

Certificates of Participation-2018

Agreed-Upon Procedures (AUPs)



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I. Introduction and Scope

On October 15th, 2018, the Clay County Commission voted 2-1 to approve some \$49,140,000 in Certificates of Participation (COPs). The debt from these COPs is to be paid back over a term of twenty years and with an estimated annual payment of \$3.5 million. Accordingly, the total liability actually works out to around \$70 million or another \$20 million in interest above principal.

The purpose of the COPs is broadly categorized into three main categories as follows, per the financing agreement documents:

- (1) acquisition, improvement, construction, furnishing and equipping of various buildings for the County,
- (2) improvements for various park facilities, and
- (3) construction and improvement of roads and bridges in the County.

Notably, the first section has drawn the most controversy of late. This is because \$20 million of the COPs is reserved for a new Annex to replace the existing one. At the Annex, in the southwestern portion of the County away from the more central County seat of Liberty, citizens can conduct necessary business with elected officials. Such functions that occur there include obtaining marriage licenses through the Recorder of Deeds, paying annual property taxes to the Collector, and getting copies of property tax receipts from the Assessor, among others. Many activists and voters have expressed the desire to instead repair the existing Annex for less money than building a new one.

Despite that ongoing debate, considerable effort has been made on the part of County Administration to track and report COP expenditures up to the present. Indeed, the County website maintains a “Clay County Bond Initiative” section under the “Transparency” dropdown at <https://www.claycountymo.gov/transparency/clay-county-bond-initiative>. There one can find regular postings on progress for the various projects as well a “Bond Payment Tracking Worksheet” updated monthly. As of 8/5/2019, \$2,380,959.67 has been spent on these projects.

Given this amount of information available to review, some cooperation for this audit from those in charge of processing bond payments may be likely. Namely, the Purchasing and Finance Departments jointly oversee such expenditures. A form of Attestation Engagement called Agreed-Upon Procedures (AUPs) therefore seems logical. From the Generally Accepted Government Auditing Standards (GAGAS or the “Yellow Book” for short), AUPs require the auditor and auditee to discuss items or procedures applicable to the topic at hand. The auditor then tests those procedures, pointing out any drastic exceptions. No management response is taken, but sufficient and adequate evidence is needed to arrive at those determinations. Statements on Standards for Attestation Engagements (SSAEs) from the American Institute of Certified Public Accountants (AICPA) were consulted, but not the primary point of reference.

As always, the broader context for the County’s operating environment deserves attention. A petitioned comprehensive performance audit from the State Auditor is underway, but fieldwork remains suspended pending litigation. Moreover, every year there is a financial statement audit covering the prior fiscal year and completed by an outside independent accounting firm. Consequently, this office will seek to avoid any unnecessary duplication of work that runs afoul of professional auditing standards.

II. Background and Audit Plan

At this juncture a more detailed discussion of COPs, particularly the 2018 Series A and B for Clay County, is in order. Of note, the tax-exempt 2018A Series comprises \$44,830,000 of the \$49,140,000 total, leaving \$4,310,000 for the taxable 2018B Series. The 2018B Series contains broker issuance fees along with any golf course project expenses.

While the COPs may be referred to as “bonds,” they aren’t public bonds in the traditional sense (as with Revenue or General Obligation bonds). Unlike those bonds, no election was mandatory for the passage of these COPs—another contentious subject among the County populace. The mere consent by the Commission, the County’s governing body, is sufficient under Revised Statute of Missouri (RSMo) 432.070. This is because technically the County isn’t liable for a period of over a year. The County must, by the contract for the COPs, appropriate with its annual budget adequate funding to cover the principal and interest costs.

The source of that funding has been identified as the County’s current 1.125% Use Tax. A Use Tax is a substitute for sales tax when purchases of out-of-County property are then stored, used, or consumed in the County—see RSMo Chapter 144. The County’s Use Tax proceeds are already divided three ways in the general ledger among Fund 300-Capital Projects, Fund 301-Highway & Bridges, and Fund 302-Parks & Trails Projects. Thus, the Use Tax amount and principal revenue stream typically available in those funds will now become redirected to COP payments as they’re proportionately spent.

