

RESOLUTION NO. ~~OCSD 98-4~~OC SAN 23-XX

~~APPROVING PROVISIONS FOR SATISFACTION OF PAYMENT
OF FICA TAXES FOR DIRECTOR-EMPLOYEES MANDATED BY
FEDERAL OMNIBUS BUDGET RECONCILIATION ACT OF 1990~~

A RESOLUTION OF THE BOARD OF DIRECTORS OF ORANGE COUNTY SANITATION DISTRICT (OC SAN), APPROVING PAYMENT BY ~~THE DISTRICT~~OC SAN TO ~~THE DISTRICT'S~~OC SAN'S 457(b) DEFERRED COMPENSATION PLAN ("457 PLAN") ~~FUND~~ ON BEHALF OF ~~DISTRICT~~OC SAN'S DIRECTOR-EMPLOYEES IN LIEU OF CONTRIBUTIONS PURSUANT TO THE FEDERAL INSURANCE CONTRIBUTIONS ACT ("FICA"), AS MANDATED BY THE FEDERAL OMNIBUS BUDGET RECONCILIATION ACT OF 1990 ("OBRA"); AND REPEALING
RESOLUTION NO. OCSD 98-4.

~~WHEREAS, the Orange County Board of Supervisors, by approval on April 14, 1998 of County Resolution No. 98-140, has ordered the consolidation of County Sanitation Districts Nos. 1, 2, 3, 5, 6, 7, 11, 13 and 14 of Orange County, California (the "Predecessor Districts"), into a single new district to be known as the Orange County Sanitation District (the "District"); and,~~

~~WHEREAS, pursuant to Government Code Section 57500, the District succeeds to all of the powers, rights, duties, obligations, functions, and properties of the Predecessor Districts; and,~~

WHEREAS, the United States Congress enacted the Federal Omnibus Budget Reconciliation Act of 1990 ("OBRA"), changing several provisions of the Federal Social Security Act, as applied to local government entity employees; and,

WHEREAS, OBRA amended the prior law by adding a new Section 3121(b)(7)(F) to the Internal Revenue Code, by expanding the definition of "employment" for Federal Insurance Contribution Act ("FICA") tax purposes, to include service performed after July 1, 1991, as an employee for a local government entity, unless the employee is a member of a retirement system of such entity; and,

WHEREAS, the provisions of OBRA require compliance with the requirement to make FICA contributions on behalf of local government agency employees by not later than December 31, 1991; and,

WHEREAS, the Internal Revenue Service has adopted final regulations under Section 3121((b)(7)(F)) of the Internal Revenue Code, containing rules relating to local government entity employees and determination of membership in the local entity retirement system; and,

WHEREAS, ~~the District's~~ OC San's Director-Employees are not eligible for participation in ~~the District's~~ OC San's Retirement Plan, to wit: County of Orange Employees Retirement System; and,

WHEREAS, the Internal Revenue Service regulations allow a contribution into an Internal Revenue Code Section 457(b) Deferred Compensation Plan, as meeting the requirements for retirement system contribution, in lieu of making the contributions to FICA; and,

WHEREAS, ~~the Predecessor Districts~~ OC San enacted Resolution No. ~~81-16698-4~~, effective ~~October 14, 1981~~ July 1, 1998, authorizing OC San's Directors to participate in OC San's ~~the District's~~ 457(b) Deferred Compensation Plan ("457 Plan"); and,

WHEREAS, the OC San Directors have determined that they can satisfy the legal requirements of Internal Revenue Code Section 3121(b)(7)(F) in the most cost effective manner, by having ~~the District~~ OC San contribute the minimum sum authorized by Internal Revenue Service regulation, to wit: 7.5% ~~of the of~~ employee's ~~the Director's~~ Employee's compensation to ~~the District's~~ OC San's 457 Deferred Compensation Plan Fund.

NOW, THEREFORE, ~~the Board of Directors of Orange County Sanitation District,~~ THE BOARD OF DIRECTORS OF THE ORANGE COUNTY SANITATION DISTRICT DOES HEREBY RESOLVE, DETERMINE AND ORDER:

~~DOES HEREBY RESOLVE, DETERMINE AND ORDER:~~

Section 1: Pursuant to Internal Revenue Code Section 3121((b)(7)(F)), ~~the District~~ OC San approves the payment of the sum equal to 7.5% of the compensation payable to each Director into ~~the District's~~ OC San's 457 Plan account. Said contributions will be made in accordance with ~~the District's~~ OC San's Internal Revenue Code Section 457 Plan, and Plan and shall be made on behalf of each OC San District Director-Employee.

Section 2: Upon payment of the sums set forth above, no payments are required, nor shall be made on behalf of, any of ~~the District's~~ OC San's Director-Employees pursuant to the Federal Insurance Contributions Act ("FICA"), except the health insurance portion (currently 1.45%) of the FICA tax for those Director-

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Employees who commenced service with ~~the District~~OC San on or after April 1, 1986.

Section 3: ~~Section 4.2~~The a~~Appendix I to Schedule A of the District's OC San's~~
~~Deferred Compensation~~457 Plan, providing for a minimum annual contribution of
\$~~300.00~~650.00 ~~per year~~, is hereby ordered waived on behalf of the contributions to be
made on behalf of each ~~District~~OC San Director-Employee.

Section 4: That the contributions provided for in Section 1 hereof shall
commence with payment of any compensation after ~~July 1, 1998~~ January 25, 2023.

PASSED AND ADOPTED at a ~~Special~~Regular Meeting of the Board of Directors
held ~~July 1, 1998~~ January 25, 2023.

~~John B. Withers~~Chad P. Wanke
Board Chairman

Kelly A. Lore, MMC
Clerk of the Board

APPROVED AS TO FORM:

Bradley R. Hogin
General Counsel

STATE OF CALIFORNIA)
)
) SS
COUNTY OF ORANGE)

I, Kelly A. Lore, Clerk of the Board of Directors of the Orange County Sanitation District, do hereby certify that the foregoing Resolution No. OC SAN 23-XX was passed and adopted at a regular meeting of said Board on the 25th day of January 2023, by the following vote, to wit:

AYES:
NOES:
ABSTENTIONS:
ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of Orange County Sanitation District this 25th day of January 2023.

Kelly A. Lore, MMC
Clerk of the Board of Directors
Orange County Sanitation District