct hotel, motel, apartment house, or boarding house. Provides software platform that connects persons who conduct a hotel, motel, or apartment house with travelers.
Hotels/Motels that sell to Online Travel Companies	Yes. Operator, pursuant to Title 4, Section 4.72.020 F.	Yes. Hotels/Motels are required to procure a business license, pursuant to Title 7, Section 7.50.040.

Regulatory Environment

Due to the increasing number of municipalities determining that Airbnb type listings are subject to the local TOT, state legislation has been proposed to facilitate the collection of TOT from the online hosting platforms.

Senate Bill (SB) 1102

In February 2017, SB 1102 introduced legislation that would allow online platforms to collect and remit TOT on behalf of the operators to the taxing jurisdiction. The proposed legislation resulted from Airbnb's desire to comply with local TOT ordinances and attempted to address some of the challenges of complying with differing ordinances, such as audit requirements from each municipality. The proposed legislation granted the State Controller the authority to audit the collection and remittance of the TOT, but certain information reviewed in audits (e.g., taxpayer information, operator information, and property address) would be confidential and not subject to release. The audit provision takes away the County's current authority to audit, and grants it to the State Controller. Property addresses are needed for regulatory and enforcement purposes such as for registration, licensing, and land use.

The proposed legislation allows for the platforms to opt in if they wish to participate in the program. The legislation as written requires the County to opt out if the County does not wish to participate.

TTC staff participated in a conference call with the authoring Senator's office, representatives from several online hosting platforms, as well as staff from other county Treasurer and Tax Collectors. The municipalities represented were uniformly concerned over the loss of local authority to audit, and the lack of information provided. In addition, the municipal representatives wanted to change the language to offer local jurisdictions the option to opt-in as well, as opposed to needing to take Board action if we chose to opt-out.

SB 1102 was held in the Senate Appropriations committee in May 2016, and is not expected to move forward this year.

Senate Bill (SB) 133

In June 2016, SB 133 replaced SB 1102, and considered some of the concerns with SB 1102, such as shifting from an "opt out" requirement for local jurisdictions to a voluntary "opt in" option.

SB 133 requires the platforms to remit taxes directly to the local jurisdictions, but the platforms will not be subject to the reporting requirements of the local jurisdictions. SB 133 is not clear on the reporting requirements that would govern. However, the State Controller will audit the platforms and will submit a report to each jurisdiction, which implies that the platforms will need to report information to the State Controller so the State Controller may perform audits.

In addition, the proposed legislation states that the participating platforms “shall not be required to provide personally identifiable information to any city, county, or city and county, ... except pursuant to an order by a court of competent jurisdiction.” The State Controller will be the only entity entitled to review personally identifiable information obtained during the course of the audit. The local jurisdictions will not be able to independently validate whether the TOT remittances were appropriate, or have access to address information, which is necessary for regulatory or enforcement purposes.

The author subsequently pulled this bill before it was heard in the Assembly Local Government Committee.

Difference from Mobile Telephony Services Model (MTS) Model

Last year, new legislation granted the State collection authority for Utility Users Tax (UUT) on sales of Mobile Telephony Services (MTS) from retail locations. The business model used for MTS required the State to be involved with the entire process. The retail stores remit the UUT collected to the State, in the same manner as they remit sales tax. The State then distributes and reports the UUT to the appropriate local jurisdiction where the sales occurred. In addition, the State performs audits. The local jurisdictions have the authority to review the State’s audit records, subject to certain confidentiality provisions. The State is responsible for the entire MTS process, and may recoup its administrative costs from the UUT collected.

The legislation as proposed in SB 1102 and SB 133 splits responsibility. The platforms will remit taxes to the local jurisdictions without reporting requirements. The State would separately audit the platforms. The local jurisdictions may review the State’s audits, but without details such as property addresses, will be without a mechanism to independently validate the accuracy of the TOT remitted or determine appropriate regulatory or land use.

