Steering Committee Meeting

August 4, 2020
Special Meeting
of the OCTAP Steering Committee
Tuesday, August 4, 2020, 10:00 AM
Conference Room 07
550 South Main Street
Orange, California

Any person with a disability who requires a modification or accommodation in order to participate in this meeting should contact OCTAP at (949) 654-8294, no less than two (2) business days prior to this meeting to enable OCTAP to make reasonable arrangements to ensure accessibility to this meeting.

Agenda Descriptions

The 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 Steering Committee may take any action deemed appropriate on the agenda item and are not limited in any way by the notice of the recommended action.

Public Availability of Agenda Materials

All documents relative to the items referenced in this agenda are available for public inspection at www.octap.net or through the OCTAP office at 11903 Woodbury Road, Garden Grove, California.

Public Comments on Agenda Items

On March 12, 2020 and March 18, 2020, Governor Gavin Newsom enacted Executive Orders N-25-20 and N-29-20 authorizing a local legislative body to hold public meetings via teleconferencing and make public meetings accessible telephonically or electronically to all members of the public to promote social distancing due to the state and local State of Emergency resulting from the threat of Novel Coronavirus (COVID-19).

In accordance with Executive Order N-29-20, and in order to ensure the safety of Orange County Taxi Administration Program (OCTAP) Steering Committee members Orange County Transportation Authority (OCTA) staff, for the purposes of limiting the risk of COVID-19, in-person public participation at public meetings of the OCTAP Steering Committee and the OCTA will not be allowed during the time period covered by the above-referenced Executive Orders.

Instead, members of the public can listen to AUDIO live streaming of the OCTAP Steering Committee by clicking the below link:

http://www.octa.net/About-OCTA/Who-We-Are/Board-of-Directors/Live-and-Archived-Audio/
Public comments may be submitted for the upcoming Board and Committee meetings by emailing them to OCTAP@octa.net.

If you wish to comment on a specific agenda Item, please include “OCTAP Meeting Public Comments” and identify the Item number in the subject line of your email. All public comments that are timely received will be part of the public record and distributed to the Committee. Public comments will be made available to the public upon request.

In order to ensure that staff has the ability to provide comments to the Committee Members in a timely manner, please submit your public comments as least 30 minutes prior to the start time of the OCTAP Steering meeting.

Any requests for reasonable modification to participate in the meeting should be submitted to OCTAP@octa.net or (949) 654-8294 prior to the meeting.

Call to Order

Roll Call

Introductions

1. Public Comments

Special Calendar

There are no special calendar matters

Consent Calendar (Item 2)

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

2. Approval of Minutes

1 - Of the May 20, 2020, Steering Committee Special Meeting
Regular Calendar

3. Taxicab Company Request for Temporary Modification of Insurance Requirements

Review and discuss a request for temporary modification of OCTAP insurance requirements and provide direction to OCTAP Staff.

Discussion Items

4. Expiration of Current OCTAP Agreement and Next Steps

Update from Andrea West, OCTA Government Relations, on the expiration of the current OCTAP Agreement between the Member Agencies and OCTA and next steps.

5. OCTAP Staff Updates

OCTAP staff will present information and updates.

   A. Current OCTAP Permits
   B. County of Orange John Wayne Airport Taxicab Passenger Trip Fee
   C. Continuing OCTAP Modifications due to the COVID-19 pandemic

6. Committee Representative Reports

Members of the Steering Committee may report on any items within the subject matter jurisdiction of the Steering Committee. No action may be taken on off-agenda items unless authorized by law.

7. Adjournment

No future meetings of the OCTAP Steering Committee are currently scheduled. Future meetings will be scheduled annually by the Committee and will be publicly posted as required by law.
ITEM 1

Public Comments
ITEM 2
Approval Of Minutes
Special Meeting of The OCTAP Steering Committee
Steering Committee Minutes – May 20, 2020

Steering Committee Members Present:

City of Anaheim, David Belmer
City of Fullerton, Ken Domer
City of Garden Grove, Corinne Hoffman
City of Newport Beach, Monique Navarrete
City of Orange, Captain Eric Rosauer, Orange Police Department
County of Orange / John Wayne Airport, Robert Holden

Members Not Present
City of Huntington Beach, Travis Hopkins

Others Present
Cassie Trapesonian, OCTA Legal Counsel
Patrick Sampson, OCTA
Cliff Thorne, OCTA
Lance Larson, OCTA
Andrea West, OCTA
Victor Velasquez, OCTA
Jo-Ann Bravo, OCTA

Call to Order and Introductions

Ken Domer, City of Fullerton, called the May 20, 2020, special meeting of the Orange County Taxi Administration Program (OCTAP) Steering Committee to order at 2:02 PM.

