ORANGE COUNTY SANITATION DISTRICT
SPECIAL NOTICE REGARDING CORONAVIRUS (COVID-19) AND ATTENDANCE AT PUBLIC MEETINGS

On March 4, 2020, Governor Newsom proclaimed a State of Emergency in California as a result of the threat of COVID-19. On March 12, 2020 and March 18, 2020, Governor Newsom issued Executive Order N-25-20 and Executive Order N-29-20, which temporarily suspend portions of the Brown Act which addresses the conduct of public meetings.

The General Manager and the Chairman of the Board of Directors have determined that due to the size of the Orange County Sanitation District's Board of Directors (25), and the health and safety of the members, the Board of Directors will be participating in meetings of the Board telephonically and Internet accessibility.

PUBLIC PARTICIPATION

Your participation is always welcome. The Steering Committee meeting will be available to the public online at:

https://ocsd.legistar.com/Calendar.aspx

You may submit your comments and questions in writing for the Steering Committee's consideration in advance of the meeting only by sending them to OCSDClerk@ocsd.com with the subject line "PUBLIC COMMENT ITEM #" (insert the item number relevant to your comment) or "PUBLIC COMMENT NON-AGENDA ITEM". Submit your written comments *by 5:00 p.m. on Tuesday, April 21, 2020*. All public comments will be provided to the Steering Committee and may be read into the record or compiled as part of the record.

Thank you.

Orange County Sanitation District
10844 Ellis Avenue, Fountain Valley, CA 92708
714.962.2411 • www.ocsd.com

Serving:

Anaheim
Brea
Buena Park
Cypress
Fountain Valley
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Los Alamitos
Newport Beach
Orange
Placentia
Santa Ana
Seal Beach
Stanton
Tustin
Villa Park
County of Orange
Costa Mesa Sanitary District
Midway City Sanitary District
Irvine Ranch Water District
Yorba Linda Water District

April 17, 2020

NOTICE OF MEETING

STEERING COMMITTEE
ORANGE COUNTY SANITATION DISTRICT

REGULAR MEETING – 5:00 P.M.

Wednesday, April 22, 2020

ACCESSIBILITY FOR THE GENERAL PUBLIC

Due to the spread of COVID-19, the Orange County Sanitation District will be holding all upcoming Board and Committee meetings by teleconferencing and Internet accessibility. This meeting will be available to the public online at:

https://ocsd.legistar.com/Calendar.aspx

The Regular Meeting of the Steering Committee of the Orange County Sanitation District will be held in the manner indicated above on Wednesday, April 22, 2020 at 5:00 p.m.

Our Mission: *To protect public health and the environment by providing effective wastewater collection, treatment, and recycling.*

STEERING COMMITTEE AND BOARD MEETING DATES

May 27, 2020

June 24, 2020

July 22, 2020

August 26, 2020

September 23, 2020

October 28, 2020

November 18, 2020 *

December 16, 2020 *

January 27, 2021

February 24, 2021

March 24, 2021

April 28, 2021

*** Meeting will be held on the third Wednesday of the month***

STEERING COMMITTEE

(1) Roll Call:

Meeting Date: April 22, 2020 Meeting Time: 5:00 p.m.

Committee Members

David Shawver, Board Chair…… ____
John Withers, Board Vice-Chair…….. ____
Robert Collacott, Operations Committee Chair…… ____
Peter Kim, LaPA Committee Chair…… ____
Chad Wanke, Administration Committee Chair…… ____
Glenn Parker, Member-At-Large……..…… ____
Tim Shaw, Member-At-Large…… ____

Others

Brad Hogin, General Counsel……... ____

Staff

Jim Herberg, General Manager…… ____
Rob Thompson, Assistant General Manager……. ____
Lorenzo Tyner, Assistant General Manager……... ____
Celia Chandler, Director of Human Resources……..…… ____
Kathy Millea, Director of Engineering……..…… ____
Lan Wiborg, Director of Environmental Services……..……..…… ____
Kelly Lore, Clerk of the Board……...…… ____

Other Staff Present

ORANGE COUNTY SANITATION DISTRICT
BOARD OF DIRECTORS
Complete Roster

Effective 02/19/2020

AGENCY/CITIES	ACTIVE DIRECTOR	ALTERNATE DIRECTOR
Anaheim	Lucille Kring	Denise Barnes
Brea	Glenn Parker	Cecilia Hupp
Buena Park	Fred Smith	Connor Traut
Cypress	Mariellen Yarc	Stacy Berry
Fountain Valley	Steve Nagel	Patrick Harper
Fullerton	Jesus J. Silva	Jan Flory
Garden Grove	Steve Jones	John O'Neill
Huntington Beach	Erik Peterson	Lyn Semeta
Irvine	Christina Shea	Anthony Kuo
La Habra	Tim Shaw	Rose Espinoza
La Palma	Peter Kim	Nitesh Patel
Los Alamitos	Richard Murphy	Dean Grose
Newport Beach	Brad Avery	Joy Brenner
Orange	Mark Murphy	Kim Nichols
Placentia	Chad Wanke	Ward Smith
Santa Ana	Cecilia Iglesias	David Penaloza
Seal Beach	Sandra Massa-Lavitt	Schelly Sustarsic
Stanton	David Shawver	Carol Warren
Tustin	Allan Bernstein	Chuck Puckett
Villa Park	Robert Collacott	Chad Zimmerman

Sanitary/Water Districts

Costa Mesa Sanitary District	James M. Ferryman	Bob Ooten
Midway City Sanitary District	Andrew Nguyen	Margie L. Rice
Irvine Ranch Water District	John Withers	Douglas Reinhart
Yorba Linda Water District	Brooke Jones	Phil Hawkins

County Areas

Board of Supervisors	Doug Chaffee	Donald P. Wagner

Orange County Sanitation District

STEERING COMMITTEE

Regular Meeting Agenda

Wednesday, April 22, 2020 - 5:00 PM

Administration Building
10844 Ellis Avenue
Fountain Valley, CA 92708
(714) 593-7433

AGENDA POSTING: In accordance with the requirements of California Government Code Section 54954.2, this agenda has been posted outside the main gate of the Sanitation District's Administration Building located at 10844 Ellis Avenue, Fountain Valley, California, and on the Sanitation District's website at www.ocsd.com not less than 72 hours prior to the meeting date and time above. All public records relating to each agenda item, including any public records distributed less than 72 hours prior to the meeting to all, or a majority of the Board of Directors, are available for public inspection in the office of the Clerk of the Board.

AGENDA DESCRIPTION: The agenda provides a brief general description of each item of business to be considered or discussed. The recommended action does not indicate what action will be taken. The Board of Directors may take any action which is deemed appropriate.

MEETING AUDIO: An audio recording of this meeting is available within 24 hours after adjournment of the meeting. Please contact the Clerk of the Board's office at (714) 593-7433 to request the audio file.

NOTICE TO DIRECTORS: To place items on the agenda for a Committee or Board Meeting, the item must be submitted in writing to the Clerk of the Board: Kelly A. Lore, MMC, (714) 593-7433 / klore@ocsd.com at least 14 days before the meeting.

FOR ANY QUESTIONS ON THE AGENDA, BOARD MEMBERS MAY CONTACT STAFF AT:

General Manager: Jim Herberg, jherberg@ocsd.com / (714) 593-7300
Asst. General Manager: Lorenzo Tyner, ltyner@ocsd.com / (714) 593-7550
Asst. General Manager: Rob Thompson, rthompson@ocsd.com / (714) 593-7310
Director of Human Resources: Celia Chandler, cchandler@ocsd.com / (714) 593-7202
Director of Engineering: Kathy Millea, kmillea@ocsd.com / (714) 593-7365
Director of Environmental Services: Lan Wiborg, lwiborg@ocsd.com / (714) 593-7450

CALL TO ORDER

PLEDGE OF ALLEGIANCE

DECLARATION OF QUORUM:

PUBLIC COMMENTS:

You may submit your comments and questions in writing for the Committee's consideration by sending them to OCSDClerk@ocsd.com with the subject line "PUBLIC COMMENT ITEM #" (insert the item number relevant to your comment) or "PUBLIC COMMENT NON-AGENDA ITEM". Submit your written comments by 5:00 p.m. on April 21, 2020. All public comments will be provided to the Committee and may be read into the record or compiled as part of the record.

REPORTS:

The Board Chairperson and the General Manager may present verbal reports on miscellaneous matters of general interest to the Directors. These reports are for information only and require no action by the Directors.

CONSENT CALENDAR:

Consent Calendar Items are considered to be routine and will be enacted, by the Committee, after one motion, without discussion. Any items withdrawn from the Consent Calendar for separate discussion will be considered in the regular order of business.

1. APPROVAL OF MINUTES 2020-999

RECOMMENDATION:

Approve Minutes of the Special Meeting of the Steering Committee held March 18, 2020 and the Regular Meeting of the Steering Committee held March 25, 2020.

Originator: Kelly Lore

Attachments: Agenda Report
03-18-2020 Steering Committee Special Meeting Minutes
03-25-2020 Steering Committee Minutes

2. 2020-23 SPONSORSHIP OF THE CENTER FOR DEMOGRAPHIC RESEARCH 2020-887

RECOMMENDATION: Recommend to the Board of Directors to:

Approve a three-year Memorandum of Understanding with California State University Fullerton Auxiliary Services Corporation for operation of the Center for Demographic Research for the period July 1, 2020 through June 30, 2023, for a total amount not to exceed $331,504.

Originator: Kathy Millea

Attachments: Agenda Report
CDR MOU 2020-23

3. ELECTRONIC SIGNATURES POLICY **2020-1021**

RECOMMENDATION: Recommend to the Board of Directors to:

Adopt a policy for the use of electronic signatures.

Originator: Lorenzo Tyner

Attachments: Agenda Report
Electronic Signatures Policy

NON-CONSENT:

4. RATIFY AMENDMENTS TO PERSONNEL POLICIES AND PROCEDURES IN RESPONSE TO COVID-19 PANDEMIC **2020-1020**

RECOMMENDATION: Recommend to the Board of Directors to:

Pursuant to Resolution No. OCSD 20-01, ratify amendments to Orange County Sanitation District Board of Directors' Personnel Policies and Procedures: 1.4 Recruitment & Selection, 1.11 - Temporary & Contract Worker, 1.12 - Student Internship Program, 3.1.2 - Hours of Work - Exempt Employees, 3.2 - Attendance, 3.3 - Leave-of-Absence with Pay, and 3.4 - Leave-of-Absence Without Pay, effective March 25, 2020 through December 31, 2020 or as soon as the State emergency related to the COVID-19 pandemic is lifted.

Originator: Celia Chandler

Attachments: Agenda Report
1.4 - Recruitment and Selection
1.11 - Temporary & Contract Worker
1.12 - Student Internship Policy
3.1.2 - Hours of Work Exempt
3.2 - Attendance
3.3 - Leave of Absence with Pay
3.4 - Leave of Absense Without Pay

INFORMATION ITEMS:

5. COVID-19 FINANCIAL IMPACT UPDATE **2020-1046**

RECOMMENDATION:

Information Item.

Originator: Lorenzo Tyner

Attachments: Agenda Report
Message from OCERS - Response to COVID
Understanding California's Property Taxes

DEPARTMENT HEAD REPORTS:

CLOSED SESSION:

None.

OTHER BUSINESS AND COMMUNICATIONS OR SUPPLEMENTAL AGENDA ITEMS, IF ANY:

BOARD OF DIRECTORS INITIATED ITEMS FOR A FUTURE MEETING:

At this time Directors may request staff to place an item on a future agenda.

ADJOURNMENT:

The next Steering Committee meeting is scheduled for Wednesday, May 27, 2020 at 5:00 p.m.

Orange County Sanitation District

Administration Building
10844 Ellis Avenue
Fountain Valley, CA 92708
(714) 593-7433

STEERING COMMITTEE

Agenda Report

File #: 2020-999 **Agenda Date:** 4/22/2020 **Agenda Item No:** 1.

FROM: James D. Herberg, General Manager
Originator: Kelly A. Lore, Clerk of the Board

SUBJECT:

APPROVAL OF MINUTES

GENERAL MANAGER'S RECOMMENDATION

RECOMMENDATION:

Approve Minutes of the Special Meeting of the Steering Committee held March 18, 2020 and the Regular Meeting of the Steering Committee held March 25, 2020.

BACKGROUND

In accordance with the Board of Directors Rules of Procedure, an accurate record of each meeting will be provided to the Directors for subsequent approval at the following meeting.

RELEVANT STANDARDS

- Resolution No. OCSD 19-19

ATTACHMENT

The following attachment(s) may be viewed on-line at the OCSD website (www.ocsd.com) with the complete agenda package:

- Minutes of the Special Steering Committee meeting held March 18, 2020
- Minutes of the Regular Steering Committee meeting held March 25, 2020

Orange County Sanitation District
Minutes for the
STEERING COMMITTEE

Wednesday, March 18, 2020
12:00 PM
Board Room - SPECIAL MEETING
Administration Building
10844 Ellis Avenue
Fountain Valley, CA 92708
(714) 593-7433

CALL TO ORDER

A special meeting of the Steering Committee of the Orange County Sanitation District was called to order by Board Chairman David Shawver on Wednesday, March 18, 2020 at 12:05 p.m. in the Administration Building of the Orange County Sanitation District. Chair Shawver stated that the meeting was being held telephonically in accordance with the Governor's Executive Order No. N-29-20, due to the Coronavirus Pandemic (COVID-19).

The Clerk of the Board announced the teleconference meeting guidelines and stated that votes will be taken by roll call.

PLEDGE OF ALLEGIANCE

Director Wanke led the flag salute.

DECLARATION OF QUORUM:

Clerk of the Board Kelly Lore proceeded to roll call and declared a quorum as follows:

PRESENT: David Shawver, John Withers, Robert Collacott, Peter Kim, Glenn Parker, Tim Shaw and Chad Wanke
ABSENT: None

PUBLIC COMMENTS:

None.

CONSENT CALENDAR:

None.

NON-CONSENT:

1. VERBAL UPDATE FROM STAFF AND DIRECTION FROM STEERING COMMITTEE CONCERNING THE NOVEL CORONAVIRUS (COVID-19) 2020-990

Originator: Jim Herberg

General Manager Jim Herberg provided an update on the precautions and actions that the Sanitation District has taken due to the Coronavirus (COVID-19), including staff telecommuting, limited public access, etc. in accordance with the Governor's order, CDC, and Orange County Health Director. The Committee stated their support of the General Manager's action plan.

CLOSED SESSION:

CONVENED IN CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(4):

The Committee convened in closed session at 12:20 p.m. to discuss one item. Confidential minutes of the Closed Session have been prepared in accordance with the above Government Code Section and are maintained by the Clerk of the Board in the Official Book of Confidential Minutes of Board and Committee Closed Session Meetings.

CS-1 CONFERENCE WITH LEGAL COUNSEL RE ANTICIPATED LITIGATION - GOVERNMENT CODE SECTION 54956.9(d)(4) **2020-989**

Convened in Closed Session:

Number of Potential Cases: 1

Initiation of litigation regarding development fees and conditions at Project OCSD Headquarters Building: City of Fountain Valley

RECONVENE IN REGULAR SESSION.

CONSIDERATION OF ACTION, IF ANY, ON MATTERS CONSIDERED IN CLOSED SESSION:

General Counsel did not provide a report.

OTHER BUSINESS AND COMMUNICATIONS OR SUPPLEMENTAL AGENDA ITEMS, IF ANY:

None.

ADJOURNMENT:

The Board Chairman adjourned the Special Steering Committee meeting until the Regular Steering Committee Meeting on March 25, 2020 at 5:00 p.m.

Submitted by:

_____
Kelly A. Lore, MMC
Clerk of the Board

Orange County Sanitation District
Minutes for the
STEERING COMMITTEE

Wednesday, March 25, 2020
5:00 PM
Conference Room A
Administration Building
10844 Ellis Avenue
Fountain Valley, CA 92708
(714) 593-7433

CALL TO ORDER

A regular meeting of the Steering Committee of the Orange County Sanitation District was called to order by Board Chairman David Shawver on Wednesday, March 25, 2020 at 5:06 p.m. in the Administration Building of the Orange County Sanitation District. Chair Shawver stated that the meeting was being held telephonically in accordance with the Governor's Executive Order No. N-29-20, due to the Coronavirus Pandemic (COVID-19).

The Clerk of the Board announced the teleconference meeting guidelines and stated that votes will be taken by roll call.

DECLARATION OF QUORUM:

A quorum was declared present, as follows:

PRESENT: David Shawver, John Withers, Robert Collacott, Peter Kim, Glenn Parker, Tim Shaw and Chad Wanke
ABSENT: None

STAFF PRESENT:

Jim Herberg, General Manager; Rob Thompson, Assistant General Manager; Lorenzo Tyner, Assistant General Manager; Kelly Lore, Clerk of the Board; Brian Engeln; and Tina Knapp.

OTHERS PRESENT:

Brad Hogin, General Counsel.

PUBLIC COMMENTS:

None.

REPORTS:

None.

CONSENT CALENDAR:

1. APPROVAL OF MINUTES **2020-897**

Originator: Kelly Lore

MOVED, SECONDED, AND DULY CARRIED TO:

Approve Minutes of the Regular Meeting of the Steering Committee held February 26, 2020.

AYES: David Shawver, John Withers, Robert Collacott, Peter Kim, Glenn Parker, Tim Shaw and Chad Wanke
NOES: None
ABSENT: None
ABSTENTIONS: None

NON-CONSENT:

2. RESOLUTION GRANTING EMERGENCY POWER TO THE GENERAL MANAGER IN THE EVENT THE PUBLIC HEALTH AND SAFETY IS ENDANGERED DUE TO A DISRUPTION OF SEWER SERVICE **2020-994**

Originator: Lorenzo Tyner

Amended motion to include second paragraph was made as follows:

MOVED, SECONDED, AND DULY CARRIED TO: Recommend to the Board of Directors to:

Adopt Resolution No. OCSD 20-01 entitled, "A Resolution of the Board of Directors of the Orange County Sanitation District, Granting Emergency Power to the General Manager in the Event the Public Health and Safety is Endangered due to a disruption of Sewer Service; and repealing Resolution No. 75-160"; and

Instruct the General Manager to immediately notify the Board of Directors of any changes that are made to Board-approved policies and procedures or resolution, and to keep a running log of such changes.

AYES: David Shawver, John Withers, Robert Collacott, Peter Kim, Glenn Parker and Tim Shaw
NOES: None
ABSENT: Chad Wanke
ABSTENTIONS: None

As meeting was held telephonically, Director Wanke did not respond to the roll call vote on Item No. 2 so was presumed absent.

INFORMATION ITEMS:

None.

CLOSED SESSION:

The Committee did not convene in Closed Session.

CS-1 PUBLIC EMPLOYEE PERFORMANCE EVALUATION 54957(b)(1) 2020-973

DID NOT CONVENE IN CLOSED SESSION:

Public Employee Performance Evaluation

Number of Employees: 1

- General Counsel

CS-2 CONFERENCE WITH LEGAL COUNSEL RE ANTICIPATED LITIGATION - GOVERNMENT CODE SECTION 54956.9(d)(2) 2020-996

DID NOT CONVENE IN CLOSED SESSION:

Number of Potential Cases: 1

Claim for damages from Ignacio Castro

OTHER BUSINESS AND COMMUNICATIONS OR SUPPLEMENTAL AGENDA ITEMS, IF ANY:

None.

BOARD OF DIRECTORS INITIATED ITEMS FOR A FUTURE MEETING:

Director Collacott requested a white paper or presentation regarding the effect that the COVID-19 pandemic will have on the OCSD budget, including reserves. Vice-Chair Withers also asked that the presentation include the effect on the OCERS unfunded liability.

ADJOURNMENT:

Chair Shawver declared the meeting adjourned at 5:25 p.m. to the next Steering Committee meeting to be held on Wednesday, April 22, 2020 at 5:00 p.m.

Submitted by:

_____

Kelly A. Lore, MMC
Clerk of the Board

Orange County Sanitation District

Administration Building
10844 Ellis Avenue
Fountain Valley, CA 92708
(714) 593-7433

STEERING COMMITTEE

Agenda Report

File #: 2020-887 **Agenda Date:** 4/22/2020 **Agenda Item No:** 2.

FROM: James D. Herberg, General Manager
Originator: Kathy Millea, Director of Engineering

SUBJECT:

2020-23 SPONSORSHIP OF THE CENTER FOR DEMOGRAPHIC RESEARCH

GENERAL MANAGER'S RECOMMENDATION

RECOMMENDATION: Recommend to the Board of Directors to:

Approve a three-year Memorandum of Understanding with California State University Fullerton Auxiliary Services Corporation for operation of the Center for Demographic Research for the period July 1, 2020 through June 30, 2023, for a total amount not to exceed $331,504.

BACKGROUND

The Center for Demographic Research (CDR), located at California State University Fullerton, develops demographic and related information for Orange County. Since 1996, CDR has been supported by sponsoring agencies, including the Orange County Sanitation District (Sanitation District). The Sanitation District uses CDR information to develop wastewater flow projections and to assess capacity needs for sewer conveyance and treatment facilities, and to project revenues from connection fees.

RELEVANT STANDARDS

- Maintain and adhere to appropriate internal planning documents
- Sustain 1, 5, 20-year planning horizons
- Maintain collaborative and cooperative relationships with regulators, stakeholders, and neighboring communities.

PROBLEM

The Sanitation District sponsorship of the CDR for 2017-2020 will be ending on June 30, 2020. Without our sponsorship of the CDR, the program will be impacted and will affect the products that can be produced. The products produced by CDR are used for various master planning efforts at the Sanitation District.

PROPOSED SOLUTION

Continue Sanitation District sponsorship of the CDR by approving the 2020-2023 Memorandum of Understanding (MOU).

TIMING CONCERNS

Execution of the CDR MOU by the Sanitation District's General Manager required to be returned to CDR by June 30, 2020.

RAMIFICATIONS OF NOT TAKING ACTION

The Sanitation District will no longer be a sponsor of the CDR and not entitled to CDR reports and information generated.

PRIOR COMMITTEE/BOARD ACTIONS

March 2017 - Approved a three-year Memorandum of Understanding with California State University, Fullerton Auxiliary Services Corporation for Operation of the Center for Demographic Research, for the period July 1, 2017 through June 30,2020, for a total amount not to exceed $282,005.26.

May 2014 - Approved a three-year Memorandum of Understanding with California State University, Fullerton Auxiliary Services Corporation for Operation of the Center for Demographic Research, for the period July 1, 2014 through June 30, 2017, for a total amount not to exceed $239,344.

ADDITIONAL INFORMATION

The CDR produces core demographic products such as the "Orange County Progress Report," "Orange County Projections" and census, and employment data by traffic analysis zone. Recognizing the importance of local area expertise in developing demographic projections and associated products, a number of agencies sponsor CDR as listed in the payment schedule table below. Respective fees shall be as follows:

Payment Schedule for 2020-2023	2020-2021	2021-2022	2022-2023	Three Year Total
Orange County Transportation Authority	$106,200.64	$110,378,62	$114,924.00	$331,503.26
County of Orange	$106,200.64	$110,378,62	$114,924.00	$331,503.26
Orange County Council of Governments	$106,200.64	$110,378,62	$114,924.00	$331,503.26
Orange County Sanitation District	$106,200.64	$110,378,62	$114,924.00	$331,503.26
Transportation Corridor Agencies	$106,200.64	$110,378,62	$114,924.00	$331,503.26
Southern California Association of Governments	$106,200.64	$110,378,62	$114,924.00	$331,503.26
Municipal Water District of Orange County	$53,100.32	$55,189.31	$57,462.00	$165,751.63
Orange County Water District	$53,100.32	$55,189.31	$57,462.00	$165,751.63
California State University, Fullerton	$97,213.96	$98,782.60	$98,782.60	$294,779.16
Orange County Local Agency Formation Commission	$17,000.00	$17,000.00	$17,000.00	$51,000.00
TOTAL	$857,618.44	$888,432.94	$920,250.60	$2,666,301.98

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The 2020-2023 MOU establishes Sanitation District sponsorship fees at $106,200.64 for 2020-21, $110,378.62 for 2021-22, and $114,924 for 2022-23.

Cost increases are due to state minimum wage increases, required health benefits coverage, additional staffing to cover 2020 base year employment survey, and salary increases based on a July 2019 Compensation and Classification survey.

CEQA

This is not a project as defined by the California Environmental Quality Act (CEQA), therefore CEQA does not apply.

FINANCIAL CONSIDERATIONS

The cost of sponsorship has been budgeted within the Operational Budget of Division 740 under Operating Expense (FY2018-19 and 2019-20 Budget, Section 6, page 55) over the past six years. If approved, this item will continue to be budgeted within the same line item.

Date of Approval	Contract Amount	Contingency
04/22/2020	$331,503.26	N/A

ATTACHMENT

The following attachment(s) may be viewed on-line at the OCSD website (www.ocsd.com) with the complete agenda package:

- Memorandum of Understanding

KH:sa:dm

AGREEMENT NO.

MEMORANDUM OF UNDERSTANDING
by and between
ORANGE COUNTY INTERESTS
and
CSU FULLERTON AUXILIARY SERVICES CORPORATION
for the
CONTINUED OPERATION OF THE CENTER FOR DEMOGRAPHIC RESEARCH AT CALIFORNIA STATE UNIVERSITY, FULLERTON

This Memorandum of Understanding ("MOU") is entered into between the County of Orange, Transportation Corridor Agencies, Orange County Sanitation District, Orange County Transportation Authority, Municipal Water District of Orange County, Orange County Water District, Orange County Council of Governments, Southern California Association of Governments ("SPONSORS"); the Orange County Local Agency Formation Commission ("CONTRIBUTING PARTNERS") and the CSU Fullerton Auxiliary Services Corporation, ("ASC"), which is a 501 (c)3 California corporation organized under California law as an auxiliary organization of California State University, Fullerton ("CSUF"). This MOU is for the development of demographic data and related support products. Obligations and rights specified for CSUF in the MOU shall be exercised by the ASC.

WHEREAS, the development of demographic and related information for Orange County is a vital data source used for a wide range of local, subregional and regional applications, including, transportation infrastructure planning, facilities planning and timing, development of fee programs, bond revenue stream analysis, general planning and other applications; and

WHEREAS, a number of primary users of data in Orange County have recognized the benefit of having a local area expertise in developing demographic projections and associated products; and

WHEREAS, these SPONSORS, CONTRIBUTING PARTNERS, and CSUF agree on the importance of having a single entity in Orange County developing demographic products and providing such products to data users; and

WHEREAS, these agencies also desire to establish a long-term process which allows each individual agency participation in the development and review of demographic products; and

WHEREAS, the Center for Demographic Research ("CDR") located at CSUF provides an opportunity to place demographic activities in a setting that accomplishes SPONSORS' and CONTRIBUTING PARTNERS' objectives and provides augmented educational opportunities for CSUF; and

WHEREAS, CSUF will be listed as a "SPONSOR" based upon their financial contribution as outlined in the budget in Attachment 1 and in-kind contributions for the balance of the remaining Sponsor seat; and

WHEREAS, the SPONSORS have worked cooperatively in supporting and organizing the Center for Demographic Research for 24 years and wish to continue their cooperation; and

WHEREAS, the CONTRIBUTING PARTNERS wish to participate in supporting the Center for Demographic Research beginning in Fiscal Year 2020/2021; and

NOW, THEREFORE, IT IS RESOLVED that the **SPONSORS, CONTRIBUTING PARTNERS**, and the **ASC** agree as follows:

I. The SPONSORS and CONTRIBUTING PARTNERS will fund the CDR for the next three years, subject to an annual review and two one-year options by the SPONSORS and CONTRIBUTING PARTNERS, for an annual total fee as set forth in Item IV below and Attachment 1.

