



DATE: May 9, 2016

AGENDA ITEM # 5

**TO:** North County Library Authority (NCLA) Commission

**FROM:** Kim Juran-Karageorgiou, Staff Liaison

**SUBJECT:** NCLA Investment Authorization

**RECOMMENDATION:**

Adopt Resolution 2016-03 authorizing designated officers to invest monies in the Santa Clara County Commingled Pool

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**BACKGROUND**

The North County Library Authority (NCLA) has been accumulating a fund balance of excess revenues over expenditures since the approval of Measure L by voters in June 2010. At the end of the most recent fiscal year ending June 30, 2015 the NCLA unassigned fund balance totaled \$2,647,630. These funds are currently invested in the State Local Agency Investment Fund (LAIF), which had an average annual yield of .269 in the 2014/15 fiscal year.

**DISCUSSION**

At the February 22, 2016 meeting, the commission directed staff to bring back a resolution authorizing investment of NCLA funds in the Santa Clara County Commingled Pool ("Investment Pool"). The attached resolution authorizes the NCLA Administrative Officer (Los Altos Interim City Manager) and/or Authority Treasurer (Los Altos Administrative Services Director) to execute the attached agreement with Santa Clara County.

The Santa Clara County Commingled Pool is maintained by the County Treasurer. The County's Finance Director serves as the County Treasurer. This position is appointed by the County Executive Officer. The Treasurer has delegated authority to invest to the County's Portfolio Manager, Ms. Jacqueline Flippin. Ms. Flippin has managed the County investment pool for 11 years.

The Investment Pool monthly investment reports are prepared and presented to the Board of Supervisors. An Oversight Committee, consisting of both County employees and members of the public review the investment policy on at least an annual basis. The investment policy is approved by the Board of Supervisors on an annual basis. In addition, FTN Main Street Capital, an outside firm, oversees the investment pool on a monthly basis for compliance with the policy. Further, the County's auditor (Macias, Gini & O'Donnell) performs a thorough audit of the investment pool on an annual basis.

Jacqueline A. Flippin is a Fixed Income Portfolio Manager for the County of Santa Clara where she directly manages all County investments including the County's collective investment pool and separate accounts. Prior to joining the County in March 2005, Jacqueline worked as a Fixed Income Portfolio Manager for Wells Capital Management (institutional asset management subsidiary of Wells Fargo), McMorgan and Co (subsidiary of New York Life) and TIAA-CREF (largest private U.S. pension fund) in New York. Over the course of her career, Jacqueline has developed expertise in mortgage backed securities and managing total rate of return portfolios for pension funds which were measured against broad bond market indices. Jacqueline earned a BA from Northwestern University and a MBA in finance from New York University and currently resides in the East Bay.

**ATTACHMENTS:**

- A. Resolution 2016-03
- B. Santa Clara County Investment Pool Disclosure and Agreement for Voluntary Deposits

**RESOLUTION NO. 2016-03**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NORTH COUNTY LIBRARY AUTHORITY AUTHORIZING INVESTMENT OF FUNDS IN THE COUNTY OF SANTA CLARA INVESTMENT POOL**

**WHEREAS**, the Board of Directors of the North County Library Authority desires additional investment options in addition to the Local Agency Investment Fund to maximize investment returns; and

**WHEREAS**, the Board of Directors has the legal authority to invest its funds in the County of Santa Clara Investment Pool (“County Investment Pool”) and does hereby find that the deposit and withdrawal of money in the County Investment Pool for the purpose of investment as stated therein in addition to the Local Agency Investment Fund are in the best interests of the North County Library Authority; and

**WHEREAS**, the funds that North County Library Authority intends to invest in the County Investment Pool qualify in all other respects for investment in the County Investment Pool.

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of Directors of the North County Library Authority as follows:

1. Investment of North County Library Authority funds in the County Investment Pool is hereby authorized;
2. The authority to execute the County of Santa Clara Investment Pool Disclosure and Agreement for Voluntary Deposits on behalf of North County Library Authority pursuant to Government Code Section 27133(g) is hereby delegated to the Administrative Officer (Los Altos City Manager) and Authority Treasurer (Los Altos Administrative Services Director/Finance Director);
3. The authority to make deposits and withdrawals of North County Library Authority funds in the County Investment Pool is hereby delegated to the Administrative Officer and Authority Treasurer.