The annual requirement for funding and lack of dedicated tax for just the COPs presents a potential risk to investors than other debt mechanisms. Along with carrying perhaps a higher interest rate as a result (presently 4% for 2018A and 2.95% for 2018B), COPs are also a type of lease-purchase obligation. This means that, as collateral, the County is essentially leasing its buildings to owners of the COPs. With this reality, timely and full payment of COP debt is a top priority. Payments are made to the Trustee of the COPs, which is UMB Bank.

Other factors to evaluate are then how project payments are handled through UMB, the Finance Department, and the Purchasing Department. While the method of payment is sort of roundabout, with the County Treasurer essentially reimbursing the Trustee after the fact, typical County purchasing requirements still apply (see RSMo Chs. 49-50 as well as Clay County Ordinances Title III, Ch. 37). In other words, we should expect to observe proper bidding for vendors completing the projects. What’s more, capital assets procured with the COPs ought to be accounted for, which is a County Auditor duty in RSMo 55.160.

Finally, the most relevant timeline to address will be from inception of the COPs until this audit in August of 2019—but Use Tax history is important. Adherence to the project breakdown pledged in the lease agreements is vital. We will look to analyze that plus the “Outline of Projects” document distributed at the 10/15/18 Commission meeting (attached to the appendix). A synopsis of those projects is below:

Financing Agreement Project Breakdown for 2018 COPs

<u>Project Component</u>	<u>Description</u>	<u>Projected Cost</u>
County Administration Building and Shrader Building	New boilers, doors and windows and HVAC replacement. New server room upgrades in the Shrader Building.	\$1,270,000
County Administrative Annex	Acquire land and build a new stand-alone building that will replace existing outdated and undersized annex building to house county office holder administration services.	\$20,000,000
Parks and historic site improvements	Updates to historic Jesse James and Pharis Farm historic sites, marina improvements at Smithville Lake marina, shore stabilization and facilities improvements at Smithville Lake and improvements to County Golf Course (resurfacing, irrigation, zebra mussel control).	\$12,529,000
New Parks Facilities and Equipment	Build a new stand-alone parks administrative building, new Nature Center/Astronomy Building and purchase related parks equipment.	\$7,407,000
Park Trail Improvements and Construction	New trail construction and improvement to existing trails.	\$5,200,000
Road and Bridge Improvements/Replacement	Improvement to existing roads and culverts and improvement to, or replacement of, bridges currently closed or load restricted.	\$6,542,000

III. Agreed-Upon Procedures (AUPs)

1. Review year-to-date payments from the Treasurer to the Trustee for the COPs, UMB Bank, for accounting correctness and timeliness.

There has been one payment so far in 2019. It occurred on 4/3/2019, after an invoice from UMB dated 3/19/19 and due 5/1/19. The total was \$2,022,735.37 for 2018A and \$839,499.78 for 2018B—making a total of \$2,862,235.15. We identified one exception with the accounting side, with the revenue credit transfer into Fund 310-Debt Service not having a corresponding transfer out debit balancing entry. Instead, the Use Tax Funds mentioned earlier (300, 301, and 302), had budgeted expense line debits. That is not normal or historical County accounting procedure. Rather the budgeted debt service expense lines for each particular fund get transferred out to Fund 310, per Budget Ordinance 2019-ORD-01-8a.

2. Sample project invoices to determine if County Purchasing ordinances and requirements were followed.

For this AUP, we sampled the following project invoices (from 61 total as of 8/5/19). The statistical basis for this sample was 5% of the entire data size, or 3.05. This approach offers randomness and a measure of significance:

- “Clay County Bond Req. (Requisition) #3”, dated 12/4/2018
- “Clay County Bond Req. #21”, dated 4/15/2019
- “Clay County Bond Req. #39”, dated 5/21/2019

For Req. #3, the vendor of Marshall Evergreens provided twenty trees for Parks at a price of \$1,500 applicable to 2018A. No contract could be located for this vendor, but only \$3,675 has been spent so far from the COPs (with Req. #26 for \$1,200 and Req. #34 for \$975) and none through general County funds. This is less than the \$6,000 limit within 90 days that necessitates a bid-out contract.