Magnitude of Online Hosting Platform Utilization

The peer-to-peer online hosting platform opened up a new market of renting out personal residences. Staff performed an exercise to determine if anyone who lists online was remitting TOT to the County. Currently, we have eight TOT remitters that are smaller operators with less than five units. Staff confirmed through a review of listings on a hosting platform that two of the eight listed with the platform, and therefore determined that we did receive TOT from some of those who list online.

In addition, staff performed an exercise to determine the potential magnitude of online listings that were not registered with the TTC and the extent of potential revenue foregone by the County. Staff reviewed one unincorporated area in each Supervisorial District, and attempted to choose the areas that had the most potential listings. Below is a chart of the number of listings that are not registered with the TTC, per one unincorporated area in each Supervisorial District.

Online Listings Not Registered with the TTC

	Unincorporated Area	Online Listings
District 1	Hacienda Heights	2
District 2	Westmont	1
District 3	Calabasas (adjacent)	3
District 4	Marina del Rey	19
District 5	Altadena	25

Staff's exercise uncovered 50 online listings that were not registered with the TTC, and that have not paid TOT to the County. However, the potential TOT that was not remitted from 50 listings does not pose a material revenue stream to the County.

Regulatory Challenges

In general, Airbnb hosts have not been complying with the applicable TOT framework statewide. Each municipality's response to this has varied, and responses are generally dependent on the potential revenue from compliance with their TOT frameworks. For example, the City and County of San Francisco classifies Airbnb as a "Qualified Website Company" which allows it to collect TOT from the online platforms. Airbnb participates in that program, and collects and remits TOT on behalf of the operators/hosts. The City and County of San Francisco also requires the registration of Airbnb hosts, and recently required that Airbnb disallow hosts that are not registered. In response, Airbnb filed a lawsuit against the City and County of San Francisco in June 2016.

In May 2014, the City of Anaheim permitted the use of residential units as Short-Term Rentals (STRs) for occupancies of less than 30 consecutive days. Due to the large number of rental applications, the City of Anaheim issued a temporary moratorium on granting new licenses in September 2015. Based on community concerns about the incompatibility of the vacation rentals and the neighborhood impacts, in June 2016, the City Council voted to ban new Short-Term Rentals. The City Council implemented an 18-month phase-out period for existing Short-Term Rentals, which they call the "STR Amortization Ordinance." The City of Anaheim is now reviewing other options, such as implementing a "Home Sharing Pilot Program" in which permits are only issued to the legal owner of the home who must reside in the home as his/her primary residence. In addition, no more than half the bedrooms in the home may be used for "home sharing" purposes.

DRP has also made us aware in recent months that at least one of the Supervisorial Districts has received complaints regarding homeowners who rent out an entire house through these online marketplaces.

Although the Zoning Code currently contains definitions and regulations, which can be applied to short term rentals, it did not anticipate that short-term rental of homes, townhouses and apartments would be as popular as they have now become and that online services would create the marketplace they now have. The Zoning Code does not adequately address the impact that this land use may have on communities, such as late night noise, a strain on parking resources and an increase in trash.

Due to the increasing focus on the issues with online hosting platforms, the TTC and the DRP are seeking Board direction on the treatment of peer-to-peer online hosting platforms.

Findings and Recommendations

The person or authorized agent who lists lodging space with Airbnb for shared rooms, private rooms, entire homes or apartments, is considered an Operator under the Code. Operators are subject to the TOT ordinance, are required to register with the TTC for purposes of obtaining a TOT certificate, and are required to collect and remit the TOT to the County. In addition, certain Operators are required to obtain a business license.

Recommendations:

Within the next 60 days, the TTC will publish a fact sheet and Frequently Asked Questions regarding the applicability of the County's TOT Ordinance to Airbnb hosts, will update the TTC website with this material, and will consult with your offices and related County departments on its distribution. Importantly, this material will also inform constituents of the procedures to report unlicensed activity. Upon receipt of such report, staff will gather as much information as possible and assign the complaint to a Tax and License Field Inspector for investigation. If the inspector determines that a business license is required, the inspector will issue a Field Inspection Report advising the property owner to apply for a business license. Staff will also notify DRP of such reports for DRP to identify any land use and zoning issues. My office will report back to your Board, six months and one year after this effort commences, to keep you informed of developments.