Mr. Domer reminded committee members and members of the public that Governor Gavin Newsom enacted Executive Orders N-25-20 and N-29-20 authorizing a local legislative body to hold public meetings via teleconferencing and make public meetings accessible telephonically or electronically to all members of the public to promote social distancing due to the state and local State of Emergency resulting from the threat of Novel Coronavirus (COVID-19).

In accordance with Executive Order N-29-20, and in order to ensure the safety of Orange County Taxi Administration Program (OCTAP) Steering Committee members Orange County Transportation Authority (OCTA) staff, for the purposes of limiting the risk of COVID-19, in-person public participation at public meetings of the OCTAP Steering Committee and the OCTA will not be allowed during the time period covered by the above-referenced Executive Orders.
Introductions

A roll call attendance was conducted for Steering Committee members, and OCTA participating staff provided introductions through remote attendance to the meeting. It was determined that there was a quorum of the Steering Committee members.

1. Public Comments

A public comment was received from Dave Haley, CEO of American Business Insurance Solutions, for item number 4. The comment was read into the record during item number 4.

Special Calendar

There are no special calendar matters

Consent Calendar (Item 2)

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

2. Approval of Minutes

1 - Of the December 12, 2019, Steering Committee Special Meeting

A motion to approve OCTAP Consent Calendar items was made by Monique Navarrete, City of Newport Beach, and seconded by Corinne Hoffman, City of Garden Grove. The motion passed unanimously.

Regular Calendar

3. Notification of Yellow Cab Company of Greater Orange County Closure

Patrick Sampson, OCTA Manager of Taxi Administration, presented information related to the notification that Yellow Cab Company of Greater Orange County will be ceasing operations on May 31, 2020. Steering Committee members discussed the potential impact to the availability of taxicab services and OCTAP revenues.

A motion to receive and file the item was made by David Belmer, City of Anaheim, and seconded by Corinne Hoffman, City of Garden Grove. The motion passed unanimously.
4. Taxicab Company Request for Temporary Modification of Insurance Requirements

Patrick Sampson, OCTA Manager of Taxi Administration, presented a request for temporary modification of OCTAP insurance requirements. Steering Committee Members discussed the request, the potential impact to the cities if modified, the potential impact to taxicab companies if not modified, and the desire to try and level the playing field between taxicabs and TNCs.

A public comment was submitted by Dave Haley, CEO of American Business Insurance Services. Mr. Haley commented (summarized) that it is imperative that taxicab vehicle availability is maintained to respond to requests for service and provide on-demand (walk up) service for Orange County residents and travelers who rely on the service. Mr. Haley continued that it is important that insurance requirements are revised to stop the collapse, which is what has been done in other cities. Mr. Haley concluded that he didn’t see any real meaningful recovery until at least Quarter 2 of 2021, and that the only meaningful reduction in price from $1 Million does not start unless we get liability insurance to the 100/300/50 level.

Steering Committee members discussed the request and Steering Committee Member ability (or inability) to consider such changes without consulting their City Manager and/or Risk Manager. It was also discussed that under the OCTAP model all OCTAP Member Agencies would need to support and adopt any temporary or permanent modifications to the OCTAP Regulations before they could be implemented.

Steering Committee members commented on the desire to level the playing field between taxicabs and Transportation Network Companies (TNC), reviewed the OCTAP taxicab company request against Public Utilities Commission (PUC) insurance requirements for TNCs, commented that the request submitted by taxicab companies appears to be lower than PUC requirements for TNC’s, and expressed concern about possibly lowering insurance requirements below those required of TNC operators. Corinne Hoffman, City of Garden Grove, commented that the insurance requirements is one of the areas that was reviewed and considered during the most recent regulation review that was completed about 18-months ago. Robert Holden, County of Orange, commented that any taxicab companies that have a contract to operate at John Wayne Airport must still carry $1 million insurance policy. OCTA Legal Counsel Cassie Trapesonian commented that members must seek advice from their cities and that any temporary or permanent modifications would apply to all taxicab companies, not just the companies making the request.

After additional discussion, Committee Members expressed a desire to consider modifying insurance requirements to the same level required for TNCs, to help level the playing field with TNCs. A multi-part motion was made by Chairman Domer, City of Fullerton, to:
a) Advise all taxicab companies that the Steering Committee is giving strong consideration to temporarily reduce liability insurance requirements to be similar to those required of TNCs, and

b) Request letters from the taxicab companies addressed to the Steering Committee Chair, Ken Domer, specifically explaining if/how reducing insurance levels to be similar to TNC’s or lower would help the taxicab company, and

c) Schedule a follow-up meeting of the OCTAP Steering Committee in approximately 4 weeks.

The motion was seconded by David Belmer, City of Anaheim, and passed unanimously.

Discussion Items

5. Expiration of Current OCTAP Agreement and Next Steps

Andrea West, OCTA Government Relations, reminded committee members that current cooperative agreements with the participating cities will expire on December 31, 2020, and that OCTA previously requested a commitment from the member agencies by April 2020, if they would like OCTA to continue administration of the program, so appropriate budget requests and staffing levels can be adjusted.