On Req. #21, O’Dell Service Company installed four tankless water heaters at Smithville Lake’s Crow’s Creek Campground for \$33,413. In addition, they replaced the air conditioner at the Parks office for \$9,714. Both invoices were applicable to 2018A. O’Dell does have a term and supply appliance and maintenance contract with the County via Official Action (OA) 2018-358-2, which is the second renewal of a four year award in OA 2016-348 and Bid Number 125-18. This contract was not referenced on the requisition document, however, as is standard practice.

With Req. #39, Professional Turf Products delivered two Toro golf course bunker rakes for \$23,716.10 applicable to 2018B. This vendor does have an agreement with the County through OA 2019-166 and Contract #C114030004. The OA only cites COP project #s 9-7, 9-12, and 9-23. Of those, two requisitions have taken place with Req. #42, 2018A project #9-12, and Req. #55, 2018A project #9-23. For Req. #39, the project # is 4-5T and takes from 2018B. Nevertheless, the contract number is pointed out on the

requisition itself and for Req. #42. A different 2018B requisition with this vendor, Req. #44 and project #4-7T lacks the citation, as does Req. #55.

3. Sample project invoices to check for adherence to project outline documents—from both the Commission and the bond counsel’s financial agreement.

Regarding this AUP, we sampled the following project invoices, again (from 61 total as of 8/5/19). Once more, the statistical basis for this sample was 5% of the entire data size, or 3.05. This approach offers randomness and a measure of significance:

- “Clay County Bond Req. #5”, dated 12/6/2018
- “Clay County Bond Req. #23”, dated 4/1/2019
- “Clay County Bond Req. #41”, dated 5/24/2019

As commented on above, there is a chart in the investor documents that generally breaks out the COP project categories to be expected for eventual completion. Further, the Commission released an “Outline of Projects” specifying those categories into projects with greater detail. We will therefore attempt to match the selected project examples to these documents for compliance verification.

For Req. #5, Veenstra & Kimm engineers designed the Mt. Olivet and Stark Road structures in unincorporated Clay County. This project is not listed on the Outline of Projects but most certainly falls within the “Road and Bridge Improvements/Replacement” row of the financial agreement chart.

Moving on to Req. #23, another engineering firm, this time Burns & McDonnell, completed a “Nature Center Feasibility Study”. This item does not appear in the Outline of Projects, but it is called out in the financial agreement chart. The row this time on the financial agreement chart is “New Parks Facilities and Equipment” and the description of the project component names it exactly. Within the Outline of Projects, though, there is something under Parks Improvements entitled the “Master Plan for park system”. That plan could conceivably contain this Nature Center.

Ending on Req. #41, a third engineering company, WSP, rendered professional services at both the 188th St. bridge over New Hope Creek and the 148th St. bridge over Carroll Creek—once more in unincorporated Clay County. As with Req. #5, this project is not within the scope of the Outline of Projects. It clearly is part of the “Road and Bridge Improvement/Replacement” row on the financial agreement chart. Indeed, the 148th street work is explicated as a bridge replacement.

4. Consider adequate budgeting for debt costs from the COPs and effects from Use Tax diversion.

Material reviewed for this AUP came primarily from the 2019 Adopted Budget, along with Use Tax historical figures. Due to three aforementioned Use Tax funds, we analyzed them separately for revenue as well as expenditure trends (apart from the

COPs). As an overview, however, Use Tax proceeds as a whole can be a focus. After all, the total Use Tax proceeds are split equally three ways from their monthly receipts.