The above and foregoing resolution was duly and regularly introduced and adopted at a meeting of Board of the North County Library Authority held on the 9th day of May 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Jan Pepper, PRESIDENT

Attest:

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Jon Maginot, AUTHORITY CLERK

**County of Santa Clara Investment Pool**  
**Disclosure and Agreement for Voluntary Deposits**

This Agreement is between the County of Santa Clara Treasurer (“County Treasurer”) and \_\_\_\_\_ (“Depositor”) relating to the Depositor’s voluntary deposit of funds in the County of Santa Clara Investment Pool (“Investment Pool”).

A. Description of Investment Pool

1. The County Treasurer maintains an Investment Pool for the investment of funds of the County of Santa Clara (“County”) and certain other public entities within Santa Clara County.

2. Investment of the funds in the Investment Pool is governed by state law and the County Investment Policy. Safety of principal is the foremost objective of the County’s investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the County’s investment risk constraints and cash flow characteristics. The Investment Policy is approved annually by the County Board of Supervisors and Treasury Oversight Committee, and is available from the Clerk of the Board of Supervisors.

B. County Treasurer’s Representations, Warranties and Duties

1. The County Treasurer agrees to invest the monies in the Investment Pool in full compliance with the County Investment Policy and all applicable laws and regulations.

2. The County Treasurer makes no representations, warranties or guarantees about the preservation of capital or rate of return earned on funds deposited in the Investment Pool.

C. Depositor’s Representations, Warranties and Duties

1. Depositor represents and warrants that it has the legal authority to deposit funds in the Investment Pool, and has provided the County Treasurer with a resolution duly adopted by its governing board authorizing the deposit of funds into the Investment Pool which resolution includes all matters of substance contained in the sample resolution attached hereto as Exhibit A. Depositor further represents and warrants that it will promptly notify the County Treasurer if, for any reason, it no longer has authority to deposit funds in the Investment Pool.

2. Depositor agrees to indemnify, defend and hold harmless the County, the County Treasurer, and all County officials, employees and agents from any action, damages or liability related to or arising from Depositor’s deposit of ineligible funds in the Investment Pool.

3. Depositor agrees to abide by all applicable accounting and transaction procedures and guidelines of the County Treasurer's General Accounting Unit, as they may be amended from time to time.

4. Depositor acknowledges that funds deposited in the Investment Pool are subject to market/investment risk, and that the County Treasurer makes no warranties regarding Investment Pool performance, including but not limited to preservation of capital or rate of return earned on funds deposited in the Investment Pool. Depositor knowingly accepts these risks and waives any claims or causes of action against the County Treasurer, the County, and any employee, official or agent of the County for loss, damage or any other injury related to the Depositor's funds in the Investment Pool, with the exception of loss, damage or injury caused solely by the County Treasurer's material failure to comply with the County Investment Policy and all applicable laws and regulations.

#### D. Allocation of Costs

The County recovers staffing and other costs relating to the County's administration services for banking and investment functions provided to the Investment Pool. The administrative costs are allocated against the earnings of the Investment Pool prior to apportionment of earnings.

#### E. Allocation of Earnings

Earnings of the Investment Pool are apportioned quarterly to all participants based on each participant's average daily balance during the quarter. However, these apportioned earnings may not be available for withdrawal until all monies that have been earned (i.e., accrued) have actually been received by the County Treasurer.

#### F. Withdrawals from Investment Pool

1. Depositor agrees to give the County Treasurer at least five (5) working days' notice prior to any withdrawal equal to or exceeding two million dollars (\$2,000,000), and at least ten (10) working days' notice prior to any withdrawal equal to or exceeding ten million dollars (\$10,000,000).