Ms. West continued that, considering Orange County City Managers Association (OCCMA) challenges of meeting as a result of COVID-19 social distancing requirements, OCTA is requesting direction from the member agencies by June 30, 2020 of whether to continue administering OCTAP on behalf of the member agencies beyond the expiration of the cooperative agreement, which automatically terminates after December 31, 2020.

A motion to receive and file the item was made by Corinne Hoffman, City of Garden Grove, and seconded by Captain Eric Rosauer, City of Orange Police Department. The motion passed unanimously.

6. OCTAP Staff Updates

OCTAP staff will present information and updates.

   A. County of Orange John Wayne Airport Taxicab Passenger Trip Fee

   B. OCTAP Driver Permit Application Process Modifications due to COVID-19

Patrick Sampson, OCTA Manager of Taxi Administration, presented information and updates on a proposed modification to a County of Orange John Wayne Airport Taxicab Passenger Trip Fee and reviewed OCTAP Driver Permit Application process modifications implemented due to the COVID-19 Pandemic.
7. Committee Representative Reports

There were no committee representative reports.

8. Adjournment

The meeting was adjourned at 3:19 PM. No future meetings of the OCTAP Steering Committee are currently scheduled. Future meetings will be scheduled annually by the Committee and will be publicly posted as required by law.
ITEM 3
Taxicab Company Request
August 4, 2020

To: OCTAP Steering Committee

From: Patrick Sampson, Manager of Taxi Administration

Subject: Taxicab Company Request for Temporary Modification of Insurance Requirements

Overview

Orange County Taxi Administration Program (OCTAP) Regulations define minimum taxicab company, taxicab vehicle, and taxicab driver permitting requirements, and authorized fares, as required by State law. The Regulations also establish minimum safety and service standards for the operation of taxicabs and consolidate the permitting of taxicab transportation service for multiple jurisdictions within Orange County.

The OCTAP Regulations are approved by the Steering Committee and adopted into municipal codes by the legislative bodies of each of the 33 participating cities and the County of Orange (Member Agencies) to regulate taxicab service within the jurisdiction of each Member Agency. The Member Agencies enforce the OCTAP Regulations through their respective law enforcement and code enforcement departments.

Section 2.1.3 of the OCTAP Regulations currently requires permitted taxicab companies to provide a Certificate of Insurance and Policy Binder showing that vehicles permitted under the company are insured for a minimum combined single limit of one million dollars ($1,000,000) for the injury or death of one or more persons in the same accident and one hundred thousand dollars ($100,000) for injury or destruction of property with an insurer with a minimum AM Best Rating of A-7. Insurance deductibles may also not exceed ten thousand dollars ($10,000). The OCTAP Regulations require that each OCTAP Member Agency and the Orange County Transportation Authority (OCTA) is named as an additional insured.

On May 20, 2020, the OCTAP Steering Committee reviewed a request from the two largest OCTAP-permitted taxicab companies requesting a temporary modification to OCTAP liability insurance requirements. They indicated that the request is aimed to help reduce overhead expenses to a more manageable level during the COVID-19 pandemic, which has resulted in significant reductions in travel and tourism in Orange County. The companies expressed concern that a number of taxicab
companies may not be able to survive through the economic downturn created by the COVID-19 pandemic, resulting in significant reductions in the availability of taxicab vehicles for Orange County residents and travelers who rely on the services. The companies indicated that the request is also aimed at reducing the disparity in insurance requirements between taxicab companies and Transportation Network Companies, such as Uber and Lyft.

A summary of the specific request is provided as follows:

- Commercial liability coverage of $100,000 per person / $300,000 per accident for the injury or death of one or more persons in the same accident, and $50,000 for injury or destruction of property while transporting passengers.

- California State minimum insurance levels of $15,000 per person / $30,000 per accident for the injury or death of one or more persons in the same accident, and $5,000 for injury or destruction of property when roaming or sitting at a taxi stand waiting for business.

- California State minimum insurance levels of $15,000 per person / $30,000 per accident for the injury or death of one or more persons in the same accident, and $5,000 for injury or destruction of property when off duty (not roaming for pickup or sitting at a taxi stand waiting for business).

- That off duty coverage be provided by the driver with their own personal or commercial coverage policy.

- That the insurance company offering the taxi policy coverage must be authorized by the State of California to write (admitted or non-admitted) insurance policies within the state.

The companies requested that temporary relief be offered through December 31, 2020 and asked the Steering Committee to consider a permanent modification to insurance requirements.