II. Process and Structure

A. Orange County Projections

The Orange County Council of Governments ("OCCOG") will be responsible for the approval of the Orange County Projections at the Regional Statistical Area level and subsequent to that action the County of Orange will approve the Orange County Projections. The OCCOG will work with CDR staff to integrate the Orange County Projections as approved into the Southern California Association of Governments ("SCAG") Regional Growth Forecast. Sponsors will make good faith efforts to use the Orange County Projections data in all future forecasting and planning efforts.

B. Management Oversight

The Management Oversight Committee ("MOC") shall meet at least four (4) times each year to (1) consider policy matters associated with the operations of the Center for Demographic Research, (2) review products status and activities which are part of the core Work Program, (3) review the Center for Demographic Research's financial status and status of annual MOU signatures, (4) set CDR budget and modify staff salaries funded by this MOU (5) consider requests from additional agencies wishing to become sponsors or contributing partners, (6) modify budget and work program upon addition or termination of a sponsor or contributing partner, (7) address other matters vital to the function of the Center for Demographic Research, and (8) undertake additional tasks as requested by the SPONSORS.

The Management Oversight Committee will be comprised of staff representing the SPONSORS, CONTRIBUTING PARTNERS and CSUF. Each SPONSOR will have one voting member of equal standing on the Management Oversight Committee including one member jointly representing the Municipal Water District of Orange County and the Orange County Water District; each CONTRIBUTING PARTNER will have one non-voting Ex-Officio member. The designees from each SPONSOR, CONTRIBUTING PARTNER, and the university shall be named by

July 1 of each year. An organization may also designate an individual(s) to serve as an alternate member of the Management Oversight Committee. The committee chair and vice-chair will be elected for a three-year term.

C. Technical Oversight:

The Technical Advisory Committee ("TAC") provides technical guidance and input into the development of each product produced under this MOU before they are reviewed by the Management Oversight Committee. The Technical Advisory Committee advises the Director of the Center for Demographic Research, as well as reports to the Management Oversight Committee. The Committee will include one voting representative from each SPONSOR including a member representing the Municipal Water District of Orange County and the Orange County Water District; each CONTRIBUTING PARTNER will have one non-voting Ex-Officio member. University participation on the Technical Advisory Committee will include at least one voting member from CSUF, and one voting member each from the University of California, Irvine and Chapman University. The Director of the Center for Demographic Research will coordinate with research centers at these universities to ensure data consistency. The designees from each SPONSOR, CONTRIBUTING PARTNER, and agency shall be named by July 1 of each year. The committee chair and vice-chair will be elected for a three-year term.

The Technical Advisory Committee shall schedule at least four (4) meetings each year. It will (1) provide a report to the Management Oversight Committee summarizing its meetings, (2) provide advice on the approach, techniques, data sources and methods used to develop new products, (3) facilitate the acquisition of data necessary to produce products, (4) provide suggestions on the interpretation and analysis incorporated into deliverables, (5) provide input on assumptions for the development of the growth projections, (6) provide review of deliverables prior to approval by the Management Oversight Committee and (7) undertake other tasks as identified by the Management Oversight Committee.

D. Transportation Modeling Data

The Orange County Transportation Authority ("OCTA") will be responsible for the approval of all transportation modeling variables used in the Orange County Transportation Analysis Model ("OCTAM") at the Traffic Analysis Zone level. The transportation modeling variables shall be consistent with the Orange County Projections, as approved by the Orange County Council of Governments and the County of Orange at the Regional Statistical Area Level. The OCTA and SCAG will exercise user agreements for their consultants to access the transportation modeling variables.

III. Duration and Terminations

This agreement will become effective upon execution and ends on June 30, 2023. A review of the performance of the Center for Demographic Research in meeting its obligations under this MOU will be conducted by the Management Oversight Committee throughout the term July 2020 through June 2023. This MOU may be extended and/or amended by mutual agreement of all signatories.

A party may terminate its participation under this MOU by giving each of the other parties sixty (60) days written notice thereof. Upon said notice of termination, the SPONSOR or CONTRIBUTING PARTNER terminating its participation shall pay the balance of fees owed by the SPONSOR or CONTRIBUTING PARTNER for that given fiscal year. Each fiscal year, the SPONSORS and CONTRIBUTING PARTNERS shall review and approve in writing the MOU, work program, and funding arrangement. Such written approval shall constitute a SPONSOR'S or CONTRIBUTING PARTNER'S agreement to participate in this Agreement. In the event that ASC wishes to terminate its participation, it shall reimburse the SPONSORS and CONTRIBUTING PARTNERS any advance payments, less an amount to cover expenses related to work in progress and less costs reasonably necessary to effect such termination. If a party wishes to withdraw from the agreement, said notice shall be affected by delivery of such notice in person or by depositing said notice in the United States mail, registered or certified mail, return receipt required, postage prepaid.

IV. Funding and Schedule

Respective fees shall be as follows for the following fiscal year:

Payment Schedule for 2020-2023	**2020-2021**	**2021-2022**	**2022-2023**	**Three-Year Total**
Orange County Transportation Authority	$106,200.64	$110,378.62	$114,924.00	$331,503.26
County of Orange	$106,200.64	$110,378.62	$114,924.00	$331,503.26
Orange County Council of Governments	$106,200.64	$110,378.62	$114,924.00	$331,503.26
Orange County Sanitation District	$106,200.64	$110,378.62	$114,924.00	$331,503.26
Transportation Corridor Agencies	$106,200.64	$110,378.62	$114,924.00	$331,503.26
Southern California Association of Governments	$106,200.64	$110,378.62	$114,924.00	$331,503.26
Municipal Water District of Orange County	$53,100.32	$55,189.31	$57,462.00	$165,751.63
Orange County Water District	$53,100.32	$55,189.31	$57,462.00	$165,751.63
Orange County Local Agency Formation Commission	$17,000.00	$17,000.00	$17,000.00	$51,000.00
NON-CSUF TOTAL	**$760,404.48**	**$789,650.34**	**$821,468.00**	**$2,371,522.82**
California State University, Fullerton	$97,213.96	$98,782.60	$98,782.60	$294,779.16
TOTAL	**$857,618.44**	**$888,432.94**	**$920,250.60**	**$2,666,301.98**

Payments shall be made in accordance with invoicing policies of the ASC according to the schedule below. SPONSORS and CONTRIBUTING PARTNERS will be invoiced at the beginning of each quarter. Quarterly payments equal to 25% of the annual fees shall follow invoices submitted according to the calendar below:

Fiscal Year 2020/2021:	July 2020, October 2020, January 2021, April 2021
Fiscal Year 2021/2022:	July 2021, October 2021, January 2022, April 2022
Fiscal Year 2022/2023:	July 2022, October 2022, January 2023, April 2023

SPONSORS and CONTRIBUTING PARTNERS shall pay one-quarter of their annual fees upon receipt of said invoices or may prepay for an entire fiscal year. Prepayment does not imply a discounted rate.

V. Administrative Representatives

A. The Principal Investigator for the operations and management of the Center for Demographic Research and the conduct of this MOU is Deborah Diep, Director. The Assistant Director, Rubaiya Zaman, will serve as the Principal Investigator in the Director's absence. They are authorized to negotiate supplemental services with the SPONSORS, CONTRIBUTING PARTNERS, and Non-sponsors as noted in Section VII. Sydney Dawes, Director, ASC Office of Sponsored Programs is designated as the administrative representative for the ASC. Should the Principal Investigators become unavailable for any reason, no other Principal Investigator shall be chosen by CSUF or the ASC without the approval of the SPONSORS. Furthermore, the ASC agrees that the Management Oversight Committee shall make the recommendation on the selection of the Director or interim Director of the Center for Demographic Research and no Director or interim Director shall be appointed without approval of the Management Oversight Committee. The Management Oversight Committee will serve as the search committee if a search committee for the Director is required by the ASC.

B. Equipment and furniture purchased by ASC under the terms of this MOU shall remain the property of the SPONSORS. In the event that the Center for Demographic Research is disbanded, the equipment remains the property of the SPONSORS and the Management Oversight Committee shall determine its disposition.

C. Databases and applications developed and maintained for the Center for Demographic Research purposes shall remain under control of the SPONSORS. In the event that Center for Demographic Research is relocated from CSUF, all Center for Demographic Research functions and designations shall accompany the Center for Demographic Research.

VI. Additional Sponsorships and Revenues

Other agencies and entities can become sponsors or contributing partners of the Center for Demographic Research with unanimous agreement among the SPONSORS as determined by a vote of the Management Oversight Committee. Adjustments in sponsor fees found necessary resulting from the addition of sponsors shall be determined by the Management Oversight Committee with consultation from the Center for Demographic Research Principal Investigators.

The disposition of additional revenues generated through additional sponsors, and the sale of products and services to non-sponsors shall be determined by the Management Oversight Committee. The additional funds shall be prorated according to the respective sponsor fee. SPONSORS shall have the option of expending their share of the additional funds on CDR activities, products or equipment or having the funds returned to the SPONSORS at the end of the fiscal year.

VII. Products and Deliverables

A. The Center for Demographic Research will produce the identified core Demographic Products and Services as described in Attachment 2 and listed in Attachment 3. Each SPONSOR will receive ten (10) copies in printed form and one (1) copy of estimates and projections in electronic form.

B. The SPONSORS and CONTRIBUTING PARTNERS have the right to request supplemental products and support services from the Center for Demographic Research through a purchase order. Projects above the amount of $25,000 shall be approved by the ASC. Such purchases may be entered into if the SPONSOR or CONTRIBUTING PARTNER agrees to pay ASC all additional costs resulting from the additional products or services, including an indirect cost of 22%, and if the activities do not interfere with the normal functioning of the CDR. If requests for additional products or services require interference with the normal functioning of the CDR as determined by the Management Oversight Committee or additional resources from the CDR's basic budget the proposal for such products and services will be forwarded to the Management Oversight Committee for their advice and consent prior to finalization of the agreement. In all cases, supplemental work for SPONSORS and CONTRIBUTING PARTNERS shall be assessed indirect costs of 22%.

C. Non-sponsors can contract with the Center for Demographic Research through the ASC for its services or obtain supplemental products and support services from the Center for Demographic Research through a Non-sponsor purchase order. A list of these projects will be submitted to the MOC on a quarterly basis. If the Director assesses a proposed project contains a conflict of interest, conflict of time commitment, or interference with the normal functioning of CDR, the Management Oversight Committee will be informed of the request for services and will review it for any potential conflicts. The Director shall notify the Management Oversight Committee of any such proposed agreement and provide the committee with draft text and budget, before the intended start of work. The Management Oversight Committee shall review the proposed project for possible conflicts of interests, conflicts of time commitment, and budgetary adequacy. The Management Oversight Committee may at its discretion impose a surcharge of funds to be used at its discretion. Action on these matters may be taken only with the concurrence of a majority of the members of the Management Oversight Committee and all such supplemental work for Non-sponsors shall be assessed normal indirect costs of 22%.

D. Use of revenues generated by the sale of products produced by the Center for Demographic Research shall be determined by the Management Oversight Committee. A quarterly report on product sales will be presented to the Management Oversight Committee.

E. Additional projects should not adversely affect the schedule of deliverables unless otherwise agreed to by the Management Oversight Committee.

VIII. Sponsorship

This Agreement shall be signed by all SPONSORS and CONTRIBUTING PARTNERS by June 30, 2020 with the exception of the Southern California Association of Governments. The Southern California Association of Governments shall sign this Agreement by September 30, 2020. If all SPONSORS and CONTRIBUTING PARTNERS listed in Section XVIII do not sign by September 30, 2020, the work program and budget will be modified to reflect the committed funding. If any SPONSOR or CONTRIBUTING PARTNER does not sign this Agreement, the funding amounts of the remaining SPONSORS and CONTRIBUTING PARTNERS will not change. The remaining SPONSORS and CONTRIBUTING PARTNERS are not required to make up the difference in the reduced budget. Any SPONSOR or CONTRIBUTING PARTNER listed as an ORANGE COUNTY INTEREST that does not sign this Agreement forfeits all rights, services, and privileges as a CDR SPONSOR or CONTRIBUTING PARTNER unless otherwise negotiated. A formal status report on execution will be delivered at each Management Oversight Committee meeting until all SPONSORS and CONTRIBUTING PARTNERS sign this Agreement.

IX. Liability and Insurance

Each party to this MOU hereby assumes any and all risks for personal injury and property damage attributable to the negligent acts or omissions of that party and the officers, employees, and agents thereof. ASC warrants that it has adequate Worker's Compensation Insurance and liability insurance for its own employees. The ASC, the SPONSORS (the County of Orange, Transportation Corridor Agencies, Orange County Sanitation District, Orange County Transportation Authority, Municipal Water District of Orange County, Orange County Water District, Orange County Council of Governments, and Southern California Association of Governments), and the CONTRIBUTING PARTNERS (the Orange County Local Agency Formation Commission) agree to indemnify and hold each other, their respective officers, employees, students, agents, harmless from and against all liability, loss, expense (including reasonable attorney's fees), or claims for injury of damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorney's fees, or claims for injury or damages are caused by or result from negligent or intentional acts or omissions of the indemnifying party, its officers, employees, students or agents.

X. Independent Contractor

In the performance of all services and obligations under this agreement, SPONSORS, CONTRIBUTING PARTNERS, and ASC shall act as independent contractors. None shall be considered an employee or agent of the other.

XI. Use of Names

SPONSORS and CONTRIBUTING PARTNERS agree not to use the names of the ASC or CSUF in any commercial connection with work performed under this Agreement without prior written permission from the ASC. SPONSORS and CONTRIBUTING PARTNERS may use said names in ordinary internal business reports concerning this Agreement and may use the names of the Center for Demographic Research and the Principal Investigators in non-commercial publicity announcing the results of the project.

ASC agrees not to use the names of SPONSORS and/or CONTRIBUTING PARTNERS in any commercial connection with this work without prior written permission from SPONSORS and/or CONTRIBUTING PARTNERS. ASC may use SPONSORS' and/or CONTRIBUTING PARTNERS' name in ordinary internal business reports concerning this agreement and in non-commercial publicity announcing the awarding of the contract.

The provisions of this Section of the Agreement shall survive for two (2) years beyond any termination date specified in Section III or any extension thereof.

XII. Force Majeure

SPONSORS, CONTRIBUTING PARTNERS, and ASC shall not be liable or deemed to be in default for any delay or failure in performance under this Agreement or interruption of services resulting, directly or indirectly, from acts of God, civil or military authority, acts of public enemy, strikes, labor disputes, or any similar cause beyond the reasonable control of SPONSORS, CONTRIBUTING PARTNERS, or ASC, provided the affected party notifies the other party of the delay in writing within ten days of the onset of the delay.

XIII. Assignment

This Agreement shall inure to the benefit of and be binding upon and enforceable by the parties and their successors and permitted assigns. However, neither party may assign any of its rights or obligations under this Agreement without the prior written consent of the other.

XIV. Modification and Waiver

None of the terms of the Agreement may be waived or modified except by an express agreement in writing signed by SPONSORS, CONTRIBUTING PARTNERS, and ASC. Modifications not documented in writing cannot be enforced. The failure or delay of either party in enforcing any of its rights under this Agreement shall not be deemed a continuing waiver or a modification by such party of such right.

XV. Governing Law

The validity and interpretation of this Agreement shall be governed by the laws of the State of California.

XVI. Federal Statutes Relating to Nondiscrimination

ASC will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S. C. sections 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S. C. section 794), which prohibits discrimination on the basis of handicaps; (d) Age discrimination Act of 1975, as amended (42 U.S.C. sections 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (P.O. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-d and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. section 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (I) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirement of any other federal nondiscrimination statue(s) which may apply to the application.

XVII. Notices

Notices under this agreement shall be considered to be given if delivered by first class mail to the following addresses:

For SPONSORS:

Jessica Witt
County of Orange
10 Civic Center Plaza, 3rd Floor
Santa Ana, CA 92701

Marnie O'Brien Primmer
Orange County Council of Governments
3972 Barranca Pkwy, Suite J-127
Irvine, CA 92606

James D. Herberg
Orange County Sanitation District
10844 Ellis Avenue
Fountain Valley, CA 92738-8127

Kurt Brotcke
Orange County Transportation Authority
550 S. Main Street
2nd Floor
Orange, CA 92868

Kome Ajise
Southern California Association of Governments
c/o Justine Block, SCAG Acting Chief Counsel
900 Wilshire Blvd., Suite 1700
Los Angeles, CA 90017

Valarie McFall
Transportation Corridor Agencies
125 Pacifica, Suite 100
Irvine, CA 92618-3304

Robert Hunter
Municipal Water District of Orange County
18700 Ward Street
Fountain Valley, CA 92728

Michael R. Markus
Orange County Water District
18700 Ward Street
Fountain Valley, CA 92728-8300

Danny C. Kim
Administration and Finance, California State University, Fullerton
800 N. State College Blvd., LH-802
Fullerton, CA 92831-3599

For CONTRIBUTING PARTNERS:

Carolyn Emery
Orange County Local Agency Formation Commission
2677 N. Main Street, Suite 1050
Santa Ana, CA 92705

For CSU FULLERTON AUXILIARY SERVICES CORPORATION

Sydney Dawes, Director, ASC Office of Sponsored Programs
CSU Fullerton Auxiliary Services Corporation
1121 N. State College Blvd.
Fullerton, CA 92831-3014

XVIII. Execution

IN WITNESS THEREOF, the SPONSORS, CONTRIBUTING PARTNERS, and the ASC have executed this Agreement on the date first herein written. This Agreement is to be signed in counter parts.

For the CSU Fullerton Auxiliary Services Corporation:

_____ _____
Charles D. Kissel, Executive Director Date

For the County of Orange:

_____ _____
Frank Kim, County Executive Officer Date

For the Orange County Council of Governments:

_____ _____
Marnie O'Brien Primmer, Executive Director Date

For the Orange County Sanitation District:

_____ _____
James D. Herberg, General Manager Date

For the Orange County Transportation Authority:

_____ _____
Darrell Johnson, Chief Executive Officer Date

For the Southern California Association of Governments:

_____ _____
Kome Ajise, Executive Director Date

For the Foothill/Eastern Transportation Corridor Agency:

_____ _____
Michael Kraman, Chief Executive Officer Date

For the San Joaquin Hills Transportation Corridor Agency:

_____ _____
Michael Kraman, Chief Executive Officer Date

For the Municipal Water District of Orange County:

_____ _____
Sat Tamaribuchi, President of the Board Date

_____ _____
Robert Hunter, General Manager Date

For the Orange County Water District:

_____ _____
Vincent Sarmiento, President Date

_____ _____
Michael R. Markus, General Manager Date

For the Orange County Local Agency Formation Commission:

_____ _____
Carolyn Emery, Executive Officer Date

For California State University, Fullerton:

_____ _____
Danny C. Kim, Vice President for Administration & Finance/CFO Date

Attachment 1: Center for Demographic Research
Annual Budget: July 1, 2020 through June 30, 2023

		2020-21	2021-22	2022-23
1	Salaries	$434,339.26	$446,889.06	$467,736.62
2	Benefits	$184,459.49	$191,881.70	$201,114.20
3	Supplies	$7,000.00	$7,000.00	$7,000.00
4	Printing & Publications	$8,500.00	$12,500.00	$8,500.00
5	Meetings, Mileage, & Training	$1,950.00	$1,950.00	$1,950.00
6	Equipment	$500.00	$500.00	$500.00
7	**Expenses**	**$636,748.75**	**$660,720.77**	**$686,800.82**
8	Federally-negotiated Indirect Cost (IDC) / Overhead: 37%	$235,597.04	$244,466.68	$254,116.30
9	Office space rent (not subject to IDC)	$80,784.96	$82,353.60	$82,353.60
10	**(A) Gross Total Program Costs**	**$953,130.75**	**$987,541.05**	**$1,023,270.72**
11	Contributions toward IDC			
12	Non-CSUF SPONSORS/Contributing Partner (22.0%)	$140,084.73	$145,358.57	$151,096.18
13	CSUF contribution (IDC reduction from 37% to 22%)	$95,512.31	$99,108.11	$103,020.12
14	Total Indirect Cost (IDC) / Overhead	$235,597.04	$244,466.68	$254,116.30
15	CSUF Contribution Summary			
16	Office space rent: 100%[1]	$80,784.96	$82,353.60	$82,353.60
17	Administrative Asst. salary support from HSS Dean[1]	$16,429.00	$16,429.00	$16,429.00
18	Subtotal of CSUF Monetary Contributions	$97,213.96	$98,782.60	$98,782.60
19	IDC / Overhead (Rate reduction from 37% to 22%)[2]	$95,512.31	$99,108.11	$103,020.12
20	**(B) Total CSUF Contribution**	**$192,726.27**	**$197,890.71**	**$201,802.72**
21	**NET CDR BUDGET TOTAL: (A) - (B)**	**$760,404.48**	**$789,650.34**	**$821,468.00**
22	Contributing Partner (no seat): LAFCO	$17,000.00	$17,000.00	$17,000.00
23	Cost per Sponsorship Seat= (Net Budget – LAFCO)/ 7 remaining seats	$106,200.64	$110,378.62	$114,924.00

		Number of Voting Seats			
24	OCTA	1	$106,200.64	$110,378.62	$114,924.00
25	COUNTY	1	$106,200.64	$110,378.62	$114,924.00
26	OCCOG	1	$106,200.64	$110,378.62	$114,924.00
27	OCSD	1	$106,200.64	$110,378.62	$114,924.00
28	TCA	1	$106,200.64	$110,378.62	$114,924.00
29	SCAG	1	$106,200.64	$110,378.62	$114,924.00
30	MWDOC	0.5	$53,100.32	$55,189.31	$57,462.00
31	OCWD	0.5	$53,100.32	$55,189.31	$57,462.00
32	CSUF	1	see above	see above	see above
33	LAFCO	0	$17,000.00	$17,000.00	$17,000.00
34	**TOTAL**	**8**	**$760,404.48**	**$789,650.34**	**$821,468.00**

[1]Monetary contribution
[2]Non-monetary contribution (rate reduction); not included in IV. Funding and Schedule: Payment Schedule for 2020-2023, Page 4.

Attachment 2
Proposed CDR 2020-2023 Services and Products

REPORTS

Orange County Progress Report

Produce an annual Orange County Progress Report. This document presents a unified and a comprehensive picture of Orange County and its 34 cities including its economic health, its demographic status and trends, and other information of interest to those who might wish to relocate to Orange County, do business in the County, or otherwise have an interest in the economic and demographic status and future of Orange County.

Orange County Projections

Preparation and development of OCP-2022 will begin during this three-year MOU. Incorporate 2020 Decennial Census data into OCP-2022 base year dataset. Complete OCP-2022 dataset and adoption. Following the adoption of OCP-2022, produce a report containing assumptions, tables, charts, maps, and methodology. The OCP dataset contains population, housing, and employment projections by 2020 census tract, jurisdiction, Community Analysis Area, and Regional Statistical Area for a 25-year period. This iteration will include agency boundaries for MWDOC, OCSD, & OCWD.

Orange County Facts and Figures

Update quarterly the Orange County Facts and Figures. This document focuses on the most frequently asked questions about Orange County demographics and related information.

Boundary and Annexation Report

Working with information provided by OC LAFCO, CDR staff will produce an annual report of the jurisdictional boundary changes. This multi-page report will contain a map of the year to year boundary changes and a table listing the area change and specific annexations and incorporations for each calendar year. Detailed annexation and vicinity maps from OC LAFCO's approved changes of organization documents will also be included in the report. For ease of reference and to make the information publically available, the report will be posted on OC LAFCO's website.

Housing Activity Report

Using information from the Housing Inventory System (HIS), CDR staff will produce an annual report on the housing construction and demolition activity by jurisdiction. Information will be released in aggregate form at the jurisdiction level in a PDF.

PUBLIC INFORMATION SERVICES

Provide Public Information on Orange County Demographics as Requested

Provide information in response to numerous requests made by government agencies, elected officials, private companies, non-profit organizations, schools, students, and citizens regarding demographic and related information about Orange County.

Maintain CDR Website

Update the information currently on the CDR website on a regular basis and expand as information becomes available.

Provide Information and Analysis to News Media

Provide information, description, interviews, and analysis of demographics to news media to assist them in doing stories where demographics is the focus.

Update RHNA Allocations

Develop allocations of 2020 RHNA for annexations and incorporations as requested. Provide data support to local jurisdictions and SCAG during development of the 2020 RHNA. Monitor RHNA development process to ensure Orange County data is incorporated.

Process Decennial Census and American Community Survey Data

Process Bureau of Census data as it pertains to development of the Orange County Projections and at the request of CDR Sponsors.

State Data Center Affiliate

The CDR will serve as a State Data Center Affiliate to the Demographic Research Unit of the California Department of Finance. As an Affiliate, CDR will assist the SDC and Orange County in disseminating census data and improving public access to census data products consistent with services CDR already provides.

DATA BASES

Housing Inventory System

The Housing Inventory System (HIS) is a data system that includes all changes to each jurisdiction's housing stock, including 2017 and 2019 changes to accessory dwelling units. Data is collected at the address level and converted into a GIS database by geocoding. After geocoding, quality analysis efforts include tying activity to parcels. Depending on the jurisdiction, different documents are used to record added units including certificates of use and occupancy, utility release log, or building final documents. Demolitions and conversions are recorded though other recordation. Changes to the mobile home inventory will be verified with HCD. This project includes an annual review and sign off process by each jurisdiction of their geocoded data to ensure accuracy.

Census Data by Partial TAZ

Update the correspondence tables of 2020 Census blocks to the TAZs after release of Census Bureau data and GIS shapefiles. As the various census files become available, transportation modeling variables and other key variables useful for projecting the modeling variables will be aggregated to TAZ.

Calibrate Age Cohort Component, Shift-Share and Headship Rate Models

Based on data from the Census Bureau, DOF, and EDD data, calibrate the models used to project county-wide population, housing and employment.

Master Polygon File

Update master polygon file based on the 2020 Census block file for use in development of OCP dataset and annual population and housing unit estimates. Allocate Census block data to TAZ, CAA, RSA, MWDOC, OCSD, and OCWD. Working with information from OC LAFCO, the master polygon file will be updated annually to include changes to agency boundaries: jurisdiction, MWDOC, OCSD, and OCWD.

Population and Housing Estimates by TAZ (OCP)

Estimates of population and housing by unit type will be developed using the 2010 Census and American Community Survey data at the split TAZ. From 2014 onwards, housing unit changes will be geocoded and aggregated to the TAZ. Annual estimates of population and housing will be produced by TAZ for maintenance of the OCP base file.

Annual Population and Housing Estimates by Partial Census Tract and Sponsor Agency

Estimates of population and housing units developed using the 2020 Census for each of the special district sponsors will be updated annually. From 2014 onwards, annual estimates (January 1) of population and housing will be produced by partial census tract and for each of the special district sponsor agencies: MWDOC, OCSD, and OCWD.