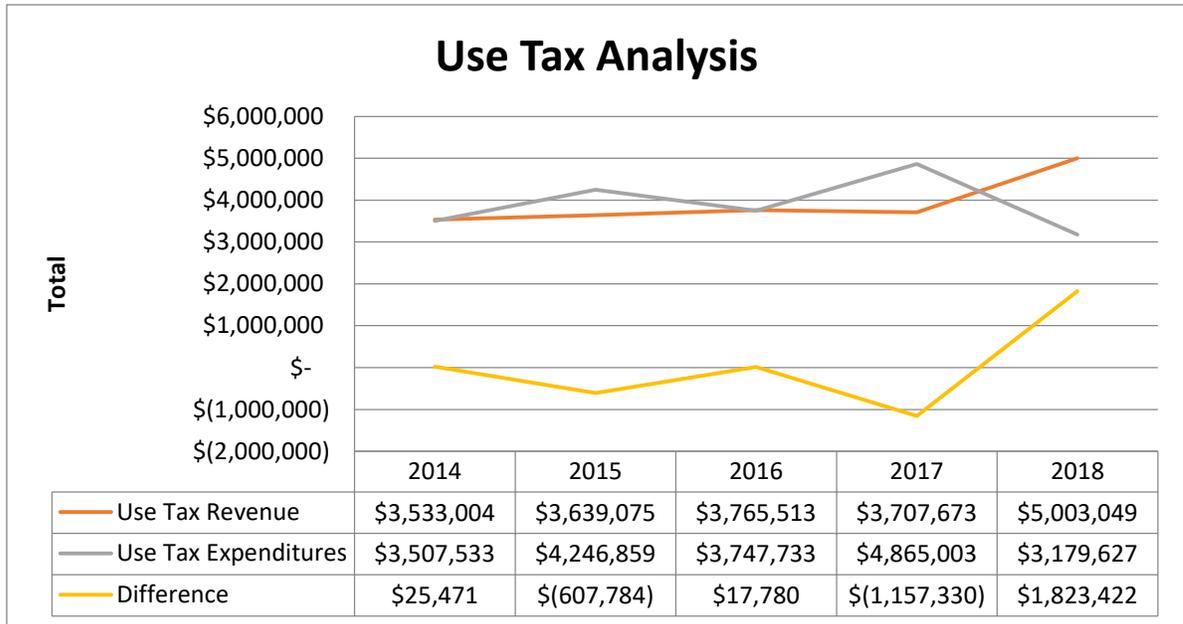
For starters, then, it is of interest how the 2019 Budget allocates monthly Use Tax revenues issued from the state of Missouri. Currently the approximate amount is \$125,000 for each Fund or \$1,500,000 annually. This adds up to roughly \$4.5 million, yet bear in mind that this is after 10% is taken out for Tax Increment Financing (TIF). Still, any TIF rebate amounts are apportioned by 4.43% into each of the three Use Tax Funds. Bottom line, we could presume that, upon the ~\$3.5 million COP payments, Funds 300-302 have \$1 million for regular expenses.

Obviously, each of these Funds keep significant fund balances that rollover year after year. For the end of 2018, those balances were:

- Fund 300-Capital Projects: \$2,349,000
- Fund 301-Highway & Bridges: \$675,176
- Fund 302-Parks & Trails: \$2,184,219

The Budget also authorizes the County Treasurer in 2019-ORD-01-6 to transfer cash from the General Fund for debt service payments, but any such transfers are to be repaid from Use Tax monies.

Next, we looked at the past five years to summarize trends in the sense of Use Tax Funds revenues versus expenditures. The graph below depicts this:



What this ultimately shows is that, at least based on previous budgeting, there is no leeway to pay for COP debt. Some drastic alterations to the budget would need to occur for true solvency.

So, returning to 2019, we decided to assess the 2019 Budget—the first full budget with the COPs in effect—in light of these confines. Adjusted budgets for expenditures are:

Fund	Budget	Debt Service	Remainder
300	\$ 3,670,932	\$ 1,547,197	\$ 2,123,735
301	\$ 2,161,560	\$ 400,000	\$ 1,761,560
302	\$ 3,688,694	\$ 1,853,766	\$ 1,834,928
Total	\$ 9,521,186	\$ 3,800,963	\$ 5,720,223

The \$9,521,186 cited is certainly more than the estimated revenue figure of \$4.5 million, and so is the remainder of \$5,720,223. It is always worthwhile, though, to explore actual numbers year-to-date (8/5/2019) to quantify how this situation is transpiring. Note that these revenue tallies are true Use Tax dollars only and not interest (which had an immaterial effect).

Fund	Revenues	% of Budget	Expenditures	% of Budget
300	\$ 1,076,910	72%	\$ 1,459,185	40%
301	\$ 1,076,910	72%	\$ 522,571	24%
302	\$ 1,076,910	72%	\$ 2,173,137	59%
Total	\$ 3,230,730	72%	\$ 4,154,893	44%

It is entirely possible, then, that expenditures will just be much less than the total budget. The permission for overspending beyond what's potentially needed for the COPs remains, however. Unless funds were to come from elsewhere, a shortfall is hypothetical—especially should the economy and with it revenues from use taxes slow. This is bound to happen in any market cycle and for which deserves effective preparation.