Pursuant to Section 10.2 of the OCTAP Regulations, any substantive amendments to the OCTAP Regulations must be recommended by the Steering Committee and adopted by the Member Agencies. Therefore, any permanent modifications to OCTAP insurance requirements must be approved by the legislative body of each Member Agency. If the Steering Committee recommends any temporary
modifications to insurance requirements, OCTAP must receive written authorization from the City Manager of each Member Agency.

**Discussion**

On June 22, 2020, the Steering Committee Chairman sent a letter to all OCTAP-permitted taxicab companies outlining a proposed temporary modification that the Steering Committee might consider in order to provide some relief to permitted taxicab companies while providing commercial liability insurance requirements that protect the public. The Chairman requested written responses from permitted taxicab companies specifically outlining how the proposed modifications would impact their company, if approved.

A copy of the Chairman’s letter is included as Attachment A. The minimum coverage requirements being considered by the Steering Committee are as follows:

- Taxicab companies may elect to provide split-level coverage from an admitted insurance carrier authorized to write commercial liability policies in California.

- Company-provided split-level commercial liability coverage must provide in the minimum defined levels during the periods identified below:
  
  o Commercial liability coverage of at least $1,000,000 for personal injury, death, or property damage and at least $1,000,000 uninsured and underinsured motorist coverage while the driver/vehicle is traveling to a pre-scheduled trip, and while a passenger is in the vehicle until the passenger exits the vehicle. (Comparable to PUC Article 7 – 5432(b)(1) and 5432(b)(2) requirements)

  o Principal commercial liability coverage of at least $50,000 per person / $100,000 per incident for injury or death of a person; $30,000 per incident for property damage; and $200,000 excess liability coverage per occurrence to cover any liability in excess of the principal coverage limits while not traveling to a pre-scheduled trip and not carrying a passenger. (Comparable to PUC Article 7 – 5432(c)(1) and 5432(c)(2) requirements)

  o Each OCTAP Member agency, the Orange County Transportation Authority, and their designated representatives would be required to
Taxicab Company Request for Temporary Modification of Insurance Requirements

be named as additional insureds on the company commercial liability insurance policy.

On July 1, 2020, a response was received from California Yellow Cab (CABCO). CABCO stated that Auto Liability Insurance is the single largest operating expense of any taxicab company, and that the adoption of the split-level coverage considered in the Chairman’s letter would go a long way toward balancing the competitive advantage currently enjoyed by Transportation Network Companies (TNC) like Uber and Lyft.

CABCO also stated that the current considerations should not be the entire discussion, citing that the allowance for TNC’s to have drivers provide their own (separate) insurance coverage when not in service as a for-hire vehicle is an item that is not included in the Steering Committee consideration. CABCO recommended that the Steering Committee work with insurance company experts to craft insurance regulations for the long term, not just during these unprecedented times. A copy of the CABCO letter is included as Attachment B.

Recommendation

OCTAP Staff does not provide any recommendation on the merits of the proposed insurance reduction request. However, Staff is aware that many public and private entities contract with OCTAP-permitted taxi companies to provide transportation services in Orange County. Any proposed changes to the OCTAP insurance requirements are independent of any contractual insurance requirements that a public or private entity may have with an OCTAP-permitted company. While the OCTAP Regulations define the minimum requirements to operate a taxicab in Orange County, public and private entities may require insurance levels that exceed the proposed temporary modification.

Staff recommends that the Steering Committee review and discuss the request for temporary modification of OCTAP insurance requirements. Any temporary change to the insurance requirements through December 31, 2020 will require written approval to OCTAP from the City Manager or Chief Executive Officer of each Member Agency. Should the Steering Committee wish to consider permanent modifications to OCTAP insurance requirements, OCTAP Staff recommends that the Steering Committee develop a plan of action and timeline for considering a modification to the OCTAP Regulations and provide direction to OCTAP Staff. As mentioned above, any permanent changes to the OCTAP Regulations must be approved by the legislative body of each Member Agency.
Impacts on OCTAP Operations

While OCTAP does not provide any recommendation, there are potential impacts to OCTAP’s operations that may impact the costs of administering the OCTAP program. As previously advised, OCTAP has significantly reduced operations in light of the declining revenues from the taxi industry and the resulting costs to the Member Agencies. Any changes in insurance requirements may require an increased level of effort from OCTAP Staff to track company and individual driver-provided policies covering both on and off-duty activities, resulting in increased administrative costs for the Member Agencies.

Attachments:

Attachment A - Steering Committee Chairman Letter to Permitted Taxicab Companies

Attachment B - California Yellow Cab Company Letter to the Steering Committee Chair.
June 22, 2020

To: All OCTAP Permitted Taxicab Companies  
From: Ken Domer, Chairman, OCTAP Steering Committee  
Subject: Proposed Temporary Modification to OCTAP Insurance Requirements

Orange County Taxi Administration Program (OCTAP) Regulations define minimum taxicab company, taxicab vehicle, and taxicab driver permitting requirements, and authorized fares, as required by State law. The Regulations also establish minimum safety and service standards for the operation of taxicabs and consolidate the permitting of taxicab transportation service for multiple jurisdictions within Orange County.