Project Total County Population, Housing, and Employment

Draft assumptions for OCP-2022 will be developed and reviewed by the CDR TAC. These will then be incorporated into the macro level models used to project population, housing, and employment. The resulting projections will be reviewed by the CDR TAC and MOC and then brought to the OCCOG TAC and Board for approval as the controls totals for OCP-2022.

Projected Population, Housing and Employment by TAZ (OCP)

Preparation and development of OCP-2022 will begin during this MOU cycle. Countywide population, housing, and employment for years 2020 through 2050 will be allocated to Traffic Analysis Zones split by jurisdictions. Following the allocation, extensive review and refinement will occur to assure the accuracy of the projections.

Secondary Variables by TAZ (OCTAM)

The basic projected population, housing, and employment from OCP-2022 will be expanded to the 14 OCTAM variables. These variables will include resident population, group quarters population, employed residents, median income, occupied single family dwelling units, occupied multiple family dwelling units, household size, retail employment, service employment, K-12 public school employment, all other employment, school enrollment, university enrollment, and area. Preparation of the base year OCTAM data for OCP-2026 will begin in this MOU cycle.

Entitlement Dataset & Support Services

Provide support to Orange County jurisdictions in the development of the entitlements database and other data requested by SCAG during the development of the 2020 & 2024 RTP/SCS. Monitor development process to ensure Orange County data is incorporated.

Consolidated Boundary and Annexation Program (CBAS)

CDR staff will report annual jurisdictional boundary and feature changes through a new, voluntary program of the U.S. Census Bureau that allows for a consolidated annual review of jurisdiction boundaries. This review will be done using the official County Surveyor/OC LAFCO jurisdiction GIS boundary file. Orange County jurisdictions will be able to opt in or out of this CDR service annually. CDR will notify each participating jurisdiction and OC LAFCO of the outcome of the BAS review, i.e., whether there were any areas where jurisdiction boundaries needed to be corrected.

COMMITTEES

Participate in Sponsor Technical Advisory Committees as Requested

Participate in appropriate Sponsor technical advisory committees including, OCCOG TAC, County's Demographic Steering Committee, OCTA's Modeling TAC, Orange County Sanitation District's Planning Advisory Committee, Water Use Efficiency Project Advisory Committee, and SCAG's Technical Working Group and other regional working groups.

Coordinate with SCAG and SCAG Committees

This service revolves around the incorporation of OCP into the SCAG growth forecast. This service includes participation in SCAG expert panels and workshops to develop assumptions for their population and employment projections; monitoring the discussions relevant to the development of SCAG's growth forecast at SCAG policy committees and subregional coordinator meetings; and coordinating with relevant SCAG staff on this issue.

Coordinate with University Research Centers

CDR staff will coordinate with UCI and Chapman University research centers to ensure consistency between the CDR's forecast and estimates and those produced by these institutes.

2020-2023 LAFCO FUNDED PROJECT: Sphere of Influence Estimates

CDR will update its master polygon file on an annual basis with changes to the sphere of influence (SOI) boundaries. CDR will produce annual estimate of January 1 population and housing for each of the SOI polygons upon completion of the annual Housing Inventory System to maintain this information in preparation for the 2018-2022 OC LAFCO municipal service review cycle.

Boundary and Annexation Report: Working with OC LAFCO over the three-year MOU cycle, CDR will attempt to build a historical reference collection of these reports going back to 2000 as information is available.

NEW PROJECTS & SERVICES

Modifications to OCTA Traffic Analysis Zones

CDR will work with OCTA on an update to their Orange County Transportation Analysis Model Traffic Analysis Zones (OCTAM TAZs) to align with roads and communities that have been built and future developments which are now formally detailed. Once the 2020 Census block geographic boundaries are available, the CDR will work with OCTA from July to December 2020 to update the OCTAM TAZ boundaries by incorporating any additional changes OCTA has requested and finalize any other requested or suggested changes to the TAZ boundaries in preparation for the OCP-2022. 2020 base year estimates to be reviewed by jurisdictions in summer 2021.

Orange County Projections 2022 Geographies- Tier 3/City TAZ Pilot Program

CDR will complete a pilot program of three cities, which already have comparable data at the Tier 3/city TAZ level, to expand the OCP split OCTAM-TAZ geographies to the city/Tier 3 TAZs for OCP-2022. The city-TAZs nest into the OCTAM TAZs. This data will also be provided to SCAG for use in their modeling efforts at the Tier 3 level. The OCP-2022 working geographic unit would be the split Tier 3 TAZ. The OCTAM modeling dataset would still be developed and provided to OCTA at the OCTAM TAZ (Tier 2) level. The pilot program would potentially be a first-phase effort to incorporate the city/Tier 3 TAZ for the three volunteer cities (Anaheim, Irvine, and Newport Beach) into the CDR minimum planning unit database for OCP.

Special Decennial Census Edition of the Facts & Figures

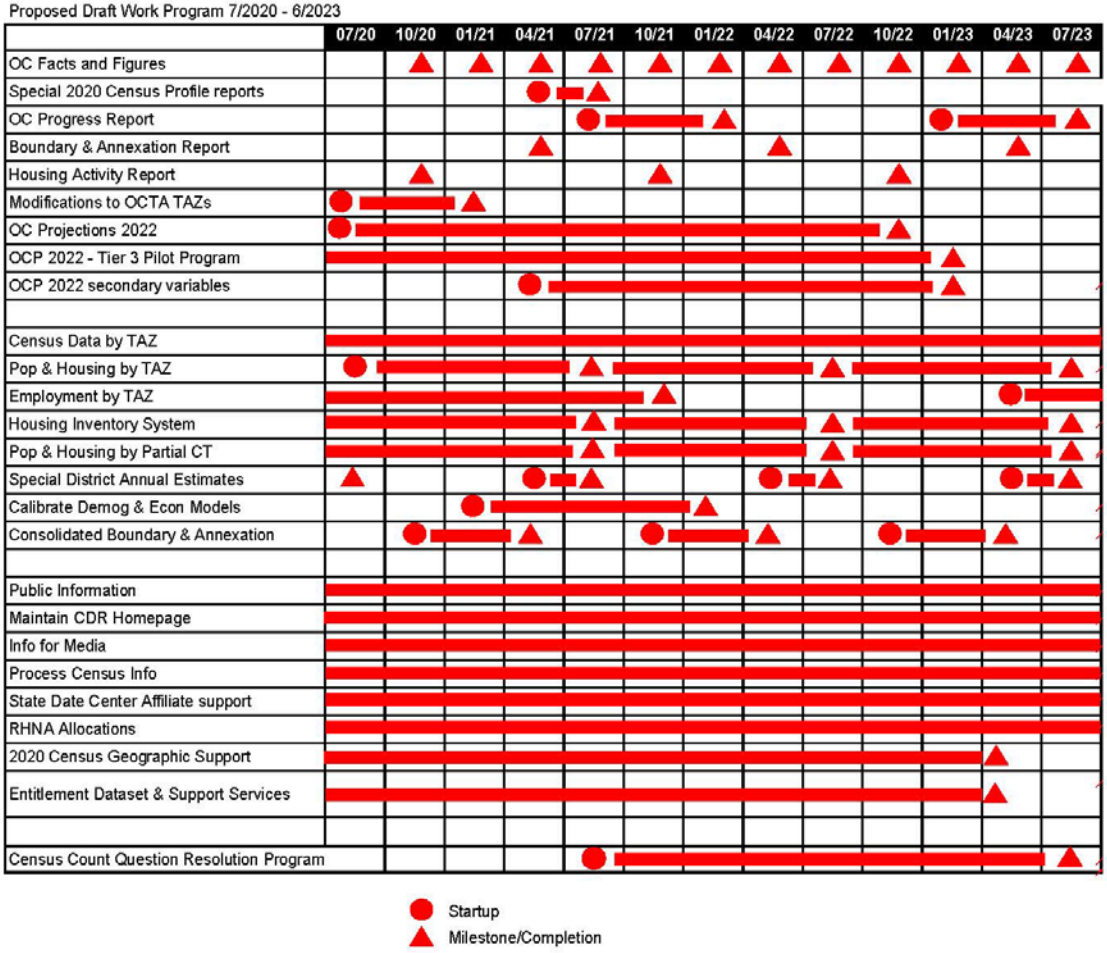
This multi-page document will include county and city/community data from the 2020 Decennial Census on population and housing. It will also show growth and changes since the 2010 Decennial Census. This document will be electronic and posted online for free download.

Census Bureau Count Question Resolution (CQR) Program Support

CDR staff will provide maps to Orange County jurisdictions to verify 2020 Census jurisdictional boundaries and total population and housing unit counts by census block. CDR staff will assist Orange County jurisdictions in documenting errors found during the review process by providing maps to be used in their responses to the U.S. Census Bureau Count Question Resolution program.

Attachment 3

Proposed Draft Work Program 7/2020 - 6/2023



Orange County Sanitation District

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(714) 593-7433

STEERING COMMITTEE

Agenda Report

File #: 2020-1021 **Agenda Date:** 4/22/2020 **Agenda Item No:** 3.

FROM: James D. Herberg, General Manager
Originator: Lorenzo Tyner, Assistant General Manager

SUBJECT:

ELECTRONIC SIGNATURES POLICY

GENERAL MANAGER'S RECOMMENDATION

RECOMMENDATION: Recommend to the Board of Directors to:

Adopt a policy for the use of electronic signatures.

BACKGROUND

The use of electronic signatures on legally binding documents has become increasingly prevalent but has yet to find widespread adoption by public entities. Benefits of using electronic signatures include: reduction of paper generation; significant decrease in time and costs associated with transmitting, approving, and retaining physical documents; and creation of an audit trail of the modification, editing, and approval/signing of documents.

RELEVANT STANDARDS

- California Government Code Section 16.5
- California Secretary of State Regulations
- California Uniform Electronic Transactions Act (UETA)

PROBLEM

The Orange County Sanitation District (Sanitation District) does not currently have a policy in place to establish guidelines for when and how electronic signatures may be used, including the documents and transactions approved for electronic signature use, and how the documents and transactions are to be processed.

PROPOSED SOLUTION

Approval of the attached Electronic Signatures Policy to provide guidance to staff and allow the Sanitation District to use and accept approved electronic signatures, in lieu of written signatures, that comply with the requirements of California Government Code Section 16.5, the UETA, the Electronic Signatures in Global and National Commerce Act (E-Sign Act), and other applicable laws and regulations.

TIMING CONCERNS

N/A

RAMIFICATIONS OF NOT TAKING ACTION

The establishment of a formal document establishing criteria, regulation, and guidance regarding electronic signatures will ensure consistency and a point of reference moving forward on this agency-wide initiative. The absence of a policy document could result in multiple and varying interpretations of legal regulations and best methods to implement electronic signing of Sanitation District documents.

PRIOR COMMITTEE/BOARD ACTIONS

N/A

ADDITIONAL INFORMATION

In 1995, the California Legislature passed Government Code Section 16.5, authorizing public entities to accept digital signatures if they comply with stringent verification requirements.

In 1999, California adopted a version of the UETA (California Civil Code Sections 1633.1 to 1633.17), providing that electronic signatures would have the same legal effect as a wet or manual signature.

Not every state enacted UETA and, therefore, in 2000, the Federal Government enacted the E-Sign Act. The E-Sign Act mandated the same treatment of electronic signatures in interstate or foreign commerce. (15 USC §§ 7001 et seq.)

In August 2016, Governor Brown signed AB2296 to clarify that State and local agencies can use both electronic and digital signatures and that a digital signature is a subset of electronic signature in which Government Code Section 16.5 only applies when a public entity uses a digital signature.

CEQA

N/A

FINANCIAL CONSIDERATIONS

N/A

ATTACHMENT

The following attachment(s) may be viewed on-line at the OCSD website (www.ocsd.com) with the complete agenda package:

- Electronic Signatures Policy

	Orange County Sanitation District	Section Number: X.X
		Effective Date: 04/22/2020
		Supersedes:
SUBJECT:	**Electronic Signatures**	Approved by: General Manager

1. PURPOSE

1.1 The purpose of this policy is to establish guidelines for use by OCSD staff in when and how electronic signatures may be used, including the documents and transactions approved for electronic signature use and how the documents and transactions are to be processed.

2. ORGANIZATIONAL UNITS AFFECTED

2.1 This policy pertains to all employees who develop, approve, or handle Sanitation District contracts, documents, and forms.

3. DEFINITIONS

3.1 Electronic record is "a record created, generated, sent, communicated, received, or stored by electronic means", as defined by California's Uniform Electronic Transactions Act ("UETA") (Cal. Civil Code § Section 1633.1 et seq.). An electronic record generally contains information or a data file that was created and stored in digitized form through the use of computers, machines, and software applications. The format of an electronic record does not change the fact that it is a record subject to applicable public records laws, but its electronic form and its dependence on machines for creation and reference do change the way these records must be stored and managed.

3.2 Electronic signature. As defined by both the federal Electronic Signatures in Global and National Commerce Act and the UETA, an electronic signature is "an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record". It is the electronic equivalent of a handwritten, wet, or manual signature on paper, and therefore must have certain characteristics for evidentiary purposes.

3.3 Electronically signed record is a record, file, or document that has been electronically signed by means of an electronic signature and that is related to the conduct of the Sanitation District's official business.

4. POLICY

4.1 General Rules for Electronic Signatures

4.1.1 Compliance with Policy. This Policy applies to all OCSD departments and governs all uses of electronic signatures and electronically signed records or documents related to the conduct of OCSD's official business. Sanitation District staff will only accept electronic signatures that comply with the requirements of this Policy.

4.1.2 General Authorization. In any document accepted by the Sanitation District in which a signature is required or used, the General Manager may authorize the use of an electronic signature, so long as it complies with the requirements of this Policy.

4.1.3 Use Optional. Pursuant to California law, the use of electronic signatures by individuals or entities that wish to conduct business with the Sanitation District remains optional. This Policy neither limits the right or option to conduct the transaction on paper or in non-electronic form, nor the right to have documents provided or made available on paper.

4.1.4 Consent Required. All parties that wish to use electronic signatures shall agree to follow this Policy, shall provide written or electronic consent as to the use of electronic signatures, and shall agree to indemnify the Sanitation District against any liability associated with transmitting an electronic signature or an electronically signed record by electronic transmission. Consent may be kept on file with the Sanitation District prior to the sending party transmitting any records or signatures electronically or may be included in the electronic document as evidence that the signer has accepted this Policy.

4.1.5 Characteristics of a Valid Electronic Signature. The use of an electronic signature shall be valid and shall have the same force and effect as the use of a handwritten, wet, or manual signature if:

4.1.5.1 The signature is capable of verification (through the electronic document's metadata);

4.1.5.2 The signature is under the sole control of the person using it; and

4.1.5.3 The signature is linked to the data contained in the electronically signed record in such a manner that it is readily ascertainable if the data is changed after the signature is applied.

4.1.6 Signature Required by Sanitation District Policy, State, or Federal Law.

4.1.6.1 Where a Sanitation District policy requires that any electronic document, photo, record, or other related item have the signature of a responsible person, that requirement is met when the item has associated with it an electronic signature meeting the requirements of this Policy.

4.1.6.2 Where California or federal law requires that any electronic document, photo, record, or other related item have the signature of a responsible person, that requirement is met when the item has associated with it an electronic signature meeting the requirements of this Policy and using a signature method which complies with California law or federal law.

4.1.7 Acceptable Technologies. The General Manager, with the recommendation of the General Counsel and Clerk of the Board, shall determine acceptable electronic signature technologies and vendors under this Policy, and consistent with industry best practices, to ensure that security and integrity of electronic records, electronic data, and electronic signatures. The General Manager, with the recommendation of the General Counsel and Clerk of the Board shall further determine the records or documents for which the Sanitation District will accept electronic signatures.

4.1.8 Notaries. This Policy shall comport with California Civil Code Section 1633.11(a) which states, "If a law requires that a signature be notarized, the requirement is satisfied with respect to an electronic signature if an electronic record includes, in addition to the electronic signature to be notarized, the electronic signature of a notary public together with all other information required to be included in a notarization by other applicable law".

4.1.9 Penalty of Perjury. This Policy shall comport with California Civil Code Section 1633.11(b) which states, "In a transaction, if a law requires that a statement be signed under penalty of perjury, the requirement is satisfied with respect to an electronic signature, if an electronic record includes, in addition to the electronic signature, all of the information as to which the declaration pertains together with a declaration under penalty of perjury by the person who submits the electronic signature that the information is true and correct".

4.1.10 Further Acts. Nothing in this Policy shall prevent the Sanitation District from adopting additional guidelines or taking further actions to implement this Policy or to add other permissible forms of electronic signatures to this Policy.

4.1.11 Revocation of Technology. In the event that is determined that an approved electronic signature method or technology is no longer trustworthy or secure, the General Manager shall revoke the approval of such electronic signature method. If there is continued significance for electronic signatures that employed the revoked method, the General Manager will take steps to ensure that any valid records signed with the revoked method are signed again either with a handwritten, wet signature or with an approved electronic signature method.

4.2 Intake Process; Validation Process

4.2.1 Initial Evaluation. Sanitation District staff shall determine which section(s) of this Policy apply to any electronic signature or electronically signed record.

4.2.2 Obtain Consent. Sanitation District staff shall require all sending parties to provide a written consent agreeing to this Policy. This consent may be kept

on file with the Sanitation District prior to the sending party transmitting any records or signatures electronically or may be included in the electronic document as evidence that the signer has accepted this Policy.

4.2.3 Identify the Sending Party. Sanitation District staff shall develop rules and standard operating procedures to identify the sending party's identity, address, and contact information to accompany an electronic signature, record, document, or transmission.

4.2.4 Multiple Parties. Sanitation District staff shall determine whether multiple signatures are required and, if so, each signature shall independently comply with the requirements of this Policy.

4.2.5 Notary Requirements. Sanitation District staff shall determine if any submitted document requires a notary signature. If a notary signature is required, the notary's signature, if sent electronically, must all comply with this Policy.

4.3 Electronically Transmitted Documents; Confirmation Process

4.3.1 Initial Evaluation. Sanitation District staff shall determine whether a particular document needs to be authenticated for recording purposes and whether confirmation of that document needs to be provided.

4.3.2 Characteristics of Trustworthiness. Reliability, authenticity, integrity, and usability are characteristics of trustworthy records from a records management perspective. Transactions that are critical to OCSD's business may require greater assurances that they are reliable, authentic, maintain integrity, and are usable than other transactions of less critical importance.

4.3.2.1 Reliability. A reliable record contains content that can be trusted as a full and accurate representation of the transactions, activities, or facts to which it attests, and can be depended upon in the course of subsequent transactions or activities.

4.3.2.2 Authenticity. An authentic record is one that is proven to be what it purports to be and which has been created or sent by the person who purports to have created or sent it.

4.3.2.3 Integrity. The integrity of a record refers to the record's completeness and total lack of unauthorized alterations.

4.3.2.4 Usability. A usable record is one which can be located, retrieved, presented, interpreted, and utilized for its intended purpose or objective.

4.3.3 Confirmation of Receipt. From the initial signature of a document to the completion of all required signatures (execution), the document shall be accessible to all signatories to see its status in the workflow. Upon final execution of a contract document, all parties to the contract (as designated by the Contracts Administrator who initiates the signature workflow) will be

notified electronically and such notification will be recorded as part of the document's metadata.

4.3.4 Confirmation of Filing. The Sanitation District must also dispatch to the sending party an electronic confirmation that the record or document has been filed and, if applicable, added to the existing record on file.

4.3.5 Filer Responsible for Verification. In the absence of OCSD's confirmations of receipt and filing, there shall be no presumption that the Sanitation District received and filed the electronically submitted record or document. The sending party is responsible for verifying that the Sanitation District received and filed a document and for obtaining confirmations of receipt and filing.

4.3.6 Notice of Rejection of Document for Filing. If OCSD staff do not file a record or document because it does not comply with applicable filing requirements or because the required filing fee has not been paid, the Sanitation District must promptly notify the sending party of the rejection of the record or document for filing.

4.3.7 Documents Filed After Close of Business. Records or documents transmitted electronically after the close of the Sanitation District's business hours shall be deemed to have been filed on the next business day.

4.3.8 Delayed Delivery. If a technical problem with OCSD's software or electronic filing system prevents the Sanitation District from accepting an electronic submission during its regular filing hours on a particular Sanitation District business day, and the sending party can demonstrate that he or she attempted to electronically file the document on that particular Sanitation District business day, then OCSD shall deem the document to be filed on that day.

4.4 Sanctions

Any individual or party that makes inappropriate, illegal, or fraudulent use of electronic signatures or electronic records in violation of this Policy is subject to sanctions up to and including dismissal, suspension, and criminal prosecution as specified in published Sanitation District policies and/or state or federal law, whether or not they are directly referenced in this Policy. All inappropriate, illegal, or fraudulent uses of any electronic means of transmission shall be prosecuted to the fullest extent of the law, including the recovery of attorneys' fees and administrative costs.

5. REFERENCES/RELATED LINKS

MyOCSD
Glossary

6. EXHIBITS / ATTACHMENTS

None

Orange County Sanitation District

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STEERING COMMITTEE

Agenda Report

File #: 2020-1020 **Agenda Date:** 4/22/2020 **Agenda Item No:** 4.

FROM: James D. Herberg, General Manager
Originator: Celia Chandler, Director of Human Resources

SUBJECT:

RATIFY AMENDMENTS TO PERSONNEL POLICIES AND PROCEDURES IN RESPONSE TO COVID-19 PANDEMIC

GENERAL MANAGER'S RECOMMENDATION

RECOMMENDATION: Recommend to the Board of Directors to:

Pursuant to Resolution No. OCSD 20-01, ratify amendments to Orange County Sanitation District Board of Directors' Personnel Policies and Procedures: 1.4 Recruitment & Selection, 1.11 - Temporary & Contract Worker, 1.12 - Student Internship Program, 3.1.2 - Hours of Work - Exempt Employees, 3.2 - Attendance, 3.3 - Leave-of-Absence with Pay, and 3.4 - Leave-of-Absence Without Pay, effective March 25, 2020 through December 31, 2020 or as soon as the State emergency related to the COVID-19 pandemic is lifted.

BACKGROUND

The Orange County Sanitation District (Sanitation District) Board of Directors' Personnel Policies and Procedures Manual (Policies) contains the terms, conditions, rules, and regulations of employment which are consolidated into one reference document. Additionally, staff has met and conferred with unions on changes, and have agreement. Staff is proposing temporary amendments to the Policies listed herein as a result of the COVID-19 pandemic. In accordance with Resolution No. OCSD 18-18, revisions to the Policies require Board of Directors' approval.

RELEVANT STANDARDS

- Comply with Resolution Nos. OCSD 18-18 and OCSD 20-01
- Comply with all State and Federal mandates and orders
- Maintain positive employer-employee relations

PROBLEM

The COVID-19 pandemic requires rapid response to changing conditions in the work environment. The current policies and procedures reflect a routine business model and changes are needed to accommodate operational needs in response to the COVID-19 pandemic.

PROPOSED SOLUTION

The Sanitation District remains committed to providing essential services to protect the public health and environment during the State emergency. To that end, staff has identified seven (7) policies that require temporary amendment to provide flexibility while simultaneously ensuring the Sanitation District continues to meet its objectives.

Staff recommends that the Board of Directors ratify the temporary amendments to the policies listed herein.

Policy Number / Title	Reason for Proposed Revision
1.4 - Recruitment & Selection	Temporary amendment will allow employment of former employees retired from OCSD without the standard 180 day waiting period and removes the 960-hour cap in a one-year period.
1.11 - Temporary & Contract Worker	Temporary amendment to eliminate the 1,600-hour cap that can be worked by a temporary employee in a one-year period.
1.12 - Student Internship Program	Temporary amendment will allow for flexibility in scheduling and align with the new Federal Law (Families First Coronavirus Response Act - FFCRA) requiring employers to provide protections for FMLA and paid sick leave.
3.1.2 - Hours of Work - Exempt Employees	Temporary amendment will allow for immediate schedule changes without the required 30-day written notice and allow for modification of start and stop times of shifts.
3.2 - Attendance	Temporary amendment allows for exceptions to the requirement to notify management of a time off request 24 hours to two weeks in advance of shift for COVID-19 related issues.
3.3 - Leave-of-Absence with Pay	Temporary amendment will allow employees to utilize their individual leave banks by removing leave usage criteria for vacation, sick, personal, administrative, and supplemental leave. Additionally, a Paid Administrative Leave option was added for use in the event an employee is unable to telecommute and belongs to a high-risk group as defined by the Centers for Disease Control (CDC) in relation to COVID-19.
3.4 - Leave-of-Absence Without Pay	Temporary amendment aligns with the FFCRA and Emergency Paid Sick Leave under the requirements of the new Federal law.

TIMING CONCERNS

The proposed temporary amendments will ensure the Sanitation District implements an approach to policies and procedures designed to prevent the spread of the virus and ensure we continue to have the needed resources to operate our facilities during the pandemic.

RAMIFICATIONS OF NOT TAKING ACTION

Without ratification, the General Manager's amendments to these Policies will not be in effect and therefore not inclusive of new Federal law that allow the Sanitation District to effectively respond to the COVID-19 pandemic.

PRIOR COMMITTEE/BOARD ACTIONS

March 2020 - Adopted Resolution No. OCSD 20-01 entitled, “A Resolution of the Board of Directors of the Orange County Sanitation District Granting Emergency Power to the General Manager in the Event the Public Health and Safety is Endangered Due to a Disruption of Sewer Service; and Repealing Resolution No. 75-160”.

September 2018 - Adopted Resolution No. OCSD 18-18 entitled, “A Resolution of the Board of Directors of the Orange County Sanitation District Adopting a Board of Directors Personnel Policies and Procedures Manual Providing for Classification, Compensation, and Other Terms, Conditions, Policies, and Procedures Governing Employment of District Employees; and Repealing Resolution No. OCSD 15-18”.

ADDITIONAL INFORMATION

The proposed policy amendments are temporary in nature and do not constitute a contract of employment.

CEQA

N/A

FINANCIAL CONSIDERATIONS

N/A

ATTACHMENT

The following attachment(s) may be viewed on-line at the OCSD website (www.ocsd.com) with the complete agenda package:

- Policy 1.4, Recruitment and Selection (Redline Version)
- Policy 1.11, Temporary & Contract Worker (Redline Version)
- Policy 1.12, Student Internship Program (Redline Version)
- Policy 3.1.2, Hours of Work - Exempt Employees (Redline Version)
- Policy 3.2, Attendance (Redline Version)
- Policy 3.3, Leave-of-Absence with Pay (Redline Version)
- Policy 3.4, Leave-of-Absence Without Pay (Redline Version)

powered by Legistar™

Temporary Policy Amendments in Response to the COVID-19 (Coronavirus) Pandemic Effective 3/25/2020 through 12/31/2020 or as soon as the national emergency is lifted.

the **Orange County Sanitation District Personnel Policies**	**Policy Number: 1.4**
	Effective Date: September 26, 2018
Subject: Recruitment and Selection	**Supersedes: November 14, 2011**
	Approved by: General Manager

1.0 PURPOSE

1.1 The purpose of this policy is to establish guidelines and procedures for Orange County Sanitation District (OCSD) recruitment activities.

2.0 ORGANIZATIONAL UNITS AFFECTED

2.1 This policy applies to all OCSD departments, divisions, and employees.

3.0 DEFINITIONS

3.1 Recruitment is the process of attracting qualified individuals to apply for employment opportunities that are advertised by the organization, whether internal, or external.