If the Board decides that Title 22 amendments are necessary to address this issue, clear objectives should be established including the following considerations: balancing the character and enjoyment of low density neighborhoods with the activities associated with short term rentals, the preservation of housing for the local population, fair and balanced regulations which would allow property owners to supplement their income, the potential for added revenue from applying the Transit Occupancy Tax to these uses, and the potential impact to traditional short term rentals such as motels and hotels.

Attempts at consolidating audit compliance at the State level through legislation are likely to continue, and my office will participate in the legislative review process as appropriate.

Honorable Board of Supervisors
DATE
Page 10

Should you have any questions, please contact me directly or your staff may contact Nai-len Ishikawa, Assistant Treasurer and Tax Collector, of my staff at (213) 974-2139 or nishikawa@ttc.lacounty.gov, or for questions regarding land use, please contact Richard Bruckner, Director of the Department of Regional Planning at (213) 974-6401 or rbruckner@planning.lacounty.gov.

JK:RB:NWI:rkl

c: Chief Executive Officer
County Counsel
Director, Department of Regional Planning
Executive Officer, Board of Supervisors

DRAFT

September 20, 2016

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**AUTHORIZE THE ASSESSOR TO
EXECUTE A CONSULTING SERVICES AGREEMENT FOR PHASE II OF THE
ASSESSOR'S MODERNIZATION PROJECT
(ALL DISTRICTS)
(3 VOTES)**

SUBJECT

Request approval to execute a consulting services agreement with Oracle America, Inc. to support Phase II of the Assessor's Modernization Project, and delegation of authority to amend Agreement for various contractual actions during the term of the Agreement.

RECOMMENDATION THAT THE BOARD:

Approve and delegate authority to the Assessor, to execute a consulting services agreement with Oracle America, Inc. (Oracle), effective upon execution, including any necessary subsequent amendments, change orders and optional services, for Phase II of the Assessor's Modernization Project at a maximum amount of \$XX,XXX,XXX which includes a 10% contingency.

PURPOSE AND JUSTIFICATION OF RECOMMENDED ACTIONS

Background

The Assessor's current system environment includes over 120 aging applications that are not well integrated. Many of the mainframe applications were originally implemented between 1965 and 1978. The Assessor conducted an extensive evaluation of Commercial-Off-the-Shelf (COTS) products, including property tax administration and assessment systems and middleware products, and consulted with

Sierra Systems, Gartner and the County Chief Information Office (CIO), to identify two vendors, Oracle America, Inc. (Oracle) and International Business Machines Corporation (IBM) that already had Master Services Agreements (MSA) for middleware products and consulting services with the County. Working closely with CIO and County Counsel, a “targeted solicitation” process was developed under the MSA work order process and proposals from Oracle and IBM were evaluated. The Assessor, with the assistance from the Internal Service Department (ISD), evaluated each of the work order proposals and determined that Oracle’s response proposed a more cost effective and complete solution to address the business needs of the Assessor. County Counsel and outside counsel reviewed the process and concurred with the selection of Oracle.

On June 16, 2015, your Board authorized the Assessor and CIO to execute a work order with Oracle for the development of Phase I of AMP (MSA Work Order). Phase I is part of a five phase agile development project to replace the Assessor’s currently outdated systems. Phase I of AMP establishes the overall enterprise architecture and plan for the entire system, and includes the foundational system components including: the creation and population of a new assessment roll system (Assessment Roll); rewrite of the “Assessor Portal” interface for both personal computers and mobile devices; functionality to store base year value and compute trending for all properties on the Assessment Roll; and a case management pilot designed for secure taxpayer self-service access. The “Go Live” date for AMP Phase I is set for October 2016.