Section 2.1.3 of the OCTAP Regulations currently require permitted taxicab companies to provide a Certificate of Insurance and Policy Binder showing that vehicles permitted under the company are insured for a minimum combined single limit of one million dollars ($1,000,000) for the injury or death of one or more persons in the same accident and one hundred thousand dollars ($100,000) for injury or destruction of property with an insurer with a minimum AM Best Rating of A-7. Insurance deductibles may also not exceed ten thousand dollars ($10,000). The OCTAP Regulations also require that the Orange County Transportation Authority, each OCTAP Member Agency, and certain representatives are named as an additional insured on each policy.

On Wednesday, May 20, 2020, the OCTAP Steering Committee reviewed a request for a temporary modification of OCTAP Insurance Requirements to help permitted taxicab companies work through unprecedented reductions in travel and tourism and the resulting economic downturn created by the COVID-19 pandemic. The OCTAP Steering Committee is considering a temporary modification of OCTAP insurance requirements to levels comparable to those required for Transportation Network Companies (TNC) regulated by the California Public Utilities Commission (CPUC). The Steering Committee is seeking taxicab company input as to the specific impact that such a change would have on your taxicab company, if any.

The minimum coverage requirements being considered, which are comparable to CPUC requirements for TNCs, are as follows:

Attachment A
1) Taxicab companies may elect to provide split-level coverage from an admitted insurance carrier authorized to write commercial liability policies in California.

2) Company-provided split-level commercial liability coverage must provide in the minimum defined levels during the periods identified below:

   a) Commercial liability coverage of at least $1,000,000 for personal injury, death, or property damage and at least $1,000,000 uninsured and underinsured motorist coverage while the driver/vehicle is traveling to a pre-scheduled trip, and while a passenger is in the vehicle until the passenger exits the vehicle. (Comparable to PUC Article 7 – 5432(b)(1) and 5432(b)(2) requirements)

   b) Principal commercial liability coverage of at least $50,000 per person / $100,000 per incident for injury or death of a person; $30,000 per incident for property damage; and $200,000 excess liability coverage per occurrence to cover any liability in excess of the principal coverage limits while not traveling to a pre-scheduled trip and not carrying a passenger. (Comparable to PUC Article 7 – 5432(c)(1) and 5432(c)(2) requirements)

   c) Each OCTAP Member agency, the Orange County Transportation Authority, and their designated representatives would be required to be named as additional insured on the company commercial liability insurance policy.

3) Should a taxicab company elect not to provide split-level coverage, full-time commercial liability coverage with a combined single limit of $1,000,000 for the injury or death of one or more persons in the same accident and $100,000 for property damage, with an deductible not to exceed $10,0000 obtained from an admitted insurer with a minimum AM Best Rating of A-7 would be required. Each OCTAP Member agency and the Orange County Transportation Authority would be required to be named as additional insured on the company commercial liability insurance policy. (Current OCTAP requirement).

No changes to the insurance requirements have been approved at this time. However, the Steering Committee would like to understand how the proposed temporary insurance modifications outlined above would impact your company, if approved. If you wish to provide input to be considered at the next OCTAP Steering Committee meeting, please provide a letter addressed to the OCTAP Steering Committee Chairman, Ken Domer, by July 2, 2020 specifically detailing how the proposed change will affect your business. Please be advised that any information you provide will become public record and may be publicly discussed at an OCTAP Steering Committee meeting. Letters should be emailed to OCTAP@octa.net so that they may be forwarded to me and to the Steering Committee. If you have any questions in the meantime, please contact Patrick Sampson, Manager of Taxi Administration, at PSampson@octa.net or (714) 560-5425.

Sincerely,

Ken Domer
Chairman, OCTAP Steering Committee

Attachment: California Public Utilities Code, Article 7 (TNC Insurance)
AB-2293 Transportation network companies: insurance coverage. (2013-2014)

As Amends the Law Today

SECTION 1. Article 7 (commencing with Section 5430) is added to Chapter 8 of Division 2 of the Public Utilities Code, to read:

Article 7. Transportation Network Companies

5430. Notwithstanding any other provision of this chapter, this article shall apply to transportation network companies.

5431. (a) As used in this article, a "transportation network company" is an organization, including, but not limited to, a corporation, limited liability company, partnership, sole proprietor, or any other entity, operating in California that provides prearranged transportation services for compensation using an online-enabled application or platform to connect passengers with drivers using a personal vehicle.

(b) As used in this article, "participating driver" or "driver" is any person who uses a vehicle in connection with a transportation network company’s online-enabled application or platform to connect with passengers.