3.2 Internal recruitment means considering only current employees as applicants for job openings within the organization.

3.3 External recruitment means considering applicants from outside the organization in an open recruitment, as well as current employees for job openings within the organization.

3.4 Promotion is the advancement of an employee to another classification with a higher maximum rate of pay.

3.5 Lateral Transfer means the transfer of an employee from one department to a vacant position in another department in the same job classification, initiated by an employee request.

3.6 Reassignment means the transfer of an employee within a department or within the organization in the same job classification based on business need.

3.7 Voluntary Job Change is an employee-initiated transfer within the organization.

3.8 Assessment means an impartial method of systematically evaluating an applicant's ability to perform the essential job functions of a position's requirements. An assessment may consist of one (1) or any combination of the following: performance tests; written tests; appraisal interviews; scoring of the application, supplemental questions; work performance; or any other job-related selection criteria. Assessment tools are intended to measure knowledge, skills, abilities, and/or competencies necessary to perform the job.

3.9 Eligible list means an arrangement of applicants who have been identified as most qualified as a result of the recruitment and selection process.

3.10 Initial Probationary Period, unless otherwise specified by an applicable bargaining unit Memorandum of Understanding (MOU), is defined as the period of service that extends to at least the first day of the pay period following twenty-six (26) weeks of employment with OCSD without a break in service, beginning with the date of hire. This period is regarded as an extension of the hiring process, and provides an opportunity for both the employee and OCSD management to assess, over a substantial period of time, whether or not the hiring decision was appropriate. Employees who have not yet successfully completed their initial probationary period serve "at-will" and may be released from employment without cause or recourse to any appeal or grievance procedures.

3.11 Promotional Probationary Period is defined as the period of service that extends to at least the first day of the pay period following twenty-six (26) weeks of employment without a break in service, beginning with the effective date of promotion. If an employee is promoted during his/her initial probationary period, the period will be extended until at least the first day of the pay period twenty-six (26) weeks after the effective date of the promotion. This period is regarded as an extension of the selection process, and provides an opportunity for both the employee and OCSD management to assess, over a substantial period of time, whether or not the decision was appropriate. "At-will" employees do not serve a promotional probationary period.

3.12 Probationary Period – Reassignment, Lateral Transfer or Voluntary Job Change, unless otherwise specified by an applicable bargaining unit MOU, is defined as the period of service that extends to at least the first twenty-six (26) weeks of employment with OCSD without a break in service, beginning with the effective date of the reassignment or lateral transfer. This period provides an opportunity for both the employee and OCSD management to assess, over a substantial period of time, whether or not the decision was appropriate.

4.0 POLICY

4.1 OCSD is an Equal Opportunity Employer (EOE). OCSD does not discriminate on the basis of race, color, religion, sex (including pregnancy, childbirth, and breastfeeding), sexual orientation, age, national origin, ancestry, actual or perceived disability, medical condition, genetic information, military and veteran status, marital status, gender, gender identity, gender expression, exercise of rights relating to any legally-provided leave of absence, or any other legally protected basis.

4.2 It is OCSD's policy to provide nondiscriminatory, lawful, and consistent guidelines and procedures to all recruitment processes, whether internal, or external.

5.0 PROCEDURE

5.1 *TYPE OF RECRUITMENT*

5.1.1 External Recruitment: Any person meeting the requirements of the open position listed on the announcement may apply. External recruitment announcements will be advertised on OCSD's career website, and may be posted on industry-related websites. Announcements will specify a filing period of a minimum of (10) business days, or until Human Resources determines a sufficient number of qualified applications have been received, and will clearly state a deadline to file an application.

5.1.2 Internal Recruitment: Applicants must be currently employed with OCSD. Whenever the District intends to fill a position by promotion, the District will post

the opportunity for a minimum of ten (10) business days. Employees must apply during the period of posting. Notices will be posted on the District's internet.

5.2 ***EMPLOYMENT OPPORTUNITY BULLETINS/POSTINGS***

5.2.1 The Human Resources representative prepares the employment opportunity bulletin, also known as a posting. Each posting will include the following information: hiring salary range, department; brief job description; required qualifications, desired qualifications, posting/closing dates (if applicable), procedure for applying, brief benefits overview, physical requirements/working conditions, and/or other pertinent information as approved by the Director of Human Resources (or designee) and the Department Head (or designee)

5.2.2 The Human Resources representative provides the draft posting to the Department Head (or designee) for approval.

5.2.3 Upon approval, all jobs are posted for at least ten (10) business days, or until HR determines a sufficient number of applicants have been received.

5.2.4 During the recruitment process, all current employees and external applicants may be interviewed at the same time at the discretion of the Department Head (or designee). If the process includes both groups, the hiring decision will be made at the completion of those interviews.

5.2.5 Job opportunities will be posted to OCSD's online employment application system.

5.3 ***ADVERTISING***

5.3.1 External recruitments are advertised on the internet, sent via e-mail to all OCSD employees, and may be posted in other media when deemed appropriate by Human Resources.

5.3.2 Internal recruitments are e-mailed to current employees and posted on OCSD's intranet and internet sites.

5.4 ***APPLICANT SCREENING***

5.4.1 Applications and resumes are only accepted electronically. All other application material will be accepted at the interview. Unsolicited application material will not be accepted at any time.

5.4.2 Applicants must submit a separate employment application for each vacant position using OCSD's online employment application system.

5.4.3 Once an application is received and reviewed, it will only be selected by Human Resources for further consideration if the minimum job requirements on the class specification for the position are met.

5.4.4 The Department Head (or designee) may review applications that meet the minimum qualifications to determine which candidates may be interviewed.

5.4.5 All materials (e.g., applications, resumes, examination information and results, test questions, interviewer notes, interview packets, etc.) submitted by applicants/candidates or generated by OCSD staff during the recruitment and

selection process are confidential and considered OCSD property, and not subject to disclosure. All recruitment files are maintained by OCSD in accordance with established record keeping guidelines.

5.5 ***SELECTION PROCESS***

5.5.1 The selection process will consist of an assessment of each candidate's qualifications, which may vary by class specification and business need. Assessments will be conducted in a manner consistent with job-related criteria.

5.5.2 The Department Head (or designee) may recommend raters in addition to Human Resources staff as needed to participate in the selection process, who may be representatives of OCSD departments, the public, interested organizations, or other public jurisdictions.

5.5.3 Exam Contents: The Department Head (or designee) has the responsibility for exams. Exams and selection interviews shall consider the following: analysis of job duties, availability of applicants, equal employment opportunity, occupational standards, professional testing principles, supportable experience, special certification or licensing, and/or any other job-related selection content.

5.5.4 Exams will be analyzed by Human Resources (or designee) to ensure that the content and grading rubrics are valid and reliable. Exam material will relate to the fitness of the applicant for the work, duties, and requirements of the classification to be filled and shall be confined to the measurement of knowledge, skills, abilities, and/or competencies necessary to perform specific tasks. Any pertinent factor or trait which affects job performance may be considered.

5.5.5 The Human Resources representative facilitates the interview process. When interviews are completed, the interview panel members evaluate each candidate interviewed. The panel will refer a list of the top candidates based on a majority decision. The Department Head (or designee) will then choose from among the top candidates. The Department Head (or designee) will report the final hiring decision to the Human Resources Department, to include all applicable interview materials (e.g., applications, resumes, interviewer notes, interview packets, etc.).

5.6 ***RECRUITMENT APPEALS PROCESS***

5.6.1 Employees should bring recruitment process and decision-making issues to the attention of the Human Resources Supervisor as soon as possible. The supervisor will review the issue and provide a written response within five (5) business days from the issue notification date.

5.6.2 If the issue is not resolved to the employee's satisfaction, the employee may file a written statement concerning the problem to the Director of Human Resources within ten (10) business days of receipt of the supervisor's decision. Upon request by either party, a meeting may be held to discuss the issue and establish remedies.

5.6.3 The employee will be provided a written response from the Director of Human Resources (or designee), within ten (10) business days after the employee's statement is received. The decision of the Director of Human Resources, or designee, is final (see policy 6.4, Problem Solving and 6.5, Grievance Procedure).

5.6.4 Time limits may be extended for cause upon mutual consent of the parties.

5.7 ***ELIGIBLE LISTS***

5.7.1 An eligible list is an arrangement of applicants who have been identified as most qualified as a result of the recruitment and selection process. Lists are maintained based on job classification, are valid for six-months, and may be extended up to twelve-months with approval from the Director of Human Resources prior to the expiration date of the list.

5.8 ***EMPLOYMENT OFFERS***

5.8.1 The Human Resources representative determines an appropriate starting salary for all candidates based on the applicant's: qualifications; years of experience; and educational background, as listed on the job application.

5.8.2 The Human Resources representative reviews a job candidate's salary request, prepares an analysis, and makes a recommendation on placement in the applicable salary range. If market or other material conditions necessitate offering a job candidate a pay rate up to the salary range mid-point, a Department Head may recommend, and with the concurrence of the Director of Human Resources, may approve the proposed hire rate. The General Manager, or designee, shall approve all recommended salary offers that would result in a new hire pay rate at Step 4 or greater. **Under no circumstances should panel members (excluding the Human Resources representative) or any other OCSD employee discuss salary offers with candidates or make promises of any kind. Human Resources staff are the only employees authorized to engage in salary discussions with job candidates.**

5.8.3 The Human Resources representative refers the candidate for hire and routes for approval by the Department Head and General Manager, if required.

5.8.4 When the referral for hire is approved, the Human Resources representative makes a verbal employment offer to the candidate, which is contingent upon results of a background investigation, and post offer physical and drug screen (if applicable).

5.8.5 The Human Resources representative schedules the post offer physical and drug screen (if applicable) for the candidate, works with the Department Head (or designee) to establish a potential start date and prepares a formal offer letter for the candidate.

5.8.6 When the Human Resources representative (or designee) has cleared the background investigation, post offer physical and drug screen (if applicable) results, the applicant will be contacted to confirm the employment offer. The Human Resources representative sends letters of regret to unsuccessful candidates. Current employees are contacted personally prior to receiving letters of regret.

5.8.7 The Human Resources representative coordinates the candidate's start date.

5.8.8 In the event that a candidate is selected and voluntarily or involuntarily vacates the position prior to completing the required probationary period, the Human Resources Department, at the request of the Department Head (or designee), may exercise the option to extend an offer to the second candidate from the

original interview process.

6.0 PROMOTIONS

6.1 Promoted employees will receive the equivalent of a one (1) step increase in pay, not to exceed the top of the range for the new classification or the minimum rate of the new classification, whichever is greater.

6.1.1 Promotional increase in pay will be effective the first day of the next pay period following the approval of referral to hire by the Department Head (or designee).

7.0 EXCEPTIONS

7.1 *EMPLOYMENT OF FORMER EMPLOYEES*

7.1.1 Employment of former employees for full-time equivalent or part-time positions shall be subject to and conducted in accordance with this policy.

7.1.2 Employment of a former employee is subject to the approval of the General Manager and the Director of Human Resources.

7.1.3 In all cases, approval of the General Manager and the Director of Human Resources shall be obtained prior to an offer of employment to a former employee.

7.1.4 OCSD policy prohibits the rehire of former full-time, regular employees or “at-will” employees who: were terminated for workplace misconduct; resigned while charges were pending against the employee; resigned while serving a suspension; failed to provide two (2) weeks written notice in advance of resignation depending upon employment status, unless approved by the Director of Human Resources, or designee; or failed to return to work following an absence without leave of forty (40) consecutive work hours without notifying the immediate supervisor or the Human Resources Department with an acceptable reason for their absence.

7.1.5 If any former employee commences doing business wherein the employee, his/her spouse, or members of his/her immediate family are sole proprietors, or majority or controlling shareholders or owners of a corporation, partnership or other business entity, such business shall not be retained as an independent contractor or consultant to provide service directly to OCSD for a period of one (1) year after leaving OCSD’s employment. Thereafter, said business entity shall be allowed to contract with OCSD upon compliance with all resolutions and regulations of OCSD then in effect, relating to the procurement of services.

7.1.6 If any former employee becomes employed by any firm or business entity in which the former employee, his/her spouse or members of his/her immediate family own less than the majority or controlling interest in said entity, said entity shall not be prohibited from contracting with the OCSD. However, the former employee shall not perform work on OCSD projects for a period of one (1) year after leaving OCSD employment; nor shall such former employee contact OCSD officers or employees for the purpose of attempting to influence any OCSD decision, including but not limited to, the award of contract, issuance of permits, or compromise of administrative civil penalties, for a like period of one (1) year. Said services shall be obtained only in accordance with all rules and procedures

of OCSD relating to procurement.

7.1.7 Any OCSD employee who receives an offer of employment or a request to discuss potential employment from any person or business entity performing services for OCSD shall report such contact to his or her immediate supervisor, who shall decide whether any change in assignment is necessary or appropriate while the offer or discussions are pending.

7.1.8 The prohibitions of this policy may be waived by the Administration Committee of the Board of Directors if, on a case-by-case basis, it is determined to be in the best interests of OCSD to do so.

7.1.9 All former employees who are rehired will be placed on an initial probationary period as defined in this policy. All prior service with OCSD will not be counted for accrual purposes including, but not limited to, leaves of absence and seniority.

7.2 *RE-EMPLOYMENT OF OCSD RETIRED EMPLOYEES*

7.2.1 The General Manager may, ~~with the written approval of the Board Chair,~~ employ on an as-needed basis, a former employee retired from OCSD ~~when the individual possesses knowledge and expertise of unique and particular benefit to OCSD~~. Retired members will ~~have to wait at least 180 days before returning to~~ work for OCSD ~~on a limited time basis (960 hours or less a fiscal year)~~. The length of service performed ~~in any one (1) year~~ shall be limited in accordance with the provisions prescribed by the Orange County Employees' Retirement System.

7.2.2 As-needed service, by a former employee retired from OCSD, shall be compensated at the same current hourly rate of the retired employee's position classification, or if no such classification exists, at a rate not to exceed that paid for the most comparable classification. The retired employee shall not be entitled to receive any benefits otherwise payable to OCSD employees. In the event any employment under this provision involves work assignments outside of Orange County, the current expense reimbursement policy established for regular employees will apply.

7.2.3 On occasion, OCSD may offer an early retirement incentive to staff under economic conditions in which it is deemed necessary. Employees who select an early retirement incentive offered by OCSD may not be eligible for rehire.

7.3 *LATERAL TRANSFERS*

7.3.1 Employees may request a lateral transfer to a budgeted vacant position within the same classification of another department. For a lateral transfer to be considered, the employee must have demonstrated satisfactory performance within the last six (6) months of the request and have no pending disciplinary action. The lateral transfer must be of benefit to OCSD.

7.3.2 Employees who wish to be considered for a lateral transfer shall notify the Human Resources Department in writing of their intent prior to recruitment of the budgeted position. Employees who are interested in a lateral transfer, but are unaware of any budgeted vacant positions within the same classification, may

contact the Human Resources Department. The employee's written intent must be approved by any affected department head and the Director of Human Resources. In the event a transfer is approved and accepted by the employee, the department from which the employee is transferring may determine the effective date based upon operational requirements and a reasonable period of time to acquire a suitable replacement.

7.3.3 Lateral transfers do not normally involve increased levels of duties and responsibilities, or otherwise qualify as promotions, and therefore do not involve salary adjustments.

7.3.4 In the event an adjustment appears warranted based on extenuating circumstances, the adjustment must have written approval from the department head prior to being extended to the employee.

8.0 PROVISIONS AND CONDITIONS

8.1 The interview process for Student Intern positions shall be an abbreviated version of the process outlined in section 5.6 and will be administered by the appropriate division manager/supervisor and a Human Resources representative.

8.2 OCSD's Board of Directors must approve unbudgeted positions for new hires or promotions before any internal or external recruitment effort is initiated.

8.3 Hiring an individual into a budgeted position requires the approval of the Department Head and General Manager.

8.4 Promoting an individual into a budgeted position requires the approval of the Division Manager, Department Head or General Manager.

8.5 Employees on Performance Improvement Plans are not eligible for promotional opportunities and/or status change.

8.6 ***INITIAL PROBATIONARY PERIOD***

8.6.1 Unless designated as an "at-will" Executive Management Team (EMT) member or Student Intern, all new employees and employees who are reassigned or laterally transferred serve a probationary period. The probationary period begins with the date of hire, reassignment, or transfer and extends to at least the first day of the pay period following twenty-six (26) weeks of employment without a break in service, unless otherwise stipulated by a bargaining unit MOU. For new employees, this probationary period is regarded as an extension of the hiring process, and provides an opportunity for both the employee and OCSD's management to assess, over a substantial period of time, whether or not the hiring decision was appropriate and resulted in a relationship that adequately meets the needs of both the individual and OCSD.

8.6.2 The probationary period may be extended up to a maximum of an additional ninety (90) days prior to the expiration of the probationary period. An employee's probationary period may be extended when there is a need to further assess the individual's abilities to satisfactorily perform the duties required for their job classification. Probationary employees may be released by OCSD at any time during the probationary period (including any extension) without cause or reason. OCSD will extend an employee's probationary period for the length of any period during which an employee is on an extended leave of absence during the

probationary period.

8.6.3 A probationary employee's work performance is closely monitored during this period to ensure that the employee understands the duties, responsibilities and management expectations of the position, and to allow an opportunity for the supervisor or manager to provide proper direction and guidance. Employees who do not demonstrate the potential for meeting performance expectations for their position within a reasonable period of time may be released prior to the completion of the Probationary Period. Probationary employees shall serve at the will of OCSD during this period. In the event of release of a probationary employee, the employee shall not be entitled to receive any severance pay.

8.7 *PROMOTIONAL PROBATIONARY PERIOD*

8.7.1 All promoted employees who have successfully completed the initial probationary period, except those designated as "at-will" employees, shall serve a promotional probationary period beginning with the effective date of promotion lasting to at least the first day of the pay period following twenty-six (26) weeks of employment without a break in service. This period is regarded as an extension of the selection process, and provides an opportunity for both the employee and OCSD management to assess, over a substantial period of time, whether or not the decision was appropriate. For those employees promoted during the pendency of their initial probationary period, such period shall run concurrently with the promotional probationary period and shall apply over the promotional probationary period while it remains in effect. Should the initial probationary period end before the promotional probationary period, the promoted employee shall remain on the promotional probationary period for the remaining period until at least the first day of the pay period following twenty-six (26) weeks of employment without a break in service.

8.7.2 At any time during the promotional probationary period an employee may be returned to his or her prior position. The promotional probationary period may be extended by OCSD management for up to a maximum of an additional ninety (90) days. If an employee is promoted during his or her initial probationary period, the period shall be extended until at least the first day of the pay period twenty-six (26) weeks after the effective date of the promotion.

8.8 *REFERENCE CHECKS*

8.8.1 Employment with OCSD is contingent upon a pre-employment screening process which may include a physical examination, drug/alcohol test and background investigation. Candidates must also be able to provide documentation authorizing their legal right to work in the United States as per the Immigration Reform and Control Act of 1986.

8.8.2 The background check will be conducted after an applicant has been selected as the best candidate for the position and given a conditional offer of employment. If a background check yields information that is of concern to OCSD, the applicant will be provided an individualized assessment and given an opportunity to review the findings and present information regarding inaccuracy and rehabilitation.

8.8.3 OCSD may verify information contained in the job application of a prospective employee with the prospective employee's authorization.

8.8.4 Inquiries to OCSD employees regarding reference or employment verification checks of former or present employees shall be discussed with or referred to Human Resources prior to any response.

9.0 RELATED DOCUMENTS

9.1 Policy 1.6, Nepotism

9.2 Policy 1.7, At-Will EMT Employment Agreements

9.3 Policy 1.12, Student Internship Program

9.4 Policy 2.1, Classification & Compensation

9.5 Policy 6.4, Problem Solving Procedure

9.6 Policy 6.5, Grievance Procedure

9.7 Public Employee Pension Reform Act (PEPRA)

9.8 Equal Pay Act

9.9 California Government Code, Section 6254

Temporary Policy Amendments in Response to the COVID-19 (Coronavirus) Pandemic Effective 3/25/2020 through 12/31/2020 or as soon as the national emergency is lifted.

Orange County Sanitation District Personnel Policies	**Policy Number: 1.11**
	Effective Date: September 26, 2018
Subject: Temporary and Contract Worker	**Supersedes: N/A**
	Approved by: General Manager

1.0 PURPOSE

1.1 The purpose of this policy is to establish uniform guidelines and procedures for hiring temporary and contract workers so that the Orange County Sanitation District (OCSD) can make appropriate management decisions, administer programs, and satisfy legal and compliance requirements.

2.0 ORGANIZATIONAL UNITS AFFECTED

2.1 This policy applies to all current Orange County Sanitation District (OCSD) managers and supervisors who utilized temporary and contractor workers.

3.0 DEFINITIONS

3.1 Temporary Worker(s) – An individual who is employed with a staffing agency (labor supplier) ~~and whose assignment with OCSD is limited to 1,600 hours per year.~~

3.2 Contract Worker(s) – A worker who provides services pursuant to a contract agreement for services and who is not entitled to an employee status.

4.0 POLICY

4.1 Temporary and Contract Workers may be hired without following OCSD Policy 1.4, Recruitment and Selection.

4.2 The service of a Temporary or Contract Worker may be discontinued by an OCSD management representative or the Director of Human Resources (or designee) at any time.

4.3 Temporary and Contract Workers are not granted preferential treatment based on their relationship with OCSD if they apply for a permanent position with OCSD.

4.4 Temporary Workers shall be provided rest periods and non-paid lunch breaks as required by law.

4.5 Contract Workers shall determine on their own or through their contract employer the provisions of meal and rest periods required by law.

4.6 OCSD retirees may not return to OCSD as a Temporary or Contract Worker for 180 days following their date of retirement from OCERS.

4.7 Temporary and Contract Workers are not in a collective bargaining unit and are not entitled to any of the contract rights granted to represented OCSD employees.

4.7.1 They are not eligible for OCSD fringe benefits (medical, dental, sick leave, vacation, paid holidays, comp time, etc.), salary increases, reclassification, or for shift differential or special pay.

4.7.2 They are not entitled to membership in Orange County Employee Retirement System or any other deferred compensation benefit plan through OCSD.

4.8 Before Temporary and Contract Workers are used, the hiring division must ensure that the utilization of the worker is essential, and the work assignment cannot be performed by regular OCSD employees.

4.9 Temporary Workers

4.9.1 It is the responsibly of the hiring division to budget for, and ensure that funds are available within the Board-approved annual temporary services budget prior to requesting a temporary worker.

4.9.2 The maximum duration for any Temporary Worker assignment is one (1) year. Temporary Workers are hired in six (6) month increments.

4.9.3 The documentation to request a Temporary Worker assignment must be submitted to the Human Resources Department.

4.9.4 Divisions are not authorized to directly hire Temporary Workers without the prior approval of the Director of Human Resources (or designee).

4.10 Contract Workers

4.10.1 The division hiring authority must notify the Human Resources Department of all intended contracts that involve Contract Workers through a Professional Services agreement.

5.0 PROCEDURE

5.1 Temporary Workers

5.1.1 The division hiring authority must coordinate temporary staffing with the Human Resources Department.

5.1.2 The division hiring authority requesting a Temporary Worker must complete, in detail, through a request for temporary staff form.

5.1.2.1 The completed form must be submitted and approved by the Director of Human Resources (or designee).

5.1.3 If an interview is needed (in person or over the phone) a Human Resources representative presence is not required.

5.1.4 The division hiring authority will not contact the temporary staffing agency to request temporary staff, negotiate bill rates, or renew contracts.

5.1.5 Human Resources will make all arrangements with the temporary staffing agency and notify the appropriate hiring authority of the Temporary Worker's name and start date.

5.1.6 The hiring authority should submit a service desk request to the Information Technology Division (250) for a computer, network/internet access (if applicable) and programs as well as a telephone/voicemail for the Temporary Worker prior to the Temporary Worker's start date.

5.1.7 The hiring authority must notify the Human Resources Department when the Temporary Worker assignment has ended.

5.1.8 It is the responsibility of each division to verify the accuracy of invoices submitted to include actual hours worked and rate charged to OCSD.

5.1.9 Temporary Worker time off requests should not be reviewed or approved by OCSD employee, rather provided directly from the Temporary Workers' staffing agency.

5.1.10 Temporary Worker timecards must be completed by the manager or supervisor they are assigned to work for.

5.1.11 OCSD Employees are not authorized to sign timecards for Temporary Workers.

5.1.12 Temporary assignments will terminate on the date indicated on the original request ~~or upon completion of 1,600 work hours in a one-year period, whichever comes first~~, unless discontinued earlier by an OCSD management representative or the Director of Human Resources (or designee).

5.1.13 If an extension is requested, attach a copy of the original request to the extension request form, obtain the necessary approval signatures (Department Manager & Department Head) and forward to Human Resources Director (or designee) for approval.

5.1.14 Signed extension requests must be submitted to Human Resources Department two (2) weeks prior to the end date indicated on the original temporary services request form.

5.2 <u>Professional Services Agreements (Contract Workers)</u>

5.2.1 The division hiring authority requesting contract workers must work through the formal procurement process established by Purchasing and Contract Administration Division.

5.2.2 The hiring authority should submit a service desk request to the Information Technology Division (250) for a computer, network/internet access (if applicable) and programs as well as a telephone/voicemail for the contract worker prior to the temporary worker's start date.

5.2.3 It is the responsibility of each division to verify the accuracy of invoices submitted to include actual hours worked and rate charged to OCSD.

5.2.4 Contract Worker timecards must be completed by the manager or supervisor they are assigned to work for.

5.2.5 OCSD Employees are not authorized to sign timecards for Contract Workers.

5.2.6 Contract Worker assignments will terminate on the date indicated on the contract, unless discontinued earlier by an OCSD management representative or the Director of Human Resources (or designee).

6.0 EXCEPTIONS

7.0 PROVISIONS AND CONDITIONS

8.0 RELATED DOCUMENTS

8.1 Injury and Illness Prevention Program

8.2 Temporary Staffing Services – Request Form

Temporary Policy Amendments in Response to the COVID-19 (Coronavirus) Pandemic Effective 3/25/2020 through 12/31/2020 or as soon as the national emergency is lifted.

Orange County Sanitation District Personnel Policies	**Policy Number: 1.12**
	Effective Date: September 26, 2018
Subject: Student Internship Program	**Supersedes: N/A**
	Approved by: General Manager

1.0 PURPOSE

1.1 The Orange County Sanitation District's (OCSD) Student Internship Program offers opportunities for ***undergraduate***, ***graduate***, and ***vocational*** students.

1.2 An internship is designed to provide career-related work experience, workplace readiness skills, and an understanding of different career opportunities to supplement and enhance a student's academic and vocational studies.

1.3 OCSD's Student Internship Program helps to develop and prepare the future workforce in our community. The program can be part of a student's educational plan to explore a given career path that integrates classroom study with planned, supervised work. It will enable the intern to experience the daily challenges and rewards of public service, and the ability to explore opportunities in a variety of disciplines, including: Engineering; Wastewater Operations and Collections; Mechanical, Instrumentation and Electrical Maintenance; Information Technology; Laboratory and Ocean Monitoring; Public Affairs; and Human Resources.

2.0 ORGANIZATIONAL UNITS AFFECTED

2.1 This policy applies to all OCSD undergraduate, graduate, and vocational interns.

3.0 DEFINITIONS

3.1 Undergraduate and Graduate Internships are internships in which undergraduate and graduate students obtain valuable experience in ***professional occupations*** related to their field of study.