Throughout Phase I, the Assessor has fostered a working relationship with partner departments including the Chief Executive Office (Chief Information Office), ISD, the Auditor-Controller (AC) the Board of Supervisors, the Treasurer and Tax Collector (TTC), the Registrar-Recorder/County Clerk, and County Counsel. The departments have participated in a regular Advisory Steering Committee discussing project status, collaboration and integration points, shared functional roadmaps, and budget. Several modifications to our existing Assessor Portal resulted from these discussions with corresponding changes to the AMP functional roadmap for future phases.

Phase II of AMP will build on the foundations of functionality built in Phase I and provide additional functional components including: property identification, address management and parcel change; foundational elements for master workflows and automation of the new construction process; Prop 13 assessment processing; replacement/modernization of system interfaces with partner Departments (primarily AC and TTC); foundational elements for automating market approach appraisals; and functionality that supports the processing of public service inquiries and assessment exclusions (i.e. miscellaneous Propositions).

Justification for Sole Source Contract

In our extensive evaluation of COTS products and other California Counties' attempts to modernize their property tax assessment systems, we found high project failure rates in medium and large-sized counties throughout the State. One of the foremost reasons was the lack of understanding of California assessment practices by the vendor (even vendors well versed in property tax assessment in general) and the inability of those vendors to adapt their products to comply with California assessment practices. To mitigate this risk, Oracle's staff was co-located with the Assessor's subject matter experts to gain an understanding of the depth complexity of California assessment practices.

Over the past thirteen (13) months, Oracle's architects and technical staff have been onsite working hand-in-hand with Assessor's staff to develop the foundational pieces of AMP, including the complex data structures and business rules needed to support property taxation in the County. Throughout this period and by design, the Assessor has been able to evaluate Oracle's performance on this critical project and make any adjustments necessary for a successful Phase II deployment. Phase II will re-use key Phase I development and architectural artifacts developed by Oracle. Introducing a new vendor to an ongoing project would introduce new risk and significantly disrupt the development process. To negotiate with a new development partner would result in increased costs, higher risks to the County and major delays in project schedule.

The Assessor and Oracle are on target to launch Phase I of AMP by October 2016. The on-site solution and development efforts have resulted in a successful working relationship between Oracle, the Assessor and ISD. The Assessor plans to internally develop key components in Phase II jointly with Oracle. The Assessor, ISD and Oracle have collaborated in the architecture, provisioning and configuration of the multiple technical environments needed to support AMP. Similar to Oracle learning and understanding the Assessor's business, Oracle spent significant time with ISD learning and understanding the County's network infrastructure. Building on this knowledge and maintaining this consistency will allow us to efficiently administer and upgrade existing environments while quickly deploying new environments and enhancements as needed resulting in both time and cost savings.

The Assessor is aggressively targeting to decommission its legacy systems by July 2019. This timeline is dependent on maintaining a consistent and dedicated vendor throughout the early phases of AMP. In both Phase I and Phase II, there is a heavy reliance on training, mentoring and knowledge transfer from Oracle. The Assessor will begin development responsibilities in Phase II, and will increasingly reduce its

dependence on Oracle starting in Phase III with a goal of becoming self-reliant by the end of Phase V. Maintaining a consistent vendor will foster this approach.

Benefits

AMP enables the Assessor, other property tax departments and the public, the ability to access assessment data from the Assessor's data repository using a web-based user interface. AMP provides significant improvements in data transparency, security and audit, information accuracy, and support for future business and compliance requirements. The public has direct access to information and improved service times through call center automation.

AMP aligns functional business objectives with an IT strategy and plan. Phase I of AMP produced the overall enterprise architecture and plan for the entire system. Phase II of AMP will build on the foundations of functionality built in Phase I and provide additional functional components.

Approval of the recommended action will enable the Assessor's Office to obtain professional services on a fixed price deliverable basis as outlined in the attached Agreement for Phase II of AMP. It will also enable the Assessor's Office to obtain optional services as defined in the Agreement (Exhibit I).

Implementation of Strategic Plan Goals

The recommended action supports Goal 1, Operational Effectiveness/Fiscal Sustainability and Goal 2, Community Support and Responsiveness of the County's Strategic Plan.