2. If Depositor withdraws funds from the Investment Pool for operating needs, capital expenditures or trade expenditures, the withdrawal will be valued at Original Cost. "Original Cost" is defined as the total value of Depositor's fund. For example, if Depositor wanted to make a withdrawal consisting of its total fund value, the value would consist of all deposits and apportioned earnings that had not been previously withdrawn. The same valuation methodology would apply to partial withdrawals. The Original Cost valuation method is further illustrated in Exhibit B attached hereto and incorporated herein.

3. If Depositor withdraws funds from the Investment Pool within sixty (60) days of a material change in federal or state law or the County Investment Policy that affects the Depositor's funds in the Investment Pool, then the withdrawal will be valued at Original Cost. The determination of whether a change in the County Investment Policy has a material effect on Depositor's funds will be made by the County Treasurer in consultation with the Depositor.

4. If Depositor withdraws funds from the Investment Pool for any other reason or purpose other than identified in paragraphs F.2 or F.3, then the withdrawal will be valued at the lower of Original Cost or Market Value. "Market Value" is defined as is the amount that could reasonably be expected to be received from the sale of an investment between a willing buyer and a willing seller. The County Treasury uses several sources to value its holdings, including the Wall Street Journal, quote screens, Bloomberg Analytics, dealer quotes and an independent pricing service. The Market Value valuation method is further illustrated in Exhibit B attached hereto and incorporated herein.

#### G. Identification and Correction of Errors

1. Depositor agrees to review all statements and other documents provided by the County Treasurer related to its funds in the Investment Pool and to report any alleged errors to the County Treasurer as soon as possible and no later than sixty (60) days after receiving the particular statement or other document upon which the error is identifiable.

2. The County Treasurer agrees to promptly investigate any reported errors made in relation to Depositor's funds in the Investment Pool and to make good faith efforts to respond to Depositor within sixty (60) days after Depositor provides notice of any such errors to the County Treasurer. If the County Treasurer does not agree that an error was made or there is a dispute about the amount of the error, then the dispute resolution process in paragraph H of this Agreement will be followed.

#### H. Dispute Resolution Process

1. Prior to resorting to litigation, the parties will make good faith efforts to resolve any disputes with regard to any issue related to or arising from the Depositor's funds in the Investment Pool, including but not limited to valuation of withdrawals from the investment pool or identification and correction of errors, in the following manner:

a. Step One – Depositor shall notify the person identified in Paragraph L of this agreement of the dispute and the parties will make good faith efforts to resolve the dispute at this level.

b. Step Two – If the dispute is not resolved in Step One, Depositor shall notify the County Controller-Treasurer of the dispute and the parties will make good faith efforts to resolve the dispute at this level.

c. Step Three - If the dispute is not resolved in Step Two, Depositor shall notify the County Director of Finance of the dispute and the parties will make good faith efforts to resolve the dispute at this level.

d. Step Four – If the dispute is not resolved in Step Three, the County and Depositor will engage in mediation with a neutral mediator selected by and acceptable to both parties and the parties will make good faith efforts to resolve the dispute through mediation. The costs of the mediator will be borne equally by the County and the Depositor.

2. If, after exhausting the informal dispute resolution process set forth in paragraph H.1, any party is unsatisfied with the result, that party may pursue any available remedies in a court of law or equity. The prevailing party shall be entitled to recover its reasonable costs and attorneys' fees from the nonprevailing party.

I. Choice of Law/Forum.

This Agreement shall be governed by and interpreted pursuant to California law, and the proper venue for any litigation related to or arising from this Agreement shall be the Superior Court of California, County of Santa Clara.

J. Term of Agreement.

This Agreement shall remain in effect until one of the parties provides the other with a notice to terminate the Agreement in accordance with the notice provisions in paragraph L.

K. Amendments.

Except for changes in federal or state law or the County Investment Policy, this Agreement may only be modified in writing executed by both parties.

L. Notice.

All notices provided to the Parties for anything related to this Agreement shall be delivered by United States Postal Service first-class mail addressed as follows:

County Treasurer  
Leshu Luu, Division Manager-Accounting  
County of Santa Clara Controller-Treasurer  
70 W. Hedding Street, 2<sup>nd</sup> Floor, E. Wing  
San Jose, California 95110  
408-299-5236 (telephone)  
408-292-7240 (fax)

Depositor

[insert]

The parties hereby execute this Agreement effective \_\_\_\_\_.