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Clay County, Missouri

County Commission

Administration Building

1 Courthouse Square ~ Liberty, MO 64068

COUNTY COMMISSION APPROVES NO TAX INCREASE BONDS

The Clay County Commission voted to authorize the sale of Certificates of Participation to fund improvement projects across the county with no tax increase. Clay County budgets millions of dollars per year to keep up with the compounding effects of deferred construction, maintenance, and safety upgrades. The estimated annual bond payment is \$3.5 million, to be satisfied by reallocating funds used routinely for these types of projects. Rather than leaving important projects untouched, the county will take meaningful and responsible steps forward. Projects proposed in the Series 2018 Certificates include:

Administration Building

- New Boilers
- New North and South Doors
- New HVAC system
- Replace Windows

Shrader Building

- Server Room Upgrade

New Annex Building

Golf Course Improvements

- New pumps and zebra mussel control
- Install material pads for sand and gravel
- Extend intake pipe on pump hoses
- Two utility carts
- Bunker rake
- Repairs to concrete cart paths
- Spin grinder for golf course reels
- Resurface asphalt around putting green
- Resurface all asphalt cart paths
- Replace irrigation on Outlaw Golf Course
- Replace irrigation on Posse Golf Course
- Replace starter shack by practice green
- Replace carpet in golf course pro shop



Clay County, Missouri

County Commission

*Administration Building
1 Courthouse Square ~ Liberty, MO 64068*

Historic Sites Improvements

- James Farm Cabin Renovation
- New front fence at Pharis Farm

Marina Improvements

- Upgrade pump out station platform at Sailboat Cove Marina
- Replace marina decking pavers
- Electric upgrade at Sailboat Cove Marina
- Electric upgrade at Little Platte Marina
- Pump out station at Little Platte Marina
- Replace platform dock at Little Platte Marina

Parks Improvements

- Shore stabilization with rip rap
- Master Plan for park system
- Upgrade electric to 50 amp in Camp Branch D Loop, Crows Creek E, F, and G Loops
- Paint and stain all wood shelters
- Replace pump under picnic arm road at Crows Creek
- Replace Camp Branch shower house floor
- Repairs to county buildings
- Upgrade shower house facility at Kelsey Short
- Fish cleaning stations at Camp Branch Boat Ramp, Little Platte Boat Ramp, Crows Creek Boat Ramp, and W Boat Ramp
- Improve ADA campsites
- Camp site parking pad renovation/create pull through sites
- Reclaim and resurface asphalt parking pads in Crows Creek Loop C
- Micro Surface, Crack Seal and patch work on parking lots and roads in all parks
- Replace remaining bathrooms both vault and flush with modern CXT bathrooms, 15 total
- Finish playground drainage and parking at Crows Creek Shower House #2
- Top off existing playgrounds with fresh engineered wood fiber safety material
- Repairs to Crows Creek Picnic Arm Lagoon
- Replace ash trees that have been removed due to EAB in parks
- Restroom shower house door and opener replacement in parks



Clay County, Missouri

County Commission

Administration Building

1 Courthouse Square ~ Liberty, MO 64068

- New roofs on shower houses, shelters, and restrooms in parks
- Replace four fee booths
- Replace playground at Tryst Falls
- Line lagoons with rock to prevent erosion and animal damage
- Resurface parking lot at Little Platte Boat Ramp along first row of bumpers, crack seal, and micro surface the rest of the parking lot
- Two ADA fishing docks
- Paint park buildings such as Mt. Gilead, Pharis Farm, James Farm House and Museum
- Top-dress clay on infield at Rocky Hollow ball fields
- Replace second HVAC unit at park office
- Work on beach renovation at Little Platte, Camp Branch, and Kelsey Short
- Resurface road to Kelsey Short
- Dredge Rocky Hollow Lake
- Improve all trail heads to modern standards
- Replace Camp Branch shop building
- Dredge bottom of lagoons in Crows Creek and Cramp Branch; replace valves between lagoons

October 15, 2018

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