FISCAL IMPACT/FINANCING

Based on the Oracle fixed price deliverable proposal, the cost for this agreement is \$XX,XXX,XXX. Payment will be made on a fixed price deliverable basis as requested and approved by the Office of the Assessor. Funding for this project is included in the Assessor's Fiscal Year 2016-17 Supplemental Budget Request.

FACTS AND PROVISIONS LEGAL REQUIREMENTS

In accordance with Board Policy 5.100, the Assessor provided notification to the Board on July 14, 2016, four weeks prior to commencing negotiations for a new sole source contract with Oracle. Phase I of AMP has resulted in a successful working relationship

between Oracle, the Assessor, and ISD to provide on-site solutions and development efforts. The Assessor commenced contract negotiations for Phase II of AMP on August 15, 2016. Pursuant to the Board's directive to engage outside counsel for information technology agreements exceeding \$5 million, County Counsel retained the law firm Sidley Austin, LLP, to assist in the negotiation of this recommended Agreement. Accordingly, Sidley Austin, in conjunction with County Counsel, drafted and negotiated the Agreement. In line with the Board's policy, County Counsel has separately submitted to the Board a privileged memorandum which analyzes the Agreement.

The recommended Agreement establishes the negotiated terms and conditions under which Oracle services will be acquired including: i) a statement of work; ii) a schedule of prices and fees; iii) termination provisions; and iv) County standards terms and conditions. The Agreement incorporates provisions previously negotiated in the MSA Work Order. Key issues that were negotiated in the MSA Work Order and have been included in the Agreement are: i) joint ownership to intellectual property rights to the work created under the Agreement; ii) extended warranty period; iii) indemnification rights; and iv) limitation of liability capped at 2x fees paid under the Agreement.

There might be some risk from the negotiated provisions of the Agreement, including the limitation of liability. However, the Assessor believes that such risks are minimal based on several significant factors similar to what has been previously been approved in the MSA Work Order. The Agreement specifies fixed-price deliverables and define acceptance criteria that must be met before payment for any deliverable is made.

Furthermore, acceptance of the deliverables will be subject to acceptance testing by the County to verify that they satisfy the acceptance criteria mutually agreed to by the parties. In addition, the Agreement requires Oracle to transition and document the successful transition of Phase II of AMP to a production environment prior to final acceptance. The County feels that the inclusion of the acceptance testing language along with the list of tasks and deliverables mitigates any risks of liability for increase costs to Oracle, and Assessor will institute mechanisms to provide for timely review of all tasks and deliverables submitted by Oracle.

The Agreement may be terminated for convenience by the County upon 30 days prior written notice. The Assessor negotiated fixed service fees for the duration of the Term, meaning that Oracle may not request increases for said fees unless negotiated in the optional terms. County Counsel has approved the Agreement (Exhibit I) as to form. The Chief Executive Officer (Chief Information Officer) concurs with the Assessor's recommendation and that office's analysis is attached (Exhibit II).

The Assessor has evaluated and determined that the Living Wage Program (County Code Chapter 2.201) does not apply to the recommended Agreement and it is exempt from Proposition A (County Code Chapter 2.121).

CONTRACTING PROCESS

Your Board previously approved a work order to the MSA with Oracle that allowed the Assessor to acquire Oracle database and application server consulting services for Phase I of AMP. On July 14, 2016, pursuant to Board Policy 5.100, the Assessor notified your Board four weeks prior to commencing negotiations for a new sole source contract with Oracle to provide professional services to develop key components in Phase II of AMP. Oracle has agreed to previously negotiated terms from the MSA Work Order to be carried over to the recommended Agreement, and substantially agreed to the County's standard terms and provisions.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of this recommendation will not impact public service or the Assessor's production of the tax roll. Approval will enable the Assessor to continue development of a 21st century state of the art Assessment System.

Respectfully submitted,

JEFFREY PRANG
Assessor

JP:SMH
Enclosures

C: Chief Executive Office
County Counsel
Executive Office, Board of Supervisors