COUNTY

DEPOSITOR

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**EXHIBIT A – SAMPLE AUTHORIZING RESOLUTION**

**RESOLUTION OF THE [Governing Body ( e.g., Board of Directors)]  
OF THE [Entity Name] AUTHORIZING INVESTMENT OF  
FUNDS IN THE COUNTY OF SANTA CLARA  
INVESTMENT POOL**

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**WHEREAS**, [entity name] has the legal authority to invest its funds in the County of Santa Clara Investment Pool (“County Investment Pool”) pursuant to [cite the legal authority or other basis for ability to invest in Pool]; and

**WHEREAS**, the funds that [entity name] intends to invest in the County Investment Pool qualify in all other respects for investment in the County Investment Pool.

**NOW, THEREFORE, BE IT RESOLVED** by the [Governing Body] of the [entity name] as follows:

1. Investment of the [entity name]’s monies in the County Investment Pool is hereby authorized;
2. The authority to execute the *County of Santa Clara Investment Pool Disclosure and Agreement for Voluntary Deposits* on behalf of [entity name] pursuant to Government Code § 27133(g) is hereby delegated to [name of officer/employee];
3. The authority to make deposits and withdrawals of [entity name]’s monies in the County Investment Pool is hereby delegated to [name/title of individual (e.g., CFO)] or his or her successor in office [optional: “and his or her delegees”].

**PASSED AND ADOPTED** by the [Governing Body] of the [entity name] on \_\_\_\_\_ by the following vote:

**AYES:**  
**NOES:**  
**ABSENT:**  
**ABSTAIN:**

\_\_\_\_\_, Chair

**ATTEST:**

\_\_\_\_\_  
[Clerk/Secretary]

[seal]



**EXHIBIT B - CALCULATION FOR WITHDRAWAL FROM COMMINGLED POOL**

<b>Sample 1: Voluntary participant receives proceeds at market value</b>				
	<u>Amortized Cost</u>			<u>Percentage</u>
	<u>(1)</u>	<u>Market Value</u>	<u>Gain/Loss (2)</u>	<u>Change</u>
Effective Date	6/30/2006	6/30/2006		
Commingled Pool	3,619,915,184	3,587,861,242	(\$32,053,941)	-0.885%
Withdrawal Request			\$10,000,000	
Market Adjustment (%)			-0.885%	
Market Adjustment (\$)			(\$88,500)	
<b>Requested Withdrawal Amount</b>			<b>10,000,000</b>	
<b>Market Value of Requested Withdrawal Amount</b>			<b>9,911,500</b>	
<b>Amount Received</b>			<b>9,911,500</b>	

<b>Sample 2: Voluntary participant receives proceeds at original cost</b>				
	<u>Amortized Cost</u>			<u>Percentage</u>
	<u>(1)</u>	<u>Market Value</u>	<u>Gain/Loss (2)</u>	<u>Change</u>
Effective Date	6/30/2006	6/30/2006		
Commingled Pool	3,619,915,184	3,649,915,184	\$30,000,000	0.829%
Withdrawal Request			\$10,000,000	
Market Adjustment (%)			0.829%	
Market Adjustment (\$)			\$82,900	
<b>Requested Withdrawal Amount</b>			<b>10,000,000</b>	
<b>Market Value of Requested Withdrawal Amount</b>			<b>10,082,900</b>	
<b>Amount Received</b>			<b>10,000,000</b>	

1. Amortized cost or the bond's carrying value will adjust each reporting period if a bond has been purchased at a premium or at a discount to par. For example, the amortized cost of a bond purchased at a discount equals the bond's acquisition cost plus the total portion of the discount recognized as income from current and prior periods. At maturity the bond will be carried at its face value. Some bonds will be carried at acquisition cost.

2. The gain or loss is the difference between the amortized cost and the market or fair value.