(c) As used in this article, "transportation network company insurance” is a liability insurance policy that specifically covers liabilities arising from a driver’s use of a vehicle in connection with a transportation network company’s online-enabled application or platform.

5432. (a) A transportation network company shall disclose in writing to participating drivers, as part of its agreement with those drivers, the insurance coverage and limits of liability that the transportation network company provides while the driver uses a vehicle in connection with a transportation network company’s online-enabled application or platform, and shall advise a participating driver in writing that the driver’s personal automobile insurance policy will not provide coverage because the driver uses a vehicle in connection with a transportation network company’s online-enabled application or platform.

(b) A transportation network company shall also disclose in writing to participating drivers, as part of its agreement with those drivers, that the driver’s personal automobile insurance policy will not provide collision or comprehensive coverage for damage to the vehicle used by the driver from the moment the driver logs on to the transportation network company’s online-enabled application or platform to the moment the driver logs off the transportation network company’s online-enabled application or platform.

(c) This section shall become operative on July 1, 2015.

5433. (a) A transportation network company and any participating driver shall maintain transportation network company insurance as provided in this section.

(b) The following requirements shall apply to transportation network company insurance from the moment a participating driver accepts a ride request on the transportation network company’s online-enabled application or platform until the driver completes the transaction on the online-enabled application or platform or until the ride is complete, whichever is later:

(1) Transportation network company insurance shall be primary and in the amount of one million dollars ($1,000,000) for death, personal injury, and property damage. The requirements for the coverage required by this subdivision may be satisfied by any of the following:

(A) Transportation network company insurance maintained by a participating driver.

(B) Transportation network company insurance maintained by a transportation network company.
(C) Any combination of subparagraphs (A) and (B).

(2) Transportation network company insurance coverage provided under this subdivision shall also provide for uninsured motorist coverage and underinsured motorist coverage in the amount of one million dollars ($1,000,000) from the moment a passenger enters the vehicle of a participating driver until the passenger exits the vehicle. The policy may also provide this coverage during any other time period, if requested by a participating driver relative to insurance maintained by the driver.

(3) The insurer, in the case of insurance coverage provided under this subdivision, shall have the duty to defend and indemnify the insured.

(4) A transportation network company may meet its obligations under this subdivision through a policy obtained by a participating driver pursuant to subparagraph (A) or (C) of paragraph (1) only if the transportation network company verifies that the policy is maintained by the driver and is specifically written to cover the driver’s use of a vehicle in connection with a transportation network company’s online-enabled application or platform.

(c) The following requirements shall apply to transportation network company insurance from the moment a participating driver logs on to the transportation network company’s online-enabled application or platform until the driver accepts a request to transport a passenger, and from the moment the driver completes the transaction on the online-enabled application or platform or the ride is complete, whichever is later, until the driver either accepts another ride request on the online-enabled application or platform or logs off the online-enabled application or platform:

(1) Transportation network company insurance shall be primary and in the amount of at least fifty thousand dollars ($50,000) for death and personal injury per person, one hundred thousand dollars ($100,000) for death and personal injury per incident, and thirty thousand dollars ($30,000) for property damage. The requirements for the coverage required by this paragraph may be satisfied by any of the following:

(A) Transportation network company insurance maintained by a participating driver.

(B) Transportation network company insurance maintained by a transportation network company that provides coverage in the event a participating driver’s insurance policy under subparagraph (A) has ceased to exist or has been canceled, or the participating driver does not otherwise maintain transportation network company insurance pursuant to this subdivision.

(C) Any combination of subparagraphs (A) and (B).

(2) A transportation network company shall also maintain insurance coverage that provides excess coverage insuring the transportation network company and the driver in the amount of at least two hundred thousand dollars ($200,000) per occurrence to cover any liability arising from a participating driver using a vehicle in connection with a transportation network company’s online-enabled application or platform within the time periods specified in this subdivision, which liability exceeds the required coverage limits in paragraph (1).

(3) The insurer providing insurance coverage under this subdivision shall be the only insurer having the duty to defend any liability claim arising from an accident occurring within the time periods specified in this subdivision.

(4) A transportation network company may meet its obligations under this subdivision through a policy obtained by a participating driver pursuant to subparagraph (A) or (C) of paragraph (1) only if the transportation network company verifies that the policy is maintained by the driver and is specifically written to cover the driver’s use of a vehicle in connection with a transportation network company’s online-enabled application or platform.

(d) Coverage under a transportation network company insurance policy shall not be dependent on a personal automobile insurance policy first denying a claim nor shall a personal automobile insurance policy be required to first deny a claim.

(e) In every instance where transportation network company insurance maintained by a participating driver to fulfill the insurance obligations of this section has lapsed or ceased to exist, the transportation network company shall provide the coverage required by this section beginning with the first dollar of a claim.

(f) This article shall not limit the liability of a transportation network company arising out of an automobile accident involving a participating driver in any action for damages against a transportation network company for an amount above the required insurance coverage.