3.2 Vocational Internships are internships in which vocational students gain valuable experience in ***trade occupations*** by rotating through different areas of the plant, including: Wastewater Operations, Mechanical Maintenance, Collections & Rebuild, and Instrumentation & Electrical Maintenance.

4.0 POLICY

4.1 *WORK HOURS*

4.1.1 *The following restrictions apply to work hours for student interns:*

4.1.1.1 Work hours will be established between the intern and division manager (or designee), and should be between core hours whenever possible.

4.1.1.2 Interns are not authorized to work overtime or to perform unsupervised work under any circumstances.

4.1.1.3 Interns are not authorized to work beyond the maximum hours in a work week, which is defined as:

4.1.1.3.1 A maximum of 20 hours per work week for undergraduate and graduate students; and

4.1.1.3.2 A maximum of 28 hours per work week for vocational interns.

4.1.1.4 The schedule for vocational interns is Monday through Thursday. The hours are from 6:00AM to 1:30PM (may be 7:00AM to 2:30PM during training and some assignments) with a ½ hour uncompensated meal break. Shift schedules may be temporarily modified to ensure coverage based on business need.

5.0 PROCEDURE

5.1 *GOALS*

5.1.1 Listed below are several different goals that OCSD expects to accomplish with the program. These goals reflect OCSD's desire to help students give back to the community, and provide a means to prepare the future workforce.

5.1.1.1 Provide meaningful career-related knowledge and on-the-job experience to students, through a ***paid*** internship.

5.1.1.2 Expose students to real-world challenges and trends in various occupations.

5.1.1.3 Enable the student to establish effective working relationships and build a professional network with subject matter experts.

5.1.1.4 Provide firsthand knowledge and understanding of government processes and OCSD's Core Values.

5.1.1.5 Help educate communities, universities, and colleges on environmental protection issues.

5.1.1.6 Provide awareness of opportunities and requirements in a chosen career field in the public sector.

5.1.1.7 Broaden the student's skills and competencies to meet the future workforce needs for OCSD and other public agencies.

5.1.1.8 Promote collaboration between public sector employers and educational institutions to support workforce development.

5.1.1.9 Promote OCSD as an employer of choice among students, universities, colleges, and the community.

5.1.1.10 Integrate the student as a contributing member of OCSD.

5.2 ***TERMS AND CONDITIONS***

5.2.1 OCSD, in its sole discretion, reserves the right to modify, revise or eliminate this program at any time. Participation in the program is contingent upon meeting the established eligibility requirements, and may continue if OCSD's workload dictates a need.

5.2.2 Interns are not considered regular employees and therefore are not eligible for organizational benefits including but not limited to retirement, insurance coverage, and accrued or paid time off; except for sick leave provided in accordance with California's Paid Sick Leave Law and as outlined in this policy.

5.2.3 Student interns are considered at-will positions and are subject to the following terms and conditions:

5.2.3.1 Students selected for an internship must successfully complete a pre-employment screening process, which may include: background investigation, drug screening, and physical exam.

5.2.3.2 Participation in the program does not constitute an employment contract nor does it guarantee employment with OCSD upon completion of the program.

5.2.3.3 Interns will receive an orientation and general safety training, as necessary. Intern work assignments will not be made until the orientation and all necessary safety training are completed.

5.2.3.4 Interns are not authorized to attend any training outside of the required safety training.

5.2.3.5 Upon successful completion of an internship, students may apply for an internship in a different division/department within OCSD.

5.2.3.6 Intern experience qualifies as professional experience to meet employment standards for OCSD positions.

5.2.3.7 If applicable, uniforms and/or personal protective equipment (PPE) such as safety boots, goggles, and hard hats must be worn in all specified areas.

5.2.3.8 <u>Undergraduate and graduate</u> internships end when the student has worked the total number of hours requested by the division through the budget process or 12 months, whichever comes first.

5.2.3.8.1 Department Heads may request to extend the duration of a student internship for an additional 12 months subject to budget approval. No internship shall exceed a total duration of 24 months.

5.2.3.9 Vocational internships are 52 weeks and consist of a 1-week Orientation and 51 weeks of Rotation Assignments.

5.3 ***ELIGIBILITY***

5.3.1 *This section applies to all student interns:*

5.3.1.1 Students must be enrolled in a college, university or vocational school to be eligible to participate in the program.

5.3.1.2 Students must be in "good standing" at their school, and maintain a GPA of 2.0 or better to remain in the internship program.

5.3.1.3 Students must be at least 18 years of age and legally authorized to work in the United States.

5.3.1.4 Students may be required to provide a letter of recommendation from a professor as part of their application process.

5.3.1.5 Students must have satisfactory performance and attendance, and will be evaluated throughout the internship to determine eligibility to continue in the program.

5.3.1.6 Students must submit a "student verification" or verification of enrollment from the registrar's office to establish a pay rate based on academic level, as applicable, and as proof of enrollment. Verifications are required each semester.

5.3.1.7 Students are eligible to remain in the internship program throughout the year (including during school breaks) if they are enrolled as a full-time student in fall and spring semester, or during the four quarters of the year, and if OCSD's workload dictates a need.

5.3.2 *These additional sections apply to undergraduate / graduate student internships:*

5.3.2.1 Students must be enrolled full-time in a four-year undergraduate program or a graduate program that is in a field of study related to the internship for which they are applying.

5.3.2.2 Students must have at least one (1) year remaining in school at the beginning of their internship.

5.3.2.3 Students enrolled in an undergraduate program must be at junior level status or above, which is the timeframe when students undertake upper-division core courses.

5.3.3 *These additional sections apply to vocational student internships:*

5.3.3.1 Students must have completed at least six (6) units within a college, university, or vocational school's Water Utility Science Program, or related field of study, to ensure that students being considered are interested and committed to working in the wastewater industry.

5.3.3.2 Students must be enrolled in at least three (3) units in the Water Utility Science Program at Santiago Canyon College or comparable class at another educational institution for the duration of the internship.

5.4 ***APPLICATION PROCESS***

5.4.1 *Recruiting*

5.4.1.1 Recruiting for internship positions differs in several respects from OCSD's traditional recruitment process:

5.4.1.1.1 Internships may be posted on local college, university, technical and vocational school (as applicable) websites.

5.4.1.1.2 Internships may be posted to intern-specific job websites.

5.4.1.1.3 OCSD may work with college career centers and faculty to outreach to potential internship candidates.

5.4.1.1.4 OCSD may participate in college, university, and school campus events like job fairs and utilize bulletin boards and other communication methods for student and community outreach about internships and careers offered through OCSD.

5.4.2 *Selecting*

5.4.2.1 HR will pre-screen student applications to ensure that each candidate meets the requirements for the internship. The HR representative will coordinate with the hiring manager to select the best candidates, based on academic level and area of study, from the group of qualified individuals. HR may enlist the assistance of career centers at the local colleges, universities, and schools to identify and pre-screen students for available OCSD internships.

5.4.2.2 The interview panel will generally include an HR representative, and the person that will be supervising the work of the intern. It may include other persons, if necessary.

5.4.2.3 The student that appears to be the best overall fit will be the person considered for the internship. The division manager (or designee) will make the final selection.

5.4.3 *Hiring*

5.4.3.1 Upon receiving an official verification of enrollment from the educational institution indicating academic level and status, the selected student will be made an offer and will be compensated in accordance with the current intern pay scale. This pay scale is detailed later in this document. After the verbal offer has been made and accepted, the student will be scheduled for the pre-employment screening process.

5.5 ***WORK ASSIGNMENTS & EVALUATION***

5.5.1 The nature of the work assignments given the student is one of the most important internship components, and it should include diverse responsibilities.

5.5.2 The internship experience should provide the opportunity for the intern to learn new skills and perform work in a real-world setting, integrating the student as a contributing member of OCSD.

5.5.3 The work assigned should benefit the student and be a good investment of OCSD time and resources. Providing meaningful work experiences is the focus of the program.

5.6 ***COMPENSATION***

5.6.1 Student internships with OCSD are on a paid basis and are offered as "at-will" employment. The rate of pay is based on the type of student and the intern's academic level in school, as listed below.

Vocational student	=	$15 per hour
Undergraduate student	=	$17 per hour
Graduate student	=	$20 per hour

5.7 ***PAID SICK LEAVE***

5.7.1 California's Paid Sick Leave law requires OCSD to provide paid sick leave to interns under the following conditions:

5.7.1.1 An intern begins to accrue paid sick leave at the rate of one (1) hour of paid sick leave for every thirty (30) hours worked beginning on the first day of the internship. ~~An intern is not eligible to begin using any accrued paid sick leave until after the first 90-days of their internship.~~

5.7.1.2 An intern is only allowed to use up to a maximum of 3-days or 24 hours of paid sick leave in a 12-month period~~.~~

5.7.1.3 An intern can only accrue paid sick leave up to a cap of 6-days or 48 hours ongoing.

5.7.1.4 Any unused accrued paid sick leave carries over year to year while continuously working at OCSD.

5.7.1.5 In accordance with California's Paid Sick Leave law, an intern may use 3-days or 24 hours of accrued paid sick leave in a 12-month period for one of the following reasons:

5.7.1.6 For the intern's own diagnosis, care, or treatment of an existing health condition or preventative care.

5.7.1.7 For the diagnosis, care, or treatment of an existing health condition or preventative care for an intern's family member, including:

- *Child (including a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the intern stands in loco parentis.)*

- *Spouse or Registered Domestic Partner*
- *Parent (including biological, adoptive, or foster parent, stepparent, or legal guardian of an intern or the intern's spouse or registered domestic partner, or a person who stood in loco parentis when the intern was a minor child.)*
- *Grandparent*
- *Grandchild*
- *Sibling.*

5.7.1.7.1 To obtain any relief or services related to being a victim of domestic violence, sexual assault, or stalking including the following with appropriate certification of the need for such services:

- *A temporary restraining order or restraining order.*
- *Other injunctive relief to help ensure the health, safety or welfare of themselves or their children.*
- *To seek medical attention for injuries caused by domestic violence, sexual assault, or stalking.*
- *To obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault, or stalking.*
- *To obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking.*
- *To participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.*

5.7.1.8 Interns shall provide reasonable advance notification of their need to use accrued paid sick leave to their supervisor if the need for paid sick leave use is foreseeable (e.g., doctor's appointment scheduled in advance). If the need for paid sick leave use is unforeseeable, the intern shall provide notice of the need for the leave to their supervisor as soon as is practicable.

5.7.1.9 An intern who uses paid sick leave must do so with a minimum increment of one-half (0.5) hour

5.7.1.10 Paid sick leave will not be considered hours worked for purposes of overtime calculation. An intern will not receive compensation for unused accrued paid sick leave upon termination, resignation, or other separation from their student internship at OCSD.

5.7.1.11 If an intern separates from their internship at OCSD and is re-hired by OCSD within one year of the date of separation, previously accrued and unused paid sick leave hours shall be reinstated to the extent required by law. However, if the individual had not yet worked the requisite 90-day period to use paid sick leave at the time of separation, the individual must still satisfy the 90-day requirement collectively over the periods with OCSD before any paid sick leave can be used.

5.8 ***PROGRAM ADMINISTRATION & RESPONSIBILITIES***

5.8.1 *Human Resources Department*

5.8.1.1 The HR Department will administer and manage the Student Internship Program. This includes assisting with personnel requisitions, postings, advertising, and applicant screening, as well as working with division management on scheduling interviews.

5.8.2 *Finance Department*

5.8.2.1 The Finance Department is responsible for tracking and reporting on the hours worked by interns based on timecard records. By running bi-weekly reports on the total hours an intern has worked to date, Finance identifies and notifies the appropriate division manager (or designee) of intern(s) who may be reaching the maximum total hours for the internship.

5.8.3 *Divisional Management*

5.8.3.1 Divisions needing an intern are responsible for preparing and submitting a decision package to the Financial Management Division for consideration during the annual budget cycle. Justification of the need, a description of the specific work that the intern will perform, and the total number of hours requested must be provided.

5.8.3.2 The division manager (or designee) is also responsible for scheduling, overseeing, and mentoring the intern during the period assigned. Interns should be supervised closely with regular, frequent contact occurring between the division manager (or designee) and the intern.

5.8.3.3 Additionally, the division manager (or designee) will: 1) provide meaningful tasks and responsibilities in order for the student intern to gain knowledge and skills to further their development; 2) conduct informal performance evaluations and feedback sessions for the intern; and 3) track the hours worked and adhere to the established maximums in accordance with this policy.

5.9 ***EMPLOYMENT OPPORTUNITIES***

5.9.1 All interested students are encouraged to review OCSD's internship policy (this document), and job announcement requirements to determine their eligibility to participate in the program.

6.0 EXCEPTIONS

6.1 Any exceptions to this policy must be approved by Human Resources and the General Manager.

7.0 PROVISIONS AND CONDITIONS

8.0 RELATED DOCUMENTS

8.1 Healthy Workplace Healthy Family Act of 2014 (AB 1522)

8.2 Student Internship Program, Internship Guidelines

8.3 Vocational Internship Guidelines

Temporary Policy Amendments in Response to the COVID-19 (Coronavirus) Pandemic Effective 3/25/2020 through 12/31/2020 or as soon as the national emergency is lifted.

Orange County Sanitation District Personnel Policies	**Policy Number: 3.1.2**
	Effective Date: September 26, 2018
Subject: Hours of Work – Exempt Employees	**Supersedes: December 15, 2008**
	Approved by: General Manager

1.0 PURPOSE

1.1 The purpose of this policy is to establish uniform guidelines and procedures for use in the administration of Orange County Sanitation District's (OCSD's) working hours.

2.0 ORGANIZATIONAL UNITS AFFECTED

2.1 This policy applies to all OCSD exempt employees in all organizational units and departments unless otherwise specified.

3.0 DEFINITIONS

3.1 Exempt Employees are employees who are not covered by the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA), as amended. Such employees are considered exempt by virtue of their duties in conformance with FLSA's definition of Executive, Administrative and Professional employees.

3.2 Overtime is the number of hours, which are counted as time worked, in excess of 40 hours during a workweek. For the purposes of overtime, all time charged to unscheduled leave will not be counted as time worked. Overtime only applies to non-exempt employees. Exempt employees are not eligible to receive overtime pay; however, in accordance with applicable MOU provisions, Operations Supervisors may be eligible to receive Extraordinary Services Compensation.

3.3 Memo time is a pay code used by exempt-level employees to identify unpaid work hours in excess of eighty (80) hours in a biweekly pay period.

3.4 Core Hours are the hours between 8:00 a.m. and 4:00 p.m. on any given day.

3.5 Payday is the Wednesday before the end of the subsequent pay period.

3.6 Pay Periods occur bi-weekly and are calculated on the basis of 80-hours worked for full-time employees.

3.7 Workweek means 40-hours of work per 168-hour period. The workweek is a fixed and recurring period of 168-hours, or seven consecutive 24-hour periods. OCSD employee workweeks are structured on an individual and/or group basis so that 40-hours of work regularly occurs during the fixed and regularly recurring period of 168-hours. The specific workweek for each employee is fixed by the General Manager, or his designee, and is maintained by the accounting payroll office.

3.8 Leave time is any authorized leave-of-absence with pay outlined in OCSD's policies and procedures, such as vacation leave, sick leave, personal leave, and paid administrative leave etc.

4.0 POLICY

4.1 It is the policy of OCSD to establish the time and duration of working hours as required by work load, operations flow, customer service needs, the efficient management of human resources, and any applicable law.

4.2 It is the policy of OCSD to require exempt employees to complete weekly timesheets.

~~4.3~~ On occasion, employees may request or be asked to transition from part-time to full-time status or vice-versa. It is the right of OCSD, at its sole discretion, to schedule working hours and assign work that may be necessary to operate OCSD in the most efficient and economical manner and in the best interest of the public it serves. Due consideration will be given to an employee's input and concerns prior to implementation of a schedule change. Multiple transitions to full-time or part-time, requested by the affected employee, shall be deemed as an abuse of this privilege and factored into future considerations for approval. ~~A thirty (30) day written notice for work schedule changes must be given to an affected employee prior to the change.~~

5.0 PROCEDURE

5.1 Normal Business Hours. Administrative and business functions are normally performed between the hours of 7:30 a.m. and 5:30 p.m., Monday through Thursday, and between the hours of 7:30 a.m. and 4:30 p.m. on Friday. However, the starting and finishing times of employees may vary as long as employees whose jobs involve contact with the public or outside organizations are present between the core hours of 8:00 a.m. and 4:00 p.m.

5.2 Core Hours. Individual divisions may schedule work beyond the core hours of 8:00 a.m. and 4:00 p.m., subject to approval by the department head, or designee, to meet specific operating or service requirements in the most cost-effective and efficient manner. Actual starting and ending times of an employee's shift may vary depending on the operational requirements of each department.

5.3 Shift Schedules. For time record keeping and accounting purposes, the "workweek" for full-time employees is 40 hours per 168-hour period, to be paid on a biweekly payroll basis of 80 hours worked. The actual work periods may be scheduled in shifts of four 9-hour days and one 4-hour day each workweek (9/80 schedule), five 8-hour days each workweek (10/80), four 10-hour days each workweek (8/80), or three 12-hour days and one 4-hour day each workweek (7/80) at the discretion of the supervisor. The starting and ending times of individual employee workweeks may vary. Shift schedules may be temporarily modified to stagger coverage based on business need.

5.4 With supervisor approval, employees may be allowed to flex their schedule within the pay period provided that the biweekly work hours are not less than 80 hours and the business needs, work flow, and customer service needs of OCSD are met.

5.5 Meeting Attendance. Employee attendance at lectures, meetings, and training programs will be considered as part of an employee's work hours if attendance is requested by management.

5.6 Timesheets - Exempt Employees. Exempt employees are not eligible to receive overtime pay; however, exempt employees must account for daily attendance. The following points shall be considered when filling out time sheets:

5.6.1 Timesheets for exempt employees shall indicate the days worked during the pay period and include all time taken as paid or unpaid leave. Timesheets should report a total of eighty (80) hours per pay period plus any applicable memo time.

5.6.2 Exempt personnel timesheets shall be submitted through the online timekeeping system every Thursday at the end of the employee's work day. Management approval shall be completed by the Monday morning of the subsequent week.

5.6.3 Timesheets must be completed through the online timekeeping system. Time worked shall be charged to the appropriate timekeeping categories. If an employee is unable to complete a timesheet due to absence, the timesheet must be completed by the supervisor or designee (e.g., designee authorized by management to process employee's timesheet while on a leave-of-absence) and submitted using the online timekeeping system.

5.6.4 Filling out another employee's timesheet without management authorization or falsifying any timesheet is prohibited and may be grounds for disciplinary action, up to and including termination.

5.7 Payday. Paychecks are distributed on the Wednesday immediately preceding the close of a pay period. Paychecks received on Wednesday cover the period worked during the previous pay period. If a payday falls on a holiday, paychecks will normally be distributed on the last working day preceding the holiday. Employees who will not be at work on a payday may request that their checks be held, forwarded to their supervisor, or mailed directly to their residence. Unclaimed paychecks will be held in Accounting. Paychecks of individuals who terminate their employment with OCSD, or are separated, will be mailed directly to them on the next regular payday subsequent to the separation date unless other arrangements are made to hold the check.

6.0 EXCEPTIONS

7.0 PROVISIONS AND CONDITIONS

8.0 RELATED DOCUMENTS

8.1 Fair Labor Standards Act, as amended

8.2 Policy 2.2, Non-Base Building Pay

8.3 Policy 3.1.1, Hours of Work – Non-Exempt Employees

8.4 Policy 4.7, Pro Rata Benefits for Part-Time Employees

8.5 Policy 5.1, Rules of Conduct

Temporary Policy Amendments in Response to the COVID-19 (Coronavirus) Pandemic Effective 3/25/2020 through 12/31/2020 or as soon as the national emergency is lifted.

Orange County Sanitation District Personnel Policies	**Policy Number: 3.2**
	Effective Date: September 26, 2018
Subject: Attendance	**Supersedes: June 3, 2011**
	Approved by: General Manager

1.0 PURPOSE

1.1 The purpose of this policy is to establish uniform guidelines and procedures for attendance.

2.0 ORGANIZATIONAL UNITS AFFECTED

2.1 This policy applies to all current employees regardless of their organizational unit.

3.0 DEFINITIONS

3.1 Tardiness occurs when an employee reports to work after the start time of an assigned work shift. Employees are expected to be at their assigned work location and ready to work at the start of the assigned work shift.

3.2 Absence occurs when an employee does not report to work for all or a portion of an assigned work day. An absence is considered unscheduled for nonexempt employees when it is requested within 23 hours of the start of an employee's work schedule.

4.0 POLICY

4.1 Prompt and regular attendance is required to maintain effective and efficient Orange County Sanitation District (OCSD)-operations. Therefore, all employees are expected to report to work as scheduled unless proper arrangements have been made to ensure that work flow, customer service needs, and business needs are met.

5.0 PROCEDURE

5.1 Supervisor's Responsibility. Supervisors are responsible for ensuring that employees observe OCSD's need for prompt and regular attendance. They are also responsible for providing counseling, as necessary, including referring employees to the Human Resources Department or Employee Assistance Program for help in dealing with medical, physical, or personal difficulties related to their attendance-causing performance deficiencies. All of the facts and circumstances surrounding an employee's inability to report for work should be considered in the counseling process, including the employee's performance, overall attendance, reasons for missing work, and prospects for improvement. While OCSD's need for prompt and regular attendance of all employees is of utmost importance, it is equally important to recognize individual employee needs in an impartial manner.

5.2 Notification. Employees must notify their supervisor of their inability to report for work as scheduled as far in advance as possible and in no case later than the regular start time. The notification of absence should identify the type of leave and an estimate of when the employee expects to be able to return. OCSD may require medical documentation of any

absence due to illness or injury, particularly when there is an indication of abuse of time-off privileges. Employees must also notify their supervisor prior to leaving early from work unless other arrangements have been made and approved by management.

5.3 Tardiness. Tardiness is not acceptable from a performance standpoint and excessive tardiness may be the basis for discipline, up to and including termination. For timesheet reporting purposes, employees who are 15 or more minutes tardy to work will be required to use accrued time off to offset the time away from work unless other arrangements have been made and approved by management. Tardiness of less than 15 minutes shall not be deducted from the employee's pay but numerous occurrences may warrant disciplinary action.

5.4 Unscheduled time off will be properly recorded as such for nonexempt employees on the employee's timesheet. Exceptions may be made if the unscheduled time off is relative to COVID-19.

6.0 EXCEPTIONS

6.1 Negative impacts of an employee's attendance on the individual's performance or the operations of OCSD shall be addressed through the designated Performance Management Program and/or may be the basis for disciplinary action in accordance with Policy 5.1, Rules of Conduct.

7.0 PROVISIONS AND CONDITIONS

8.0 RELATED DOCUMENTS

8.1 Policy 5.1, Rules of Conduct

8.2 Policy 3.1.1, Hours of Work – Nonexempt Employees

8.3 Policy 3.1.2, Hours of Work – Exempt Employees

8.4 Policy 3.3, Leave of Absence with Pay

8.5 Policy 3.4, Leave of Absence without Pay

8.6 OCSD Performance Management Programs

Temporary Policy Amendments in Response to the COVID-19 (Coronavirus) Pandemic Effective 3/25/2020 through 12/31/2020 or as soon as the national emergency is lifted.

Orange County Sanitation District Personnel Policies	Policy Number: 3.3
	Effective Date: September 26, 2018
Subject: Leave-of-Absence with Pay	Supersedes: September 3, 2013
	Approved by: General Manager

1.0 PURPOSE

1.1 The purpose of this policy is to establish uniform guidelines and procedures for use in the administration of the Orange County Sanitation District's (OCSD's) leave-of-absence with pay program.

2.0 ORGANIZATIONAL UNITS AFFECTED

2.1 All regular OCSD employees.

3.0 DEFINITIONS

3.1 **Paid Administrative Leave** is OCSD mandated leave from the workplace that has been determined based on known facts to be (1) in the best interests of OCSD and (2) necessary to maintain the wellbeing, safety, security, or protection of any OCSD employee or citizen, OCSD property, or OCSD resources, or otherwise required by federal or state law.

3.2 **Families First Coronavirus Response Act** is a temporary Federal law enacted in response to the COVID-19 pandemic to reduce the impact of the virus on American families. The Act includes expanded provisions for Paid Sick Leave and the Families Medical Leave Act (FMLA). The Act is scheduled to sunset on December 31, 2020.

1.0 POLICY

4.1 **Vacation Leave**. Except as otherwise provided, regular full-time employees accrue vacation leave in accordance with the following schedule:

Years of Service	Hours-Biweekly	Hours-Annually
In years 0 through 4	3.08	80
In years 5 through 10	4.62	120
In year 11	4.93	128
In year 12	5.24	136
In year 13	5.54	144
In year 14	5.85	152
In year 15	6.16	160

In year 16	6.46	168
In year 17	6.77	176
In year 18	7.08	184
In year 19	7.39	192
In years 20 and over	7.69	200

4.1.1 Vacation leave begins to accrue after a new employee has completed six (6) months of continuous service.

4.1.2 After the first six (6) months of service, the employee's account will be credited with forty (40) hours. After that time, the employee will accrue vacation hours consistent with the above chart.

4.1.3 Vacation leave may only be utilized in increments of one-half (0.5) hour or more.

4.1.4 Vacation leave is accrued for all paid hours, including hours actually worked and hours in a paid-leave payroll status.

4.1.5 When unpaid absences occur, vacation leave accruals will be applied by straight proration of leave accruals based on the number of hours actually worked, and is applicable to all types of leave, whether legally protected or not.

4.1.6 Employees may have a maximum accumulation of two hundred (200) hours as of the last day of the final pay period in December of each year. In the event an employee accrues vacation leave in excess of two hundred (200) hours, it must be used prior to the December date, all other remaining hours in excess of two hundred (200) will be paid to the employee in the first pay period in January at the employee's then current hourly rate of compensation.

4.1.7 Management shall make a reasonable effort, considering the operational needs of OCSD, to accommodate all employee requests for vacation leave. ~~Vacation leave should normally be requested at least two (2) weeks in advance to increase the likelihood of submitted dates being approved. However, in the event unforeseen circumstances prevent such advance notification, employees may request vacation leave with as little as one (1) days' notice.~~

4.1.8 Preference among employees who request time off at least six (6) months in advance shall be based on seniority. Requests received less than six (6) months in advance shall be scheduled in the order received. Further guidelines for vacation leave are outlined in applicable Memorandums of Understanding (MOU).

4.2 **Sick Leave**. Sick leave is an insurance or protection provided by OCSD to be granted to employees in circumstances of adversity to promote the health and welfare of the individual employee. Sick leave is defined as the absence from duty of an employee because of a bona fide illness, injury, or pregnancy, or to attend to the illness or injury of a family member as hereinafter defined.

4.2.1 Sick-Leave Accrual. Full-time employees hired prior to November 27, 1981, accrue paid sick leave at the rate of three and one-half (3.5) hours for each biweekly pay period of continuous service (ninety-one [91] hours per year).

4.2.2 Full-time employees hired on or after November 27, 1981, accrue paid sick leave at the rate of three (3.0) hours for each biweekly pay period of continuous service (seventy-eight [78] hours per year), beginning with the first day of employment.