(g) This section shall become operative on July 1, 2015.
5434. (a) Nothing in this section shall be construed to require a private passenger automobile insurance policy to provide primary or excess coverage during the period of time from the moment a participating driver in a transportation network company logs on to the transportation network company’s online-enabled application or platform until the driver logs off the online-enabled application or platform or the passenger exits the vehicle, whichever is later.

(b) During the period of time from the moment a participating driver in a transportation network company logs on to the transportation network company’s online-enabled application or platform until the driver logs off the online-enabled application or platform or the passenger exits the vehicle, whichever is later, all of the following shall apply:

(1) The participating driver’s or the vehicle owner’s personal automobile insurance policy shall not provide any coverage to the participating driver, vehicle owner, or any third party, unless the policy expressly provides for that coverage during the period of time to which this subdivision is applicable, with or without a separate charge, or the policy contains an amendment or endorsement to provide that coverage, for which a separately stated premium is charged.

(2) The participating driver’s or the vehicle owner’s personal automobile insurance policy shall not have the duty to defend or indemnify for the driver’s activities in connection with the transportation network company, unless the policy expressly provides otherwise for the period of time to which this subdivision is applicable, with or without a separate charge, or the policy contains an amendment or endorsement to provide that coverage, for which a separately stated premium is charged.

(c) Notwithstanding any other law, a personal automobile insurer may, at its discretion, offer an automobile liability insurance policy, or an amendment or endorsement to an existing policy, that covers a private passenger vehicle, station wagon type vehicle, sport utility vehicle, or similar type of vehicle with a passenger capacity of eight persons or less, including the driver, while used in connection with a transportation network company’s online-enabled application or platform only if the policy expressly provides for the coverage during the time period specified in subdivision (b), with or without a separate charge, or the policy contains an amendment or an endorsement to provide that coverage, for which a separately stated premium may be charged.

(d) This section shall become operative on July 1, 2015.

5435. In a claims coverage investigation, a transportation network company or its insurer shall cooperate with insurers that are involved in the claims coverage investigation to facilitate the exchange of information, including the provision of dates and times at which an accident occurred that involved a participating driver and the precise times that the participating driver logged on and off the transportation network company’s online-enabled application or platform.

5436. The commission and the Department of Insurance shall collaborate on a study of transportation network company insurance to assess whether coverage requirements are appropriate to the risk of transportation network company services in order to promote data-driven decisions on insurance requirements, and shall report the findings of this study to the Legislature no later than December 31, 2017.

5437. A transportation network company shall not disclose to a third party any personally identifiable information of a transportation network company passenger unless one of the following applies:

(1) The customer knowingly consents.

(2) Pursuant to a legal obligation.

(3) The disclosure is to the commission in order to investigate a complaint filed with the commission against a transportation network company or a participating driver and the commission treats the information under confidentiality protections.

5438. It is the intent of the Legislature that the Department of Insurance expedite review of any application for approval of transportation network company insurance products, and that these products become available for purchase on or before July 1, 2015.

5439. Transportation network company insurance that meets the requirements of Section 5433 shall be deemed to satisfy the financial responsibility requirements of Sections 16054 and 16056 of the Vehicle Code.

5440. The Legislature makes the following findings:
(a) The commission has initiated regulation of transportation network companies as a new category of charter-party carriers and continues to develop appropriate regulations for this new service.

(b) Given the rapidly evolving transportation network company service, it is the intent of the Legislature to continue ongoing oversight of the commission’s regulation of these services in order to enact legislation to adjust commission authority and impose specific requirements or prohibitions as deemed necessary as these services evolve.

5441. The Legislature does not intend, and nothing in this article shall be construed, to prohibit the commission from exercising its rulemaking authority in a manner consistent with this article, or to prohibit enforcement activities related to transportation network companies.

5442. A participating driver of a transportation network company shall carry proof of transportation network company insurance coverage with him or her at all times during his or her use of a vehicle in connection with a transportation network company’s online-enabled application or platform. In the event of an accident, a participating driver shall provide this insurance coverage information to any other party involved in the accident, and to a police officer, upon request.

5443. Notwithstanding Section 11580.9 of the Insurance Code, or any other law affecting whether one or more policies of insurance that may apply with respect to an occurrence is primary or excess, this article determines the obligations under insurance policies issued to transportation network companies and, if applicable, drivers using a vehicle in connection with a transportation network company’s online-enabled application or platform.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.
OCTAP Steering Committee  
Att: Chairman Ken Domer  
11903 Woodbury Road  
Garden Grove, CA. 92843  

July 1, 2020

RE: Proposed Temporary Modification to OCTAP Insurance Requirements

Dear Mr. Domer,

I am in receipt of your letter dated June 22, 2020, in which you describe those insurance modifications being considered by the Orange County Taxi Administration Program - Steering Committee. While it is encouraging to know that there is an interest in bringing the insurance requirements more in-line with those of the State regulated TNC’s, to deem these changes “temporary” does little to resolve the inequity our industry has been burdened with for the last six years. Auto liability insurance is by far, the single biggest operating expense of any taxicab company, more than double that of any other item in our operating budget. To compete with the TNC’s and their distinct advantage with regard to required coverages has proven to be the “last straw” for many taxi companies, including Orange County’s largest, Yellow Cab of Greater Orange County.

The adoption of the “split level” of coverages outlined in your letter would go a long way to balancing the competitive advantage currently enjoyed by the TNC’s but it should not be the entire discussion. Possibly the clearest example of the inequity of these regulations and one not included in your letter is the Public Utility Commission TNC regulation: Section 5433 2 (c) that allows for the drivers own insurance to cover the vehicle when not in service as a vehicle-for-hire.

Despite the current conditions brought about by the Covid-19 pandemic, we continue to see a demand for our services in both the public and private sector. I would like to think that California Yellow Cab will continue to service these passengers long into the future, just as we have for the past 25 years.
In order to make that a possibility we need the Steering Committee to work with insurance company experts to craft regulations for the long-term, and not just during these unprecedented times. Again, thank you for addressing this matter, and I look forward to further discussion.

Sincerely,

Tim Conlon – Cabco Yellow Inc.
ITEM 4

Expiration of Current OCTAP Agreements and Next Steps
August 4, 2020

To: Orange County Taxi Administration Program Steering Committee
From: Lance Larson, Executive Director, External Affairs
Subject: Expiration of Current OCTAP Agreements and Next Steps

Overview

In October of 2018, the Orange County Transportation Authority Board of Directors directed staff to approve a cooperative agreement with Orange County cities and the County of Orange for the administration of the Orange County Taxi Administration Program from January 1, 2019 through December 31, 2020. With these agreements expiring at the end of 2020, determinations need to be made on whether OCTA will continue to administer the program on behalf of the member agencies.

Recommendation

Receive and file as an information item.

Background

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.

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, 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.
With Governor Brown’s signing of taxi regulation legislation in AB 1069 (Chapter 753, Statutes of 2017) and AB 939 (Chapter 472, Statutes of 2018), OCTAP, as it previously existed, could not continue. Per OCTA Board direction, new agreements with OCTAP member agencies were executed and a new OCTAP structure was established including the formation of the OCTAP Steering Committee which was established by the member agencies.

OCTA has agreed to continue to administer OCTAP beginning January 1, 2019, for an initial term of two years, through December 31, 2020. Agreements have been executed with 34 of the 35 member agencies—one agency has declined to participate.

**Discussion**

With the expiration of the current agreements on the horizon, OCTA previously requested a commitment from the member agencies by April 2020, if they would like OCTA to continue administration of the program, so appropriate budget requests and staffing levels can be adjusted. Should the member agencies request that OCTA continue to administer the program, it’s proposed to extend the program from January 1, 2021 to June 30, 2023 to align the agreements with the fiscal year for budget planning purposes.

In addition, if the program continues to be administered by OCTA, there are potential efficiencies OCTA would like to address regarding the collection of dues from OCTAP member agencies. One proposal is that OCTAP dues may be withheld from the first Measure M2 fair share payment of the fiscal year for the duration of the agreement in lieu of a separate transaction. While this recommendation is optional, it does require a unanimous decision from all member agencies to be implemented.

**Summary**

OCTA originally requested direction from the member agencies by April 30, 2020 of whether to continue administering OCTAP on behalf of the member agencies beyond the expiration of the cooperative agreement, which automatically terminates after December 31, 2020. This deadline was extended due to the COVID 19 pandemic. Direction was requested again by June 30, 2020, and still has not been received. Direction from the member agencies is now requested by August 14, 2020. Should OCTA not receive direction from the member agencies by August 14, 2020, OCTA will begin the process of terminating the administration of the OCTAP program effective January 1, 2021.
If OCTA continues to administer the program, two efficiencies are being recommended for discussion — extend the current agreements for a period of two and a half years to align with the fiscal year, and discuss the potential collection of dues from member agencies through withholding of Measure M2 fair share payments rather than a separate transaction.

These items are being presented for discussion at this time, and a final recommendation will be brought to a future meeting of the Steering Committee.

**Attachment**

Attachment A – City Contribution Estimate

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**Prepared by:** Andrea West  
Manager, Local Government Relations  
714-560-5611

**Approved by:** Lance Larson  
Executive Director, External Affairs  
714-561-5908
# Orange County Taxi Administration Program (OCTAP) City Contribution

**2 Year Estimate - Cities and Taxi Companies Split Expenses**  
**Jan 2019 - Jun 2021**

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<th>City</th>
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