4.2.3 Part-Time (or Non-Full-Time) employees employed for at least 30 days will be eligible to accrue sick leave. Sick leave shall accrue at the rate of one (1) hour for every thirty (30) hours worked and shall carry over to the following year. Accrual of sick leave shall be capped at forty-eight (48) hours or six (6) days per year. Part-Time (or Non-Full-Time) employees may use up to twenty-four (24) hours or three (3) days hours of sick leave per year commencing on the 90th day of employment in accordance with Assembly Bill 1522.

4.2.4 When unpaid absences occur, sick leave accruals will be applied by straight proration of leave accruals based on the number of hours actually worked, and is applicable to all types of leave, whether legally protected or not.

4.2.5 **Sick-Leave Credit.** A full-time, regular employee shall be granted pro rata sick-leave credit during any pay period in which he/she is absent without pay. A part-time, regular employee shall not be granted sick-leave credit during any period he/she is absent without pay on his/her regular working day. In the event an employee is required to work part-time by direction of his/her physician, sick-leave credit shall be prorated, except that sick leave shall continue to accrue if an employee is absent due to an injury arising out of or in the course of his/her employment and is entitled to Workers' Compensation benefits.

4.2.6 **Annual Payoff.** Employees may elect annually to be paid for any unused sick leave hours accrued through the end of the last pay period ending in October at their current hourly rate according to the following payoff schedule or as specified by an employee's affiliated bargaining unit Memorandum of Understanding (MOU).

Accrued Sick Leave Hours	Rate of Payoff
0 – 100 hours	0%
101 to 240 hours	25%
241 to 560 hours	35%
Over 560 hours	50%

4.2.7 Employees who separate for any reason other than retirement or death shall be compensated for any accrued and unused sick leave according to the above schedule.

4.2.8 Employees who retire or decease shall be paid a percentage of all accrued and unused sick leave based on years of service as follows:

Years of Service	Rate of Payoff
Less than 20 years of service	75%
20 or more years of service	100%

4.2.9 **Sick Leave Incentive Plan.** The Sick Leave Incentive Plan applies to Executive Management Team (EMT) members, Managers, Supervisors and professional-level employees. The Plan is administered on an individual Group basis.

4.2.10 If the average sick leave usage of employees in a Group is under forty (40) hours per year, calculated on annualized actual time off during the period November 1 to October 31 exclusive of catastrophic illness or injury requiring absence in excess of two hundred (200) hours or industrial injury leave in excess of eighty (80) hours, the annual payoff for unused sick leave will be made according to the following table or as otherwise stipulated in a prevailing MOU.

Accrued Sick Leave Hours	Rate of Payoff
0-100	15%
101-240	45%
241-560	60%
Over 560 (mandatory)	75%

4.2.11 **Permissible Uses.** Sick leave may be applied only when:

4.2.11.1 The employee is physically or mentally unable to perform his or her normal functions due to illness, injury, or a medical condition.

4.2.11.2 The absence is for the purpose of obtaining professional diagnosis or treatment for a medical condition of the employee or the absence is due to medical and dental office appointments of an employee when approved by the employee's supervisor.

4.2.11.3 The absence is for other medical reasons of the employee, such as pregnancy or obtaining a physical examination.

4.2.11.4 The absence is for the care of the employee's parent, step-parent, adoptive parent, father-in-law, mother-in-law, brother, step-brother, sister, step-sister, spouse, registered domestic partner, biological child, adopted child, step-child, foster child, legal ward, child of a domestic partner, grandchild**,** grandparent, foster parent, legal guardian, or any family member with whom the employee resides.

4.2.11.5 The absence is due to a job-related injury.

4.2.11.6 The absence is due to issues relating to domestic violence, sexual assault, or stalking, such as seeking services from crisis counselors or shelters, or from obtaining legal relief such as restraining orders or injunctions

4.2.12 **Protected Sick Leave.** As prescribed under California Labor Code section 233, employees may use up to one-half (1/2) of their annual sick leave accruals in any calendar year when:

4.2.12.1 The absence is for the purpose of obtaining professional diagnosis, care, or treatment for an existing health condition of, or preventative care for, the employee.

4.2.12.2 The absence is for the purpose of obtaining diagnosis, care, or treatment for an existing health condition of, or preventive care for, the employee's parent, step-parent, adoptive parent, foster parent, legal guardian, father-in-law, mother-in-law, brother, step-brother, sister, step-sister, spouse, registered domestic partner, biological child, adopted child, step-child, foster child, legal ward, child of a domestic partner, grandchild**,** and grandparent.

4.2.12.3 The absence is due to issues relating to domestic violence, sexual assault, or stalking, such as seeking services from crisis counselors or shelters, or from obtaining legal relief such as restraining orders or injunctions.

4.2.13 **General Provisions.** To qualify for sick-leave pay, the employee shall provide reasonable advance notification of their need to use accrued paid sick leave to their supervisor if the need for paid sick leave use is foreseeable (e.g., doctor's appointment scheduled in advance). As prescribed under the California Paid Sick Leave Law – for the first three (3) days of sick leave use, if the need for paid sick leave use is unforeseeable, the employee shall provide notice of the need for the leave to their supervisor as soon as is practicable. After the first three (3) days of sick leave use, the employee must notify OCSD at or in advance of the time the employee is scheduled to report for duty. Minimum charge to the employee's sick-leave account shall be one-half (0.5) hour and thereafter in one-half (0.5) hour increments.

4.2.14 Human Resources, along with the division management, shall be responsible for control of abuse of the sick-leave privilege. Except for the first twenty-four hours or three (3) days of sick leave use as prescribed under the California Paid Sick Leave Law, if notified in advance by a manager or supervisor, the employee may be required, at any time, to furnish a certificate issued by a licensed physician or nurse, or other satisfactory evidence of illness; however, for absences of ten (10) consecutive working days or more, a request for leave and a medical statement, on prescribed forms, stating expected date of return must be submitted to Human Resources. Upon return to work, a written doctor's release must be submitted to Human Resources. For absences of one (1) or more working days in an unpaid status, a request for leave and a medical statement, on prescribed forms, stating expected date of return must be submitted to Human Resources. These requirements may be waived or reduced, at management's discretion, for sick leave used in relation to COVID-19.

4.2.15 **Sick Leave Banks.** Sick Leave Banks are administered on an individual Group basis. Employees represented by the International Union of Operating Engineers Local 501 for the Operations and Maintenance Unit (Local 501) who elect to bank sick leave accrued prior to the implementation of Personal Leave provisions may elect to use such time off for absence due to a bon a fide illness, injury, or pregnancy, or to attend to the illness or injury of an immediate family member. Employees represented by Local 501 who retire or die shall be paid at the 50% (fifty percent) rate for all Banked Sick Leave hours; an employee who separates shall be compensated for Banked Sick Leave as follows.

Banked Sick Leave Hours	Rate of Payoff
0 - 100	0 percent
101 - 240	25 percent
241 - 560	35 percent

Over 560	50 percent

4.2.16 If the need for leave is due to the employee's serious health condition, as defined in the Family and Medical Leave Act ("FMLA") or the California Family Rights Act ("CFRA"), the certification requirement shall comply with provisions of these Acts.

4.3 **Personal Leave**. Personal leave is provided to allow employees time off with pay for vacation, personal business and non-job-related illness or injury. Personal leave is accrued by full-time employees for all paid hours, including hours actually worked and hours in a paid-leave payroll status, on a biweekly basis as follows unless otherwise stipulated by an employee's affiliated bargaining unit MOU:

Personal Leave Hours Years of Service	Biweekly	Annual
0 through 1	3.08	80*
2 through 4	5.38	140
5 through 10	6.92	180
11	7.23	188
12	7.54	196
13	7.85	204
14	8.15	212
15	8.46	220
16	8.69	226
17	8.92	232
18	9.15	238
19	9.38	244
20 and over	9.62	250

4.3.1 When unpaid absences occur, personal leave accruals will be applied by straight proration of leave accruals based on the number of hours actually worked, and is applicable to all types of leave, whether legally protected or not.

4.3.2 **Scheduled Time Off**. Management shall make a reasonable effort, considering the operational needs of OCSD, to accommodate all employee requests for personal leave. ~~Personal leave off should normally be requested at least two (2) weeks in advance to increase the likelihood of submitted dates being approved.~~

4.3.3 Supervisor absences will not affect an employee's ability to schedule time off unless the time off request is submitted within two (2) weeks of the date requested.

4.3.4 **Unscheduled Time Off.** Personal leave that is classified as unscheduled time off provides income protection to an employee who is unable to work due to the following:

4.3.4.1 The employee is physically or mentally unable to perform his or her normal functions due to illness, injury, or a medical condition.

4.3.4.2 The absence is for the purpose of obtaining professional diagnosis or

treatment for a medical condition of the employee or the absence is due to medical and dental office appointments of an employee when approved by the employee's supervisor.

4.3.4.3 The absence is for other medical reasons of the employee, such as pregnancy or obtaining a physical examination.

4.3.4.4 The absence is for the care of the employee's parent, step-parent, adoptive parent, father-in-law, mother-in-law, brother, step-brother, sister, step-sister, spouse, registered domestic partner, biological child, adopted child, step-child, foster child, legal ward, child of a domestic partner, grandchild, grandparent, foster parent, legal guardian, or any family member with whom the employee resides.

4.3.4.5 The absence is due to a job-related injury.

4.3.4.6 The absence is due to issues relating to domestic violence, sexual assault, or stalking, such as seeking services from crisis counselors or shelters, or from obtaining legal relief such as restraining orders or injunctions.

4.3.5 Unscheduled time off must be accounted for by management upon the employee's return to work. Except for the first twenty-four hours or three (3) days as prescribed under the California Paid Sick Leave Law in which the employee uses Personal Leave for reasons described in 5.3.5. Employees may be required to submit medical documentation for their injury or illness. It is the responsibility of OCSD management to control the potential abuse of unscheduled time off privileges.

4.3.6 **Protected Use of Personal Leave.** As prescribed under California Labor Code section 233, employees may use up to one-half (1/2) of their annual personal leave accruals in any calendar year when:

4.3.6.1 The absence is for the purpose of obtaining professional diagnosis, care, or treatment for an existing health condition of, or preventative care for, the employee.

4.3.6.2 The absence is for the purpose of obtaining diagnosis, care, or treatment for an existing health condition of, or preventive care for, the employee's parent, step-parent, adoptive parent, foster parent, legal guardian, father-in-law, mother-in-law, brother, step-brother, sister, step-sister, spouse, registered domestic partner, biological child, adopted child, step-child, foster child, legal ward, child of a domestic partner, grandchild**,** and grandparent.

4.3.6.3 The absence is due to issues relating to domestic violence, sexual assault, or stalking, such as seeking services from crisis counselors or shelters, or from obtaining legal relief such as restraining orders or injunctions.

4.3.7 OCSD also has the right to discipline employees on the basis of total absences away from work. Except for the first twenty-four hours or three (3) days as prescribed under the California Paid Sick Leave Law in which the employee uses Personal Leave for reasons described in section 5.3.4, Employees must notify their supervisor prior to the start time of their shift when they are unable to report

for work. Any absence that is requested within twenty-three (23) hours of the start of an employee's work schedule, excluding protected leaves of absence and bereavement leave, shall be considered unscheduled time off unless otherwise stipulated by an employee's affiliated bargaining unit MOU. Employees returning from an extended leave should notify their supervisor as soon as possible to facilitate personnel scheduling.

4.3.8 Human Resources, along with the division management, shall be responsible for control of abuse of the unscheduled leave privilege. Except for the first twenty-four hours or three (3) days as prescribed under the California Paid Sick Leave Law in which the employee uses Personal Leave for reasons described in section 5.3.4, the employee may be required, at any time, to furnish a certificate issued by a licensed physician or nurse, or other satisfactory evidence of illness; however, for unscheduled absences of ten (10) consecutive working days or more, a request for leave and a medical statement, on prescribed forms, stating expected date of return must be submitted to Human Resources. Upon return to work, a written doctor's release must be submitted to Human Resources. For absences of one (1) or more working days in an unpaid status, a request for leave and a medical statement on prescribed forms, stating expected date of return must be submitted to Human Resources. These requirements may be waived or reduced, at management's discretion, for unscheduled leave used in relation to COVID-19.

4.3.9

4.3.10 Personal Leave Payoff. Employees (or their estate) who separate, retire or die shall be paid in full at their current rate of pay for all Personal Leave hours accrued.

4.3.11 Maximum Accrual. Employees may have a maximum accumulation of four hundred-forty (440) hours of Personal Leave as of the last day of the final pay period in December of each year. In the event an employee accrues personal leave in excess of the maximum accrual, it must be used prior to the December date. All, other remaining hours in excess of the maximum accrual will be paid to the employee in the first pay period in January at the employee's then current hourly rate of compensation.

4.3.12 If the need for leave is due to the employee's own serious health condition, as defined in the Family and Medical Leave Act ("FMLA") or the California Family Rights Act ("CFRA"), the certification requirement shall comply with the provisions of these Acts.

4.4 **Protected Child-Related Activities Leave**. As prescribed under California Labor Code, Section 230.8, an employee who is a parent with one (1) or more children attending kindergarten, grades one (1) to twelve (12), or is a child care provider, may take paid or unpaid leave up to forty (40) hours per calendar year for the following child-related activities:

4.4.1 To find, enroll, or reenroll his or her child in a school or with a licensed child care provider, or to participate in activities of the school or licensed child care provider of his or her child. Time off for this purpose shall not exceed eight (8) hours in any calendar month of the year.

4.4.2 To address a child care provider or school emergency

4.5 **Jury Duty Leave**. Any full-time, including probationary, employee who is called for jury

duty shall be entitled to his/her regular pay for those hours of absence due to performance of the jury duty for a period up to twenty-two (22) working days.

4.5.1 Prior to jury duty service, each employee must complete an online time off request form. To be entitled to receive regular pay for such jury leave, employees must report for work during their regularly scheduled work shift when they are relieved from jury duty service, unless there is less than one-half (½) of their regular shift remaining. Employees are not compensated for jury duty occurring on scheduled days off.

4.5.2 An employee serving jury duty must obtain an attendance slip from the court to be submitted to his/her supervisor with his/her time sheet in order to be eligible for regular pay for those hours of absence due to jury duty.

4.5.3 Employees are advised in all cases, whether serving jury duty for the state or federal court systems, to disclose their public employment and OCSD's jury duty pay policy because employees who receive jury duty pay may not be entitled to court compensation.

4.6 **Witness Leave.** Any full-time, including probationary, employee who is required to be absent from work by a subpoena properly issued by a court, agency or commission legally empowered to subpoena witnesses, which subpoena compels his/her presence as a witness, except in a matter wherein he/she is named as a defendant or plaintiff or as an expert witness, shall, upon approval of an online time off request, be entitled to the time necessary to comply with such subpoena. An employee's regular pay will be reduced by the amount of witness leave pay received, exclusive of mileage.

4.6.1 An employee so subpoenaed must submit a copy of the subpoena to their supervisor and complete an online time off request form in order to be eligible for pay for such absence. To be entitled to receive regular pay for such witness leave, the employee must report for work at OCSD for time not actually retained on witness service of one (1) hour or more prior to and/or upon completion of each day's service, exclusive of travel time.

4.7 **Military Leave.** A request for military leave shall be made through the online time off request form and shall state the date when it is desired to begin the leave-of-absence and the date of anticipated return. A copy of the orders requiring such military service shall be submitted with the request to the employee's supervisor.

4.7.1 Provisions of the Military and Veterans Code of the State of California, Sections 395-395.5 shall govern military leave. In general, current law provides that an employee having one year or more service with a public entity is entitled to military leave with pay not exceeding thirty (30) days per year if the employee is engaged in military duty ordered for purposes of active military training or encampment. An employee who is required to attend scheduled service drill periods or perform other inactive duty reserve obligations is entitled to military leave without pay, not exceeding seventeen (17) calendar days per year, although the employee may, at his or her option, elect to use vacation or personal leave time to attend the scheduled reserve drill periods or to perform other inactive drill period obligations. Employees who participate in weekend military drill duty are not eligible for leave with pay for such activity, but may have their regular work schedule changed to accommodate the required time off.

4.8 **Bereavement Leave.** Using the online time off request form, any full-time employee, whether probationary or regular, shall receive a maximum of thirty-six (36) hours off with

pay for the death or funeral of an immediate family member. Immediate family member is defined as the employee's father, step-father, father-in-law, mother, step-mother, mother-in-law, brother, step-brother, sister, step-sister, husband, wife, domestic partner, biological child, step-child, adopted child, child of a domestic partner, step parent, grandchild, grandparent, foster parent, foster child, legal guardian, or any family member with whom the employee resides or who is identified in the employee's MOU, if applicable. Employees must submit an online time off request form for approval by the supervisor.

4.9 **Workers' Compensation Leave.** Employees who are injured in the course of their employment are placed on Workers' Compensation Leave, and receive wage loss benefits to which they are entitled under the Workers' Compensation Act. Employees may request to concurrently use available paid leave accruals to supplement their Workers' Compensation payments in an amount such that the sum of both is equal to or less than the employee's regular base pay.

4.10 Administrative Leave.

4.10.1 Executive Management Employees

4.10.1.1 No more than forty (40) hours of administrative leave shall be granted to employees in the Executive Management Group in any calendar year on January 1st.

4.10.1.1.1 As an exception, Executive Management Group employees who elected to remain on the executive benefits structure, specified in 1.7 At-Will EMT Employment Agreements, may select whether to include Administrative Leave as part of their annual benefits package.

4.10.1.2 Employees who are hired or promoted into the Executive Management Group shall be granted administrative leave on a pro-rata basis in accordance with the following schedule:

Month of Hire/Promotion	Percentage of Leave Granted
January - September	100%
October - December	50%

4.10.1.3 Administrative leave may only be used in quarter-hour increments or more.

4.10.1.4 Any unused administrative leave, within the calendar year granted, will not be carried over to the next calendar year.

4.10.1.5 Any unused administrative leave, within the calendar year granted, is not subject to cash out or eligible for any mandatory payout.

4.10.1.6 Employees who cease to be part of the Executive Management Group for any reason will not receive payment of any unused administrative leave.

4.10.2 Manager Group Employees

4.10.2.1 No more than forty (40) hours of administrative leave shall be granted to employees in the Executive Management Group in any calendar year on January 1st.

4.10.2.2 Employees who are hired or promoted into the Manager Group shall be granted administrative leave on a pro-rata basis in accordance with the following schedule:

Month of Hire/Promotion	Percentage of Leave Granted
January - September	100%
October - December	50%

4.10.2.3 Administrative leave may only be used in quarter-hour increments or more.

4.10.2.4 Any unused administrative leave, within the calendar year granted, will not be carried over to the next calendar year.

4.10.2.5 Any unused administrative leave, within the calendar year granted, is not subject to cash out or eligible for any mandatory payout

4.10.2.6 Employees who cease to be part of the Manager Group for any reason will not receive payment of any unused administrative leave.

4.10.3 Professional, Supervisor and Exempt-level Confidential Group Employees

4.10.3.1 Effective the first pay period in July, regular full-time exempt-level employees in the Professional, Supervisor and Confidential Groups shall be granted forty (40) hours of Administrative Leave.

4.10.3.2 Regular full-time exempt-level employees who are hired or promoted into the Professional, Supervisor and Confidential Groups shall be granted Administrative Leave on a pro-rata basis per the following schedule:

Month of Hire/Promotion	Percentage of Leave Granted
July - September	100%
October - December	75%
January - March	50%
April - June	0%

4.10.3.3 Administrative Leave will be administered in accordance with the following guidelines:

4.10.3.3.1 Administrative Leave may be used in quarter-hour increments.

4.10.3.3.2 Any unused Administrative Leave, within the fiscal year granted, will not be carried over to the next fiscal year.

4.10.3.3.3 Any unused Administrative Leave, within the fiscal year granted, is not subject to cash out or eligible for any mandatory payout.

4.10.3.3.4 Employees who cease to be part of the Professional Group for any reason will forfeit any unused Administrative Leave.

4.11 Supplemental Leave

4.11.1 Nonexempt Confidential Group Employees (unless otherwise stipulated by an employee's affiliated bargaining unit MOU)

4.11.1.1 In 2011, effective the first pay period in the month following the approval of this Agreement by the OCSD Board of Directors, regular full-time employees in the bargaining unit shall be granted Supplemental Leave in accordance with the following schedule:

Years of Service	**5 – 9**	**10 - 14**	**15 - 19**	**20 - 24**	**25+**
Supplemental Leave Hours	5	10	15	20	25

4.11.1.2 Supplemental Leave shall be granted per the schedule in the first pay period in July.

4.11.1.3 Supplemental Leave will be administered in accordance with the following guidelines:

4.11.1.3.1 Supplemental Leave may be used in one-quarter (0.25) hour increments.

4.11.1.3.2 Any unused Supplemental Leave, within the fiscal year granted, will not be carried over to the next fiscal year.

4.11.1.3.3 Any unused Supplemental Leave, within the fiscal year granted, is not subject to cash out or eligible for any mandatory payout.

4.11.1.3.4 Employees who cease to be part of the bargaining unit for any reason will forfeit any unused Supplemental Leave.

4.11.1.4 Employees who are hired or transferred into the bargaining unit shall be granted Supplemental Leave on a pro-rata basis per the following schedule:

Hire/Transfer Date	**Percent**
July – September	100%

October – December	75%
January – March	50%
April – June	25%

4.12 **Paid Administrative Leave**

In the event that OCSD determines that an employee's position does not lend itself to telecommuting and/or belongs to a high risk group as defined by the Centers for Disease Control (CDC) in relation to COVID-19, OCSD may place the employee on paid administrative leave and the following may apply:

- Employees will receive full pay and benefits
- Employees are expected to provide current contact information (phone, cell phone, and email) to their supervisor/manager
- Employees are expected to remain available during OCSD core business hours
- Employees are expected to routinely monitor and respond timely to all correspondence from OCSD
- Employees may be required to return to work at any time
- An employee's supervisor many contact them to inquire about work related items
- Employees should arrange a periodic check in with their supervisor during the leave period
- Employees must inform their supervisor and use appropriate leave accruals if they will be on vacation or out of town

5.0 PROCEDURE

6.0 EXCEPTIONS

6.1 Part-time employees receive leave of absence benefits on a pro-rated basis per Policy 4.7, Pro Rata Benefits for Part-time Employees.

6.2 Employees receive either both sick leave and vacation time off accruals or personal leave time off accruals depending on the employee's bargaining unit and/or employee group affiliation.

6.3 Vacation leave is not accrued for overtime hours worked.

6.4 The unscheduled time off designation does not apply to exempt employees.

7.0 PROVISIONS AND CONDITIONS

7.1 Accrued balances of vacation leave, compensatory leave, and personal leave may be cashed out at the employee's request on an annual basis in December of each calendar year.

7.2 Vacation leave is accrued on a bi-weekly basis, and employees within the initial probationary period may request time off in the first six (6) months of employment and must use available leave accruals.

7.3 Employees may not maintain a negative balance of vacation, sick, compensatory, or personal leave accruals.

8.0 RELATED DOCUMENTS

8.1 California Labor Code, Section 230.8

8.2 California Labor Code, Section 246 (California Paid Sick Leave Law)

8.3 California Assembly Bill 1522, Sick Leave Law

8.4 Policy 1.10, Employee Separation

8.5 Policy 4.7, Pro Rata Benefits for Part-time Employees

Temporary Policy Amendments in Response to the COVID-19 (Coronavirus) Pandemic Effective 3/25/2020 through 12/31/2020 or as soon as the national emergency is lifted.

Orange County Sanitation District Personnel Policies	**Policy Number: 3.4** **Effective Date: September 26, 2018**
Subject: Leave-of-Absence Without Pay	**Supersedes: November 11, 2011**
	Approved by: General Manager

1.0 PURPOSE

1.1 The purpose of this policy is to establish uniform guidelines and procedures for use in the administration of Orange County Sanitation District's (OCSD) leave-of-absence without pay program.

2.0 ORGANIZATIONAL UNITS AFFECTED

2.1 This policy applies to all regular OCSD employees.

3.0 DEFINITIONS

3.1 **Americans with Disabilities Act (ADA)** – A federal law that prohibits discrimination against people with disabilities and requires employers to provide reasonable accommodation to employees with known disabilities when doing so does not pose an undue hardship.

3.2 **California Family Rights Act (CFRA)** – A state law that provides certain employees with up to twelve (12) weeks of unpaid, job-protected leave per year.

3.3 **Child, for purposes of FMLA/CFRA** – Means a biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis (in place of parents or instead of a parent), who is either under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability, at the time that FMLA/CFRA leave is to commence.

3.4 **Consolidated Omnibus Budget Reconciliation Act (COBRA)** – A federal law that gives employees and dependents who lose their group health insurance the right to elect to continue health insurance coverage for eighteen (18) or thirty-six (36) months under certain circumstances, such as voluntary or involuntary separation from employment for reasons other than gross misconduct, reduction in hours worked, change in employment status, death, divorce, and other life events.

3.5 **Covered Active Duty or Call to Covered Active Duty Status** – Means a) in the case of a member of a regular component of the Armed Forces, duty during deployment of the member with the Armed Forces to a foreign country, and b) in the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty during a war or national emergency declared by the President or Congress.

3.6 **Covered Servicemember** – Means a) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness incurred in the line of duty on covered active duty, or b) a veteran who is undergoing medical treatment, recuperation or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of five (5) years preceding the date on which the veteran undergoes that medical treatment, recuperation or therapy.

3.7 **Domestic Partner** – As defined by California Family Code §§ 297 and 299.2, shall have the same meaning as "spouse" for purposes of CFRA.

3.8 **Fair Employment & Housing Act (FEHA)** – A California statute prohibiting employment discrimination based on race; color; religion; national origin; ancestry; physical disability; mental disability; genetic information; medical condition; marital status; sex; gender; gender identity; gender expression; sexual orientation; age, with respect to persons over the age of 40; pregnancy, childbirth, or related medical conditions; and military or veteran status. The Act also prohibits retaliation for opposing any practice forbidden by the Act or for filing a complaint, testifying, or assisting in proceedings under the Act and requires employers to provide reasonable accommodation to employees with disabilities when doing so does not pose an undue hardship.

3.9 **Family and Medical Leave Act (FMLA)** – A federal law that provides certain employees up to twelve (12) weeks of unpaid, job-protected leave per year.

3.10 **Family Member** – For purposes of FMLA/CFRA, means an employee's spouse, parent, or child. In addition, the definition of family member under CFRA includes an employee's domestic partner and child of a domestic partner.

3.11 **Families First Coronavirus Response Act (FFCRA)** - The FFCRA provides two types of paid leave benefits to employees for specified reasons related to COVID-19: Emergency Paid Sick Leave and FMLA Public Health Emergency Leave, which is an expansion of the current FMLA law.

3.12 **Emergency Paid Sick Leave** - Emergency Paid Sick Leave provides employees with up to 80 hours of leave for specified qualifying reasons related to COVID-19. This leave provides 100% of the employee's regular rate of pay (up to $510 per day or $5,100 total) or two-thirds of the employee's regular rate of pay (up to $200 per day or $2,000 total), depending on the reason for leave.

3.13 FMLA Public Health Emergency Leave - Under current FMLA law, which still applies and will be administered according to the existing law, OCSD is required to provide up to 12 weeks of unpaid leave to eligible employees for medical reasons or to care for certain family members. OCSD employees under the current FMLA law can use accrued leave, and/or apply for short/long term disability, or a combination of both to assist in supplementing the unpaid leave. The Families First Coronavirus Response Act expanded the FMLA provisions to address child- care issues raised by school closures related to COVID-19 only. It does not increase the amount of FMLA leave entitlement for employees. If an employee has already exhausted 12 weeks of FMLA leave in the current rolling year period, they would not be eligible for additional FMLA leave under the Act.

3.14 **Health Care Provider**

3.14.1 A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State of California;

3.14.2 Individuals duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, who directly treat or supervise treatment of a serious health condition;

3.14.3 Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law;

3.14.4 Nurse practitioners and nurse-midwives, clinical social workers, and physician assistants who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;

3.14.5 Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and

3.14.6 Any health care provider from whom OCSD or its group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

3.15 **Incapable of Self Care** – Describes a person who requires active assistance or supervision to provide daily self-care in three (3) or more of the activities of daily living or instrumental activities of daily living — such as, caring for grooming and hygiene, bathing, dressing and eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, and using telephones and directories, and using a post office.

3.16 **Next of Kin of a Covered Servicemember** – Means the nearest blood relative other than the covered servicemember's spouse, parent, son, or daughter, in the following order of priority: Blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions; brothers and sisters; grandparents; aunts and uncles; and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA.

3.17 **Outpatient Status** means, with respect to a covered servicemember, the status of a member of the Armed Forces assigned to either: (1) a military medical treatment facility as an outpatient; or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

3.18 **Parent, for purposes of FMLA/CFRA** – Means the biological, adoptive, step or foster parent of an employee; a legal guardian; or an individual who stands or stood in loco parentis (in place of parents of instead of a parent) to an employee when the employee was a child.

3.19 **Pregnancy Disability Leave (PDL)** – A state law that provides an employee, who is disabled as a result of pregnancy, childbirth, or a related condition, up to four (4) months of unpaid leave, with medical approval.

3.20 **Rolling 12-Month Period** – A period measured backward from the date an employee uses any FMLA leave. Each time an employee takes FMLA/CFRA leave, the remaining leave entitlement would be any balance of the 12 weeks which has not been used during the immediately preceding 12 months. For example, if an employee has taken eight weeks of leave during the past 12 months, an additional four weeks of leave could be taken.

3.21 **Serious Health Condition** – Means an illness, injury, impairment, or physical or mental condition that involves:

3.21.1 Inpatient care (i.e., an overnight stay or expectation of an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., inability to work, or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom); or

3.21.2 Continuing treatment by a health care provider. A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

3.21.2.1 A period of incapacity (i.e., inability to work, or perform other regular daily activities) due to serious health condition of more than three (3) consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

3.21.2.1.1 Treatment two (2) or more times by a health care provider.

3.21.2.1.2 Treatment by a health care provider on at least one (1) occasion that results in a regimen of continuing treatment under the supervision of the health care provider. If the medication is over the counter, and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.

3.21.2.2 Under FMLA only, any period of incapacity due to pregnancy or for prenatal care. Under state law, an employee disabled by pregnancy is entitled to PDL

3.21.2.3 Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

3.21.2.3.1 Requires periodic visits (defined as at least twice a year) for treatment by a health care provider or by a nurse;

3.21.2.3.2 Continues over an extended period of time (including recurring episodes of a single underlying condition); and

3.21.2.3.3 May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one (1) day or less.

3.21.2.4 A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective. The employee or family member must be under the treatment of a health care provider.

3.21.2.5 Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three (3) consecutive calendar days in the absence of medical intervention or treatment.

3.22 **Serious Injury or Illness** – Means a) in the case of a member of the Armed Forces (including a member of the National Guard or Reserves), an injury or illness incurred by a covered servicemember in the line of duty on covered active duty (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on covered active duty in the Armed Forces) and that may render the servicemember medically unfit to perform the duties of the member's office, grade, rank, or rating, and b) in the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of five (5) years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy, a qualifying injury or illness that was incurred by the member in line of duty on covered active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on covered active duty in the Armed Forces) that manifested itself before or after the member became a veteran.

3.23 **Single 12-Month Period** – For purposes of leave to care for a covered servicemember, begins on the first day the eligible employee takes FMLA leave to care for the covered servicemember and ends twelve (12) months after that date.

3.24 **Spouse** –Means a partner in marriage as defined by state and/or federal law.

3.25 **Child-Related Activities** – Include addressing a child care provider or school emergency, a request that the child be picked up from school or child care, behavioral/discipline problems, closure or unexpected unavailability of the school (excluding planned holidays), or a natural disaster; finding, enrolling, re-enrolling a child in a school or with a licensed child care provider.

4.0 POLICY

4.14 To the extent not already provided for under current leave policies and provisions, it is the policy of OCSD to grant employees extended leave-of-absences under certain circumstances, including family and medical leave for eligible employees as required by state and federal law. The following provisions set forth the rights and obligations with respect to such leave. Rights and obligations which are not specifically set forth below are set forth in the Department of Labor regulations implementing the Federal Family and

Medical Leave Act of 1993 ("FMLA"), and the regulations of the California Family Rights Act ("CFRA").

4.15 **Reasons for FMLA/CFRA Leave** FMLA/CFRA leave is only permitted for the following reasons:

4.15.1 The birth of a child or to care for a newborn of an employee;

4.15.2 The placement of a child with an employee in connection with the adoption or foster care of a child;

4.15.3 Leave to care for a family member who has a serious health condition;

4.15.4 Leave because of a serious health condition that makes the employee unable to perform the essential functions of his/her position. Under FMLA, this includes incapacity due to pregnancy (CFRA does not include incapacity due to pregnancy; PDL applies instead);

4.15.5 Under FMLA only, leave for a qualifying exigency arising out of the fact that an employee's family member is on covered active duty or called to covered active duty status in the Armed Forces. A qualifying exigency may include activities such as making arrangements for childcare, making financial and legal arrangements, attending counseling relating to the active duty of the service member, or attending to farewell or arrival arrangements for the service member;

4.2.6 Under FMLA only, leave to care for a family member or "next of kin" servicemember of the United States Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty (this leave may consist of up to 26 weeks of unpaid leave during a single 12-month period).

4.16 **Leave Eligibility**

4.16.1 A full-time, or part-time employee is eligible for unpaid FMLA/CFRA leave if the employee:

4.16.1.1 Has been employed for at least twelve (12) months; and

4.16.1.2 Has worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

4.16.2 A full-time or part-time employee disabled due to pregnancy, childbirth, or a related condition is eligible for unpaid PDL on the first date of employment, regardless of length of service with OCSD.

4.17 FMLA/CFRA Leave may not exceed twelve (12) weeks in a rolling twelve (12) month period. PDL may not exceed four (4) months.

4.18 CFRA leave shall run concurrently with FMLA leave except that an employee's incapacity due to pregnancy is not eligible for CFRA leave.

4.18.1 Incapacity due to pregnancy, childbirth, or a related condition may entitle an employee to up to four (4) months of PDL, with medical approval, plus another twelve (12) weeks of CFRA leave, to care for the child, in a rolling twelve (12) month period.

4.19 **Expiration of Leaves** Upon expiration of FMLA/CFRA/PDL, OCSD will evaluate the employee's restrictions and the positions that are available at the time. If a reasonable accommodation other than unpaid leave exists, the employee may return to work as long as it does not create an undue hardship on the organization.

4.20 **Both Spouses Are Employed By OCSD** Employees of OCSD who are married to each other shall be limited to a combined total of twelve (12) weeks of FMLA Leave in a rolling twelve (12) month period if the leave is taken:

4.20.1 For birth of the employee's son or daughter or to care for the child after birth;

4.20.2 For placement of a son or daughter with the employee for adoption or foster care, or to care for the child after placement; or

4.20.3 To care for the employee's parent with a serious health condition.

4.21 Where the spouses both use a portion of the total 12-week FMLA/CFRA leave entitlement for one of the above purposes, the spouses would each be entitled to the difference between the amount he or she has taken individually and twelve (12) weeks for FMLA/CFRA leave for a purpose such as his or her own serious health condition.

4.22 In any case in which spouses both employed by OCSD are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to 26 workweeks during any 12-month period if leave is taken to care for a covered servicemember.

4.23 **Both Parents Are Employed By OCSD** CFRA leave for the birth, adoption or foster care placement of the parents' child will be limited to twelve (12) workweeks in a 12-month period between the two (2) parents.

4.24 **California Leave for Military Spouses** An employee who works more than twenty (20) hours per week, and whose spouse is a member of the Armed Forces, National Guard or Reserves who has been deployed during a period of military conflict, may be granted ten (10) unpaid days off while the spouse is on leave from military deployment, Employees with need for this time off must provide their supervisor and Human Resources with notice that the employee wishes to take leave. This notice must be provided within at least two (2) business days of receiving official notice that the employee's spouse will be on leave from deployment. The employee must provide OCSD with written documentation certifying that the spouse will be on leave from deployment.

4.25 **FMLA Public Health Emergency Leave** Employees who have been employed by OCSD for at least 30 calendar days are eligible for FMLA Public Health Emergency Leave child-care due to school or child-care provider being unavailable due to the COVID-19 emergency. Employees may take up to 12 weeks of leave if the employee is unable to work or telework. The first 10 days of leave, the employee may use the Paid Sick Leave amount as authorized by the ACT (two thirds of regular rate of pay up to a maximum of $200 per day and up to $2,000 total for the first 10 days), or may use other leave banks, or choose to take unpaid leave. After the initial 10 days have elapsed, employees shall be paid two thirds of their regular rate of pay up to a maximum of $200 per day and $10,000 overall. Employees may supplement the two-thirds pay with their accrued leaves to achieve 100 percent of their regular rate of pay.

4.26 **Employee Benefits and Salary Adjustments While on Leave**

4.26.1 **Medical, Dental and Vision Premiums**

4.26.1.1 During FMLA/CFRA/ leave, OCSD shall pay for medical, dental and vision benefits at the same level as coverage would have been provided if the employee was not on leave for up to twelve (12) weeks each leave year. During PDL Leave, coverage will continue to the same extent for up to four (4) months for each pregnancy. The employee shall be required to pay his or her share of medical and dental premiums. Failure to submit a monthly co-payment, in full, within forty-five (45) days, unless otherwise stipulated in the employee's affiliated bargaining unit Memorandum of Understanding (MOU), of the invoice date will result in loss of group coverage . Coverage will be reinstated upon return to active employment.

4.26.1.2 Employees who have exhausted their paid leave accruals and FMLA/CFRA/PDL leave rights may be placed on a general leave-of-absence. During a general leave-of-absence, the employee shall be required to pay both OCSD's and the employee's share of medical, dental and vision premiums. Failure to submit a monthly payment, in full, within forty-five (45) days (unless otherwise stipulated in the employee's affiliated bargaining unit MOU) of the invoice date will result in loss of group coverage. Coverage will be reinstated upon return to active employment.

4.26.2 Employees may make the appropriate contributions for continued coverage under non-health benefit plans by payroll deductions or by arranging payment in coordination with the Human Resources Department.

4.26.3 If an employee fails to return to work after his/her leave entitlement has been exhausted or expires, OCSD shall have the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition of the employee or his/her family member which would entitle the employee to leave, or because of circumstances beyond the employee's control. OCSD shall have the right to recover premiums through deduction from any sums due OCSD (e.g. unpaid wages, vacation pay, etc.).

4.26.4 While an employee is on FMLA/CFRA/PDL leave, salary range and annual merit increases will be applied as long as the employee is in a paid payroll status. Applicable salary range and annual merit increases not applied because of leave will be applied when the employee returns to a paid payroll status.

4.26.5 Employees who are on a General Leave of absence do not receive Development Pay.

4.27 **Substitution of Paid Accrued Leaves**

4.27.1 While on leave under this policy, as set forth herein, an employee may elect to concurrently use paid accrued leaves for his or her own serious health condition. OCSD requires that an employee use paid leave accruals during FMLA/CFRA leave for all reasons other than the employee's own serious health condition.

4.27.2 An employee may use sick leave while taking a leave under this policy if:

4.27.2.1 The leave is for the employee's own serious health condition; or

4.27.2.2 The leave is needed to care for a family member with a serious health condition, and the employee would be permitted to use sick leave under OCSD policy.

4.27.2.3 Employees must comply with all requirements for receiving sick leave in order to receive pay during this period. A failure to comply with these requirements will only impact an employee's ability to receive sick pay and will not affect his or her right to FMLA/CFRA/PDL leave.

4.27.3 **OCSD's Right to Require an Employee to Exhaust FMLA/CFRA Leave Concurrently With Other Leaves.** If an employee takes a leave of absence for any reason which is also FMLA/CFRA-qualifying, OCSD may designate that leave as FMLA/CFRA and may run the leaves concurrently with each other.

4.27.4 **OCSD and Employee's Rights if an Employee Requests Accrued Leave Without Mentioning Either the FMLA or CFRA.** If an employee requests to utilize accrued vacation leave or other accrued paid time off without reference to a FMLA/CFRA-qualifying purpose, OCSD may not ask the employee if the leave is for a FMLA/CFRA-qualifying purpose. However, if OCSD denies the employee's request and the employee provides information that the requested time off is for a FMLA/CFRA-qualifying purpose, OCSD may inquire further into the reason for the absence. If the reason is FMLA/CFRA qualifying, OCSD may require the employee to exhaust accrued leave as described above.

4.27.5 **Paid Time Off Accruals** Paid time off shall not accrue during any pay period that an employee is absent without pay for more than one day.

4.28 **Medical Certification** As a condition of FMLA or CFRA leave because of a "serious health condition," OCSD may require certification by the employee's attending health care provider. Employees who request FMLA/CFRA/PDL leave for their own serious health condition or to care for a family member who has a serious health condition must provide written certification from the attending health care provider of the individual requiring care as a condition of receiving FMLA/CFRA/PDL leave. OCSD may require that a new medical certification be submitted depending on the circumstances.

4.28.1 If the leave is requested because of the employee's own serious health condition, the certification must include a statement that the employee is unable to work at all or is unable to perform the essential functions of his/her position.

4.28.2 Employees who request leave to care for a covered servicemember who is a child, spouse, parent, or "next of kin" of the employee must provide written certification from a health care provider regarding the injured servicemember's serious injury or illness.

4.28.3 The first time an employee requests leave because of a qualifying exigency, an employer may require the employee to provide a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on covered active duty or call to covered active duty status, and the dates of the covered military member's covered active duty service. A copy of new active duty orders or similar documentation shall be provided to the employer if the need for leave because of a qualifying exigency arises out of a different covered active duty or call to covered active duty status of the same or a different covered military member.

4.28.4 **Time to Provide a Certification** When an employee's leave is foreseeable and at least thirty (30) days' notice has been provided, if a medical certification is requested, the employee must provide it before the leave begins. When this is not possible, the employee must provide the requested certification to OCSD within fifteen (15) calendar days of OCSD's request, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

4.28.5 If an employee provides an incomplete medical certification the employee will be given a reasonable opportunity to cure any such deficiency.

4.28.6 **Consequences for Failure to Provide an Adequate or Timely Certification**

4.28.6.1 If an employee fails to provide a medical certification within the time frame established by this policy, OCSD may delay the taking of FMLA/CFRA leave until the required certification is provided.

4.28.6.2 Failure to provide complete medical certification may result in the denial of FMLA/CFRA/PDL leave.

4.28.7 **Second and Third Medical Opinions** If OCSD has reason to doubt the validity of a medical certification, OCSD may require a medical opinion of a second health care provider chosen and paid for by OCSD. If the second opinion is different from the first, OCSD may require the opinion of a third provider jointly approved by OCSD and the employee, but paid for by OCSD. The opinion of the third provider will be binding. An employee may request a copy of the health care provider's opinions when there is a second or third medical opinion sought.

4.28.8 **Intermittent Leave or Leave on a Reduced Leave Schedule** If an employee requests leave intermittently (a few days or hours at a time) or on a reduced leave schedule to care for family member with a serious health condition, the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule. OCSD permits intermittent leave to be taken in increments as small as fifteen (15) minutes. When planning medical treatment, the employee must consult with a supervisor and/or Human Resources and make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations, subject to the approval of the health care provider. Such consultations must take place prior to the scheduling of treatment in order to work out a treatment schedule which best suits the needs of both OCSD and the employee.

4.29 **Employee Notice of Leave** Where the need for leave is foreseeable, OCSD requires thirty (30) days advance notice. In addition, if an employee knows that he/she will need leave in the future, but does not know the exact date(s) (e.g. for the birth of a child or to take care of a newborn), the employee shall inform his/her supervisor as soon as practicable that such leave will be needed, but no less than 30 days prior to the event. Such notice may be orally given. For leave that is not foreseeable, barring unusual circumstances, employees must provide notice that they need leave prior to the start of the shift on the day that leave is requested. Written notice must also be provided which sets forth the reason for leave, the expected duration of the leave, and the anticipated start of the leave.

4.29.1 For foreseeable leave due to a qualifying exigency, an employee must provide notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.

4.30 **Return to Work Policy for Non-Work-Related Leave**

4.30.1 **Right to Reinstatement** Upon expiration of FMLA/CFRA/PDL leave, an employee shall be entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. An employee is entitled to reinstatement to the same or equivalent position unless the employee would not otherwise have been entitled to that position for reasons unrelated to such leave (e.g., lay-offs), in which case OCSD's obligation to continue health and dental or other benefits shall cease. Employees have no greater rights to reinstatement, benefits and other conditions of employment than if the employee had been continuously employed during the FMLA/CFRA/PDL period.

4.30.2 If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and OCSD the employee will be reinstated within two (2) business days, where feasible, after the employee notifies the employer of his/her readiness to return.

4.30.3 **Employee's Obligation to Periodically Report on His/Her Condition** Employees will be required to periodically report on their status and intent to return to work. This will avoid any delays to reinstatement when the employee is ready to return.

4.30.4 **Fitness-for-Duty Certification** As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, which made the employee unable to perform his/her job, the employee may be forced to obtain and present a fitness-for-duty certification from the attending health care provider that the employee is able to resume work. Failure to provide such certification, when required, will result in denial of reinstatement.

4.30.5 **Medical Evaluation** An employee who has been absent from work due to a medical, non-work-related reason shall be required to submit to a Return-to-Work medical evaluation.

4.30.6 **Compatibility of Employee Restrictions and the Job Demands of the Position**

4.30.6.1 If it is determined that the job demands of the position last held by the employee are not compatible with the employee's restrictions (with reasonable accommodation if the employee is disabled within the meaning of the ADA or FEHA) and the employee is willing to return to work, placement in an alternative position, if available, will be considered. The employee shall be re-classified as medically disqualified while alternative positions are being considered. Such time off shall be without pay; however, the employee may elect to use accrued leave hours, such as vacation, sick, or personal, to receive compensation. Placement of an employee in an alternative position requires a pre-placement medical evaluation for the alternative job.

4.30.6.2 If it is determined that the job demands of the position last held by the employee are not compatible with the employee's restrictions (and cannot be reasonably accommodated if the employee is disabled within the meaning of the ADA or FEHA) and there is not an alternative position, or the employee's restrictions are not compatible with an alternative position, or the employee is not willing to return to work, the employee shall be re-classified as medically disqualified and not permitted to work. Thereafter, the employee shall be retired for disability, if eligible, or dismissed. Such dismissal will not constitute disciplinary action for cause. If requested, the employee's file will indicate the employee left for personal reasons.

4.30.7 **Failure to Return to Work** If, upon the expiration of FMLA-/CFRA/PDL Leave, or any OCSD -approved extension thereof, an employee fails to return to work, and no additional leave has been authorized, the employee shall be considered to have automatically resigned from his/her position. If, upon expiration of FMLA/CFRA/PDL Leave, or any OCSD-approved extension thereof, an employee is unable to perform the essential functions of the employee's position due to disability, OCSD shall review vacancies to determine whether or not a vacant position exists that the employee is qualified to perform with or without reasonable accommodation. If the employee is still unable to perform the essential duties of such a position, the employee shall be considered to have automatically resigned from his/her position, unless eligible for disability retirement.

4.30.8 **Bridge of Service** If an employee automatically resigns from his/her position as a result of a "bona-fide" injury or illness, and then is rehired to a position within OCSD within one (1) year, OCSD shall bridge the employees' service date. "Bridging of service" means adding the total number of days away from work to the employees' original date of hire.

4.31 General Leave

4.31.1 Employees who have exhausted all paid time off accruals may be granted a general leave-of-absence to attend to personal matters, or for FMLA or CFRA qualifying events, after the expirations of previously authorized leave, if the Human Resources Department determines that an extended period of time away from the job shall be in the best interests of the employee and OCSD.

4.31.2 During a general leave-of-absence, the employee shall be required to pay both OCSD's and the employee's share of medical, dental and vision premiums. Failure to submit a monthly payment, in full, within forty-five (45) days (unless otherwise stipulated in the employee's affiliated bargaining unit MOU) of the invoice date will result in loss of group coverage. Coverage will be reinstated upon return to active employment.

4.31.3 Employees will not be granted an unpaid leave of absence prior to exhausting all paid leave accrual balances, excluding employees protected by PDL/FMLA/CFRA for their own serious health condition.

4.32 Workers Compensation Leave

4.32.1 Employees who are injured in the course of their employment are placed on Workers' Compensation Leave, and receive wage loss benefits to which they are entitled under the Workers' Compensation Act.

4.32.2 During Workers' Compensation Leave, employees may request to concurrently use available paid leave accruals to supplement their Workers' Compensation payments in an amount such that the sum of both is equal to or less than the employee's regular base pay.

4.32.3 OCSD may designate Workers' Compensation Leave as FMLA/CFRA and may run the leaves concurrently with each other.

4.32.4 During Workers' Compensation Leave, employees' medical, dental, and vision insurance premium payments are subject to the provisions provided in Section 4.12.1.

4.19 **Protected Child-Related Activities Leave** As prescribed under California Labor Code section 230.8, an employee who is a parent with one (1) or more children attending kindergarten, grades one (1) to twelve (12), or is a licensed child care provider, may take up to 40 hours of unpaid leave per calendar year for the following child-related activities:

4.19.1 To find, enroll, or reenroll his or her child in a school or with a licensed child care provider, or to participate in activities of the school or licensed child care provider of his or her child. Time off for this purpose shall not exceed eight (8) hours in any calendar month of the year.

4.19.2 To address a child care provider or school emergency.

5.0 PROCEDURE

5.1 Employees must fill out the following prescribed forms in connection with leaves under this policy:

5.1.1 Leave of Absence Request form (Available on MyOCSD) – Required for all medical, pregnancy, family care, military, and general leaves of absence.

5.1.2 Medical Certification of Health Care Provider form (Available on MyOCSD) – Required for leave due to employee's own serious health condition, pregnancy, or the employee's need to care for a family member with a serious health condition.

5.1.3 Fitness-for-Duty to Return from Leave form (Available on MyOCSD) - If leave is taken for the employee's own serious health condition.

6.0 EXCEPTIONS

6.1 **Reinstatement of "Key Employees"** OCSD may deny reinstatement to a "key" employee (i.e., an employee who is among the highest paid 10% of all employed by OCSD (within 75 miles of the work site) if such denial is necessary to prevent substantial and grievous economic injury to the operations of OCSD, and the employee is notified of OCSD's intent to deny reinstatement on such basis at the time OCSD determines that such injury would occur.

7.0 PROVISIONS AND CONDITIONS

8.0 RELATED DOCUMENTS

8.1 Policy 3.3, Leave of Absence with Pay

8.2 Policy 3.3.1, Military Leave

8.3 Leave of Absence Request Form

8.4 Medical Certification of Health Care Provider Form

8.5 Fitness-for-Duty to Return from Leave Form

Orange County Sanitation District

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STEERING COMMITTEE

Agenda Report

File #: 2020-1046 **Agenda Date:** 4/22/2020 **Agenda Item No:** 5.

FROM: James D. Herberg, General Manager
Originator: Lorenzo Tyner, Assistant General Manager

SUBJECT:

COVID-19 FINANCIAL IMPACT UPDATE

GENERAL MANAGER'S RECOMMENDATION

RECOMMENDATION:

Information Item.

BACKGROUND

The Board of Directors requested a staff report on potential financial impacts related to COVID-19. Staff has summarized the potential financial impacts to date.

ADDITIONAL INFORMATION

Revenues

The Orange County Sanitation District (Sanitation District) has a broad-based revenue program. Although 85% of its income comes from two sources (65% from general user fees and 20% from property taxes), the income is collected from nearly one million different users. This distribution reduces the potential impact on the Sanitation District by any individual ratepayer. Additionally, both of these revenues are collected through the County of Orange (County) semi-annual property tax collection process. At present, the County has announced no change to its collection of these fees or the disbursement of funds to the Sanitation District as a result of COVID-19. We anticipate receiving our next County apportionment later this month.

The Sanitation District does receive 15% of its revenues from other sources that may be negatively impacted. However, those revenues are also broad-based, split between various permittees, other government agencies, and interest income. As such, any risk to Sanitation District revenue should be manageable. However, should the pandemic continue, this risk would increase.

Investment Portfolio

The Sanitation District portfolios remain conservatively positioned and are weathering the volatility in the markets fairly well given the circumstances.

However, all indications are that the short-term impact of the shutting down of major portions of the US economy due to the COVID-19 virus are going to be material.

We have already seen a large monetary policy response from the Federal Reserve, and we expect a significant fiscal response, both domestically and globally, to help mitigate the economic impact of the virus on the global economy.

The US consumer and overall US economy was in a solid position prior to the impact of the virus which should also help the markets recover when we get past the volatility and uncertainty, which is likely to last for several more weeks.

With respect to portfolio, the Sanitation District's positioning is conservatively positioned, with approximately 60% of the holdings in government securities and 5-year government securities that were purchased as a hedge against interest rate drops.

At present, there are no underlying concerns with the portfolio holdings. Chandler Assets, our portfolio manager, is monitoring the market and portfolio with the ongoing volatility. Our Finance Division and our portfolio manager, Chandler Assets, are both set up to work remotely to ensure all transactions are completed and monitored.

Pension Liability

Due to the lag in evaluating actuarial results, we do not anticipate any changes to our contribution rates as a result of COVID-19 until July 1, 2021.

Orange County Employees Retirement System (OCERS) actuarial funding policy calls for investment gains/losses to be smoothed in over five years and are then amortized over 20 years. So, investment returns below 7% as of December 31, 2020 will create an actuarial loss. Those losses will be smoothed into the valuation over the subsequent five years (as the investment gains from 2019 will be smoothed in over five years as well).

This summer, OCERS will complete its triennial study where all assumptions will be re-evaluated. Changes in assumptions will also impact the UAAL and contribution rates. Those new assumptions, once approved by the OCERS board, will be incorporated into the actuarial valuation as of December 31, 2020.

The rates from the 2020 valuation will go into effect July 2022, the soonest employers will start to see this year's events (and changes in assumptions) hit their contribution rates. However, staff has already started to project these changes and will build in our assumptions in to the next two fiscal budgets. Attached is a message from the OCERS Chief Executive Officer regarding their response to COVID-19.

Expenditures

Staff is tracking all COVID-19 related expenditures. While there have been both staffing and material expenditures directly related to the pandemic, these have been minimal in relation to the Sanitation District's full operating budget. However, as the pandemic continues, we anticipate additional expenses to increase.

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Potential State Actions and History

The impacts of COVID-19 will undoubtedly affect the US and California economies. As such, there have been concerns that the State may elect to temporarily fill any of its revenue gaps by borrowing from or otherwise changing its financial relationships with other government entities.

In 1992/93 and 1993/94, to resolve serious budget deficits, the State legislature permanently shifted $3.6 billion of annual property tax revenue from counties, cities, and special districts to the Educational Revenue Augmentation Fund (ERAF I and ERAF II).

In 2004/05 and 2005/06, a temporary (2 year) shift of an additional $1.3 billion was enacted by the legislature (ERAF III). Approximately $16 million of Sanitation District funding was taken as a result of that shift. Subsequently, State legislation was passed that prevented future reallocations without repayment to the special districts (Proposition 1A 2004).

In 2009/10, the State borrowed $1.9 billion of property tax revenue from counties, cities, and special districts. Approximately $5 million was borrowed from the Sanitation District. Approximately $2.5 million was taken from the first installment of property taxes and $2.5 million was taken from the second installment of property taxes and each amount was repaid within a month of being taken.

In 2010, Proposition 22 was approved, which prohibits the state from redirecting property tax revenue as it did in 2009-10.

Proposition 22 (2010)

In 2010, voters approved Proposition 22, which, among other things, prohibits the State from redirecting property tax revenue as it did in 2009-10. Specifically, Proposition 22 eliminates the State's authority to borrow property tax revenue from local governments as previously allowed under Proposition 1A and prohibits the State from requiring redevelopment agencies to shift revenue to K-14 districts or other agencies. As discussed in the link below (also included as an attachment), the prohibition on shifting redevelopment funds contributed indirectly to the dissolution of redevelopment agencies in February 2012. <https://lao.ca.gov/reports/2012/tax/property-tax-primer-112912.aspx>.

RELEVANT STANDARDS

- Protect Orange County Sanitation District assets
- Ensure the public's money is wisely spent

ATTACHMENT

The following attachment(s) may be viewed on-line at the OCSD website (www.ocsd.com) with the complete agenda package:

- Memo from OCERS
- Understanding California's Property Taxes Information

A Message from OCERS Chief Executive Officer Steve Delaney on the OCERS Response to COVID-19

One of the more frustrating aspects of this COVID-19 crisis is the uncertainty that comes with dealing with something so new and so dangerous. I'm writing to reassure all OCERS members about certain facts of which you can be confident.

Your Benefit is Secure

The most important fact that you need to know is if you are retired, you will get your benefit, paid in full, paid on time. That's a fact.

OCERS Benefits are determined by the length of time you served the citizens of Orange County. They do not fluctuate with the ups and downs of the financial markets.

The OCERS Investment Portfolio is Sound

In recent weeks, the spread of COVID-19 has increased the volatility of global stock and bond markets. While markets remain unstable, it is important to note that OCERS is a long-term investor and has a history of protecting assets in market downturns.

OCERS' investment pool is a well-diversified, global portfolio that is built to weather short-term disruptions with an emphasis on securing benefits for OCERS' members. In 2019, OCERS' Investment Division took the initiative to protect a portion of its portfolio against a stock market sell-off. Those measures were in place before COVID-19 emerged and have been working to preserve capital in these uncertain markets.

In the coming weeks, there will be talk of some pension funds lacking the cash they need to fully pay benefits. OCERS is not suffering a liquidity crisis and member benefit payments are not at risk. OCERS is cash flow positive, which means that we take in more cash than we need in order to pay benefits. It is an enviable position for us and we appreciate the flexibility that this affords us in turbulent markets. Our focus on delivering timely, accurate and secure benefits continues.

The OCERS Team is Here to Serve You

Our offices may be closed to visitors through April 17th for everyone's safety, but the entire OCERS team is working remotely processing monthly payroll and getting new retirement applications processed. You can call (714.558.6200), or write (info@ocers.org) – we will receive your comments and requests however you may send

them – we will answer, and we will assist. Our web service portal, myOCERS, is available 24 hours a day and is full of important news as well as the information and facts you need to know in order to retire with confidence or simply continue confident in the retirement you have already begun.

In closing, I've had the privilege to serve as OCERS' Chief Executive Officer for more than a dozen years. When I arrived in January 2008, everyone was afraid of what the financial future might hold as the Great Recession was just beginning. OCERS came through with flying colors. We were ranked among the best, most secure pension systems in the entire country. We still have many of the same staff as well as several OCERS board trustees who were with us during those challenging times and are still here today providing the same sound guidance.

OCERS is celebrating 75 years of dedicated service to you our members. There's no doubt that times are challenging but one thing you do not need to worry about is OCERS; we're here, secure, sound and ready to serve.

November 29, 2012

Understanding California's Property Taxes

Executive Summary

The various taxes and charges on a California property tax bill are complex and often not well understood. This report provides an overview of this major source of local government revenue and highlights key policy issues related to property taxes and charges.

A Property Tax Bill Includes a Variety of Different Taxes and Charges. A typical California property tax bill consists of many taxes and charges including the 1 percent rate, voter–approved debt rates, parcel taxes, Mello–Roos taxes, and assessments. This report focuses primarily on the 1 percent rate, which is the largest tax on the property tax bill and the only rate that applies uniformly across every locality. The taxes due from the 1 percent rate and voter–approved debt rates are based on a property's assessed value. The California Constitution sets the process for determining a property's taxable value. Although there are some exceptions, a property's assessed value typically is equal to its purchase price adjusted upward each year by 2 percent. Under the Constitution, other taxes and charges may not be based on the property's value.

The Property Tax Is One of the Largest Taxes Californians Pay. In some years, Californians pay more in property taxes and charges than they do in state personal income taxes, the largest state General Fund revenue source. Local governments collected about $43 billion in 2010–11 from the 1 percent rate. The other taxes and charges on the property tax bill generated an additional $12 billion.

The Property Tax Base Is Diverse. Property taxes and charges are imposed on many types of property. For the 1 percent rate, owner–occupied residential properties represent about 39 percent of the state's assessed value, followed by investment and vacation residential properties (34 percent) and commercial properties (28 percent). Certain properties—including property owned by governments, hospitals, religious institutions, and charitable organizations—are exempt from the 1 percent property tax rate.

All Revenue From Property Taxes Is Allocated to Local Governments. Property tax revenue remains within the county in which it is collected and is used exclusively by local governments. State laws control the allocation of property tax revenue from the 1 percent rate to more than 4,000 local governments, with K–14 districts and counties receiving the largest amounts. The distribution of property tax revenue, however, varies significantly by locality.

The Property Tax Has a Significant Effect on the State Budget. Although the property tax is a local revenue source, it affects the state budget due to the state's education finance system—additional property tax revenue from the 1 percent rate for K–14 districts generally decreases the state's spending obligation for education. Over the years, the state has changed the laws regarding property tax allocation many times in order to reduce its costs for education programs or address other policy interests.

The State's Current Property Tax Revenue Allocation System Has Many Limitations. The state's laws regarding the allocation of property tax revenue from the 1 percent rate have evolved over time through legislation and voter initiatives. This complex allocation system is not well understood, transparent, or responsive to modern local needs and preferences. Any changes to the existing system, however, would be very difficult.

California's Property Tax System Has Strengths and Limitations. Economists evaluate taxes using five common tax policy criteria—growth, stability, simplicity, neutrality, and equity. The state's property tax system exhibits strengths and limitations when measured against these five criteria. Since 1979, revenue from the 1 percent rate has exceeded growth in the state's economy. Property tax revenue also tends to be less volatile than other tax revenues in California due to the acquisition value assessment system. (Falling real estate values during the recent recession, however, caused some areas of the state to experience declines in assessed value and more volatility than in the past.) Although California's property tax system provides governments with a stable and growing revenue source, its laws regarding property assessment can result in different treatment of similar taxpayers. For example, newer property owners often pay a higher effective tax rate than people who have owned their homes or businesses for a long time. In addition, the property tax system may distort business and homeowner decisions regarding relocation or expansion.

Introduction

For many California taxpayers, the property tax bill is one of the largest tax payments they make each year. For thousands of California local governments—K–12 schools, community colleges, cities, counties, and special districts—revenue from property tax bills represents the foundation of their budgets.

Although property taxes and charges play a major role in California finance, many elements of this financing system are complex and not well understood. The purpose of this report is to serve as an introductory reference to this key funding source. The report begins by explaining the most common taxes and charges on the property tax bill and how these levies are calculated. It then describes how the funds collected from property tax bills—$55 billion in 2010–11—are distributed among local governments. Last, because California's property taxation system has evoked controversy over the years, the report provides a framework for evaluating it. Specifically, we examine California property taxes relative to the criteria commonly used by economists for reviewing tax systems, including revenue growth, stability, simplicity, neutrality, and equity. The report is followed with an appendix providing further detail about the allocation of property tax revenue.

What Is on the Property Tax Bill?

A California property tax bill includes a variety of different taxes and charges. As shown on the sample property tax bill in Figure 1, these levies commonly include:

- The 1 percent rate established by Proposition 13 (1978).
- Additional tax rates to pay for local voter–approved debt.
- Property assessments.
- Mello–Roos taxes.
- Parcel taxes.

Figure 1

Sample Annual Property Tax Bill

Secured Property Tax for Fiscal Year July 1, 2012 to June 30, 2013

Property Owner Information

Property ID: 1234567

Mailing Address:
Doe, Jane
1234 ABC Street
Sacramento, CA 00000

Property Valuation on Jan 1, 2012 (A)

2012-13 Roll	Assessed Value
Land	$115,000.00
Improvements	$242,000.00
Total	$357,000.00
Less Exemptions	$7,000.00
Net Assessed Value	$350,000.00

Detail of Taxes Due

Agency	Rate	Amount
General Tax Levy	1.0000	$3,500.00
Voter-Approved Debt Rates		
City	0.0201	$70.35
Water District	0.0018	6.30
School District	0.1010	353.50
Community College District	0.0102	35.70
Direct Levies		
Sidewalk District Assessment		$9.36
Flood Control District Assessment		64.39
Street Lighting District Assessment		12.71
Mello-Roos District		86.51
School District Parcel Tax		125.00
Total Taxes Due		$4,263.82
1st Installment		$2,131.91
2nd Installment		2,131.91

(B) (C) (D)

The Constitution establishes a process for determining a property's taxable value for purposes of calculating tax levies from the 1 percent rate and voter–approved debt. In our sample property tax bill, "Box A" identifies the taxable value of the property and "Box B" shows the property's tax levies that are calculated based on this value. Levies based on value—such as the 1 percent rate and voter–approved debt rates—are known as "ad valorem" taxes.

Under the Constitution, other taxes and charges on the property tax bill (shown in "Box C") may not be based on the property's taxable value. Instead, they are based on other factors, such as the benefit the property owner receives from improvements.

As shown in "Box D," the total amount due on most property tax bills is divided into two equal amounts. The first payment is due by December 10 and the second payment is due by April 10.

How Are Property Taxes and Charges Determined?

Ad valorem property taxes—the 1 percent rate and voter–approved debt rates—account for nearly 90 percent of the revenue collected from property tax bills in California. Given their importance, this section begins with an overview of ad valorem taxes and describes how county assessors determine property values. Later in the chapter, we discuss the taxes and charges that are determined based on factors *other* than property value.

Taxes Based on Property Value

The 1 Percent Rate. The largest component of most property owners' annual property tax bill is the 1 percent rate—often called the 1 percent general tax levy or countywide rate. The Constitution limits this rate to 1 percent of assessed value. As shown on our sample property tax bill, the owner of a property assessed at $350,000 owes $3,500 under the 1 percent rate. The 1 percent rate is a general tax, meaning that local governments may use its revenue for any public purpose.

Voter–Approved Debt Rates. Most tax bills also include additional ad valorem property tax rates to pay for voter–approved debt. Revenue from these taxes is used primarily to repay general obligation bonds issued for local infrastructure projects, including the construction and rehabilitation of school facilities. (As described in the nearby box, some voter–approved rates are used to pay obligations approved by local voters before 1978.) Bond proceeds may not be used for general local government operating expenses, such as teacher salaries and administrative costs. Most local governments must obtain the approval of two–thirds of their local voters in order to issue general obligation bonds repaid with debt rates. General obligation bonds for school and community college facilities, however, may be approved by 55 percent of the school or community college district's voters. Local voters do not approve a fixed tax rate for general obligation bond indebtedness. Instead, the rate adjusts annually so that it raises the amount of money needed to pay the bond costs.

Debt Approved by Voters Prior to 1978

The California Constitution allows local governments to levy voter–approved debt rates—ad valorem rates above the 1 percent rate—for two purposes. The first purpose is to pay for indebtedness approved by voters prior to 1978, as allowed under Proposition 13 (1978). Proposition 42 (1986) authorized a second purpose by allowing local governments to levy additional ad valorem rates to pay the annual cost of general obligation bonds approved by voters for local infrastructure projects. Because most debt approved before 1978 has been paid off, most voter–approved debt rates today are used to repay general obligation bonds issued after 1986 as authorized under Proposition 42.

Some local governments, however, continue to levy voter–approved debt rates for indebtedness approved by voters before 1978. While most bonds issued before the passage of Proposition 13 have been paid off, state courts have determined that other obligations approved by voters before 1978 also can be paid with an additional ad valorem rate. Two common pre–1978 obligations paid with voter–approved debt rates are local government employee retirement costs and payments to the State Water Project.

Voter–Approved Retirement Benefits. Voters in some counties and cities approved ballot measures or city charters prior to 1978 that established retirement benefits for local government employees. The California Supreme Court ruled that such pension obligations represent voter–approved indebtedness that could be paid with an additional ad valorem rate. Local governments may levy the rate to cover pension benefits for any employee, including those hired after 1978, but not to cover any enhancements to pension benefits enacted after 1978. Local governments may adjust the rate annually to cover employee retirement costs, but state law limits the rate to the level charged for such purposes in 1982–83 or 1983–84, whichever is higher. A recent review shows that at least 20 cities and 1 county levy voter–approved debt rates to pay some portion of their annual pension costs. The rates differ by locality. For example, the City of Fresno's voter–approved debt rate for employee retirement costs is 0.03 percent of assessed value in 2012–13, while the City of San Fernando's rate is 0.28 percent.

State Water Project Payments. Local water agencies can levy ad valorem rates above the 1 percent rate to pay their annual obligations for water deliveries from the State Water Project. State courts concluded that such costs were voter–approved debt because voters approved the construction, operation, and maintenance of the State Water Project in 1960. As a result, most water agencies that have contracts with the State Water Project levy a voter–approved debt rate.

Property tax bills often include more than one voter–approved debt rate. In our sample property tax bill, for example, the property owner is subject to four additional rates because local voters have approved bond funds for the city and water, school, and community college districts where the property is located. These rates tend to be a small percentage of assessed value. Statewide, the average property tax bill includes voter–approved debt rates that total about one–tenth of 1 percent of assessed value.

Calculating Property Value for Ad Valorem Taxes

One of the first items listed on a property tax bill is the assessed value of the land and improvements. Assessed value is the taxable value of the property, which includes the land and any improvements made to the land, such as buildings, landscaping, or other developments. The assessed value of land and improvements is important because the 1 percent rate and voter–approved debt rates are levied as a percentage of this value, meaning that properties with higher assessed values owe higher property taxes.

Under California's tax system, the assessed value of most property is based on its purchase price. Below, we describe the process county assessors use to determine the value of local "real property" (land, buildings, and other permanent structures). This is followed by an explanation of how assessors determine the value of "personal property" (property not affixed to land or structures, such as computers, boats, airplanes, and business equipment) and "state assessed property" (certain business properties that cross county boundaries).

Local Real Property Is Assessed at Acquisition Value and Adjusted Upward Each Year. The process that county assessors use to determine the value of real property was established by Proposition 13. Under this system, when real property is purchased, the county assessor assigns it an assessed value that is equal to its purchase price, or "acquisition value." Each year thereafter, the property's assessed value increases by 2 percent or the rate of inflation, whichever is lower. This process continues until the property is sold, at which point the county assessor again assigns it an assessed value equal to its most recent purchase price. In other words, a property's assessed value resets to market value (what a willing buyer would pay for it) when it is sold. (As shown in Figure 2, voters have approved various constitutional amendments that exclude certain property transfers from triggering this reassessment.)

Figure 2

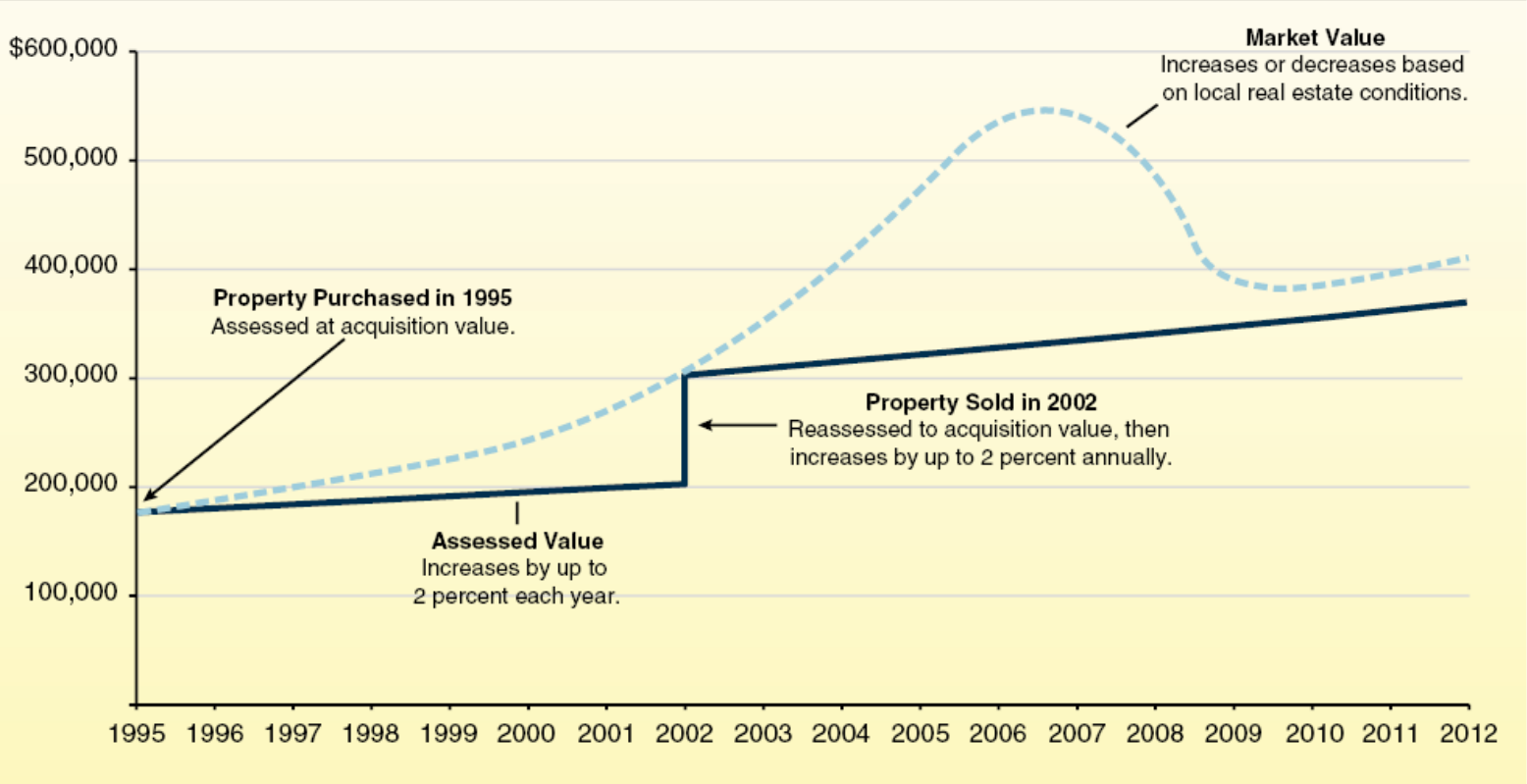
Property Transfers That Do Not Trigger Reassessment

Proposition	Year	Description
3	1982	Allows property owners whose property has been taken by eminent domain proceedings to transfer their existing assessed value to a new property of similar size and function.
50	1986	Allows property owners whose property has been damaged or destroyed in a natural disaster to transfer their existing assessed value to a comparable replacement property within the same county.
58	1986	Excludes property transfers between spouses or between parents and children from triggering reassessment.
60	1986	Allows homeowners over the age of 55 to transfer their existing assessed value to a new home, of equal or lesser market value, within the same county.
90	1988	Extends Proposition 60 by allowing homeowners to transfer their existing assessed value to a new home, of equal or lesser market value, in a different participating county.
110	1990	Allows disabled homeowners to transfer their existing assessed value from an existing home to a newly purchased home of equal or lesser market value.
171	1993	Extends Proposition 50 by allowing property owners affected by a natural disaster to transfer their existing assessed value to a comparable replacement property in a different participating county.
193	1996	Excludes property transfers between grandparents and grandchildren (when the parents are deceased) from triggering reassessment.
1	1998	Allows property owners whose property is made unusable by an environmental problem to transfer their existing assessed value to a comparable replacement property.

In most years, under this assessment practice, a property's market value is greater than its assessed value. This occurs because assessed values increase by a maximum of 2 percent per year, whereas market values tend to increase more rapidly. Therefore, as long as a property does not change ownership, its assessed value increases predictably from one year to the next and is unaffected by higher annual increases in market value. For example, Figure 3 shows how a hypothetical property purchased in 1995 for $185,000 would be assessed in 2012. Although the market value of the property increased to $300,000 by 2002, the assessed value was $200,000 because assessed value grew by only up to 2 percent each year. Upon being sold in 2002, the property's assessed value reset to a market value of $300,000. Because of the large annual increase in home values after 2002, however, the market value was soon much greater than the assessed value for the new owner as well.

Figure 3

Market Value Can Exceed Assessed Value



Property Improvements Are Assessed Separately. When property owners undertake property improvements, such as additions, remodeling, or building expansions, the additions or upgrades are assessed at market value in that year and increase by up to 2 percent each year thereafter. The unimproved portion of the property continues to be assessed based on its original acquisition value. For example, if a homeowner purchased a home in 2002 and then added a garage in 2010, the home and garage would be assessed separately. The original property would be assessed at its 2002 acquisition value adjusted upward each year while the garage would be assessed at its 2010 market value adjusted upward. The property's assessed value would be the combined value of the two portions. (As shown in Figure 4, voters have excluded certain property improvements from increasing the assessed value of a property.)

Figure 4

Property Improvements That Do Not Increase a Property's Assessed Value

Constitutional Amendments Approved After June 1978

Proposition	Year	Type of Improvement
8	1978	Reconstruction following natural disaster
7	1980	Solar energy construction
31	1984	Fire–safety improvements
110	1990	Accessibility construction for disabled homeowners
177	1994	Accessibility construction for any property
1	1998	Reconstruction following environmental contamination
13	2010	Seismic safety improvements

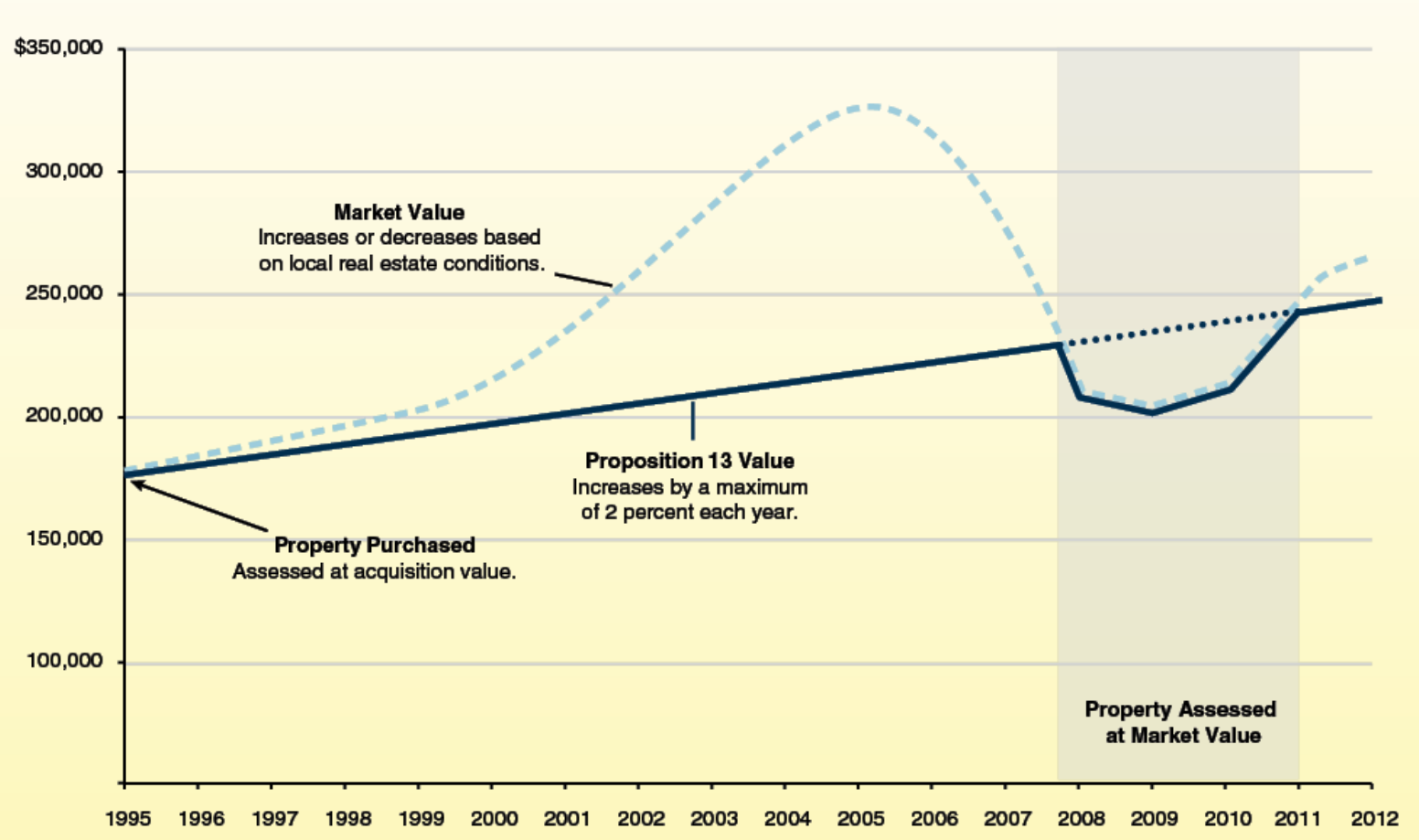
Assessed Value May Be Reduced When Market Values Fall Significantly. When real estate values decline or property damage occurs, a property's market value may fall below its assessed value as set by Proposition 13. Absent any adjustment to this assessed value, the property would be taxed at a greater value than it is worth.

In these events, county assessors may automatically reduce the Proposition 13 assessed value of a property to its current market value. If they do not, however, a property owner may petition the assessor to have his or her assessed value reduced. These decline–in–value properties are often called "Prop 8 properties" after Proposition 8 (1978), which authorizes this assessment reduction to market value. Figure 5 illustrates the assessment of a hypothetical decline–in–value property over time. The market value of the property purchased in 1995 stays above its Proposition 13 assessed value through 2007. A significant decline, however, drops the property's market value below its Proposition 13 assessed value. At this time, the property receives a decline–

in–value assessment (equal to its market value) that is less than its Proposition 13 assessment. For three years, the property is assessed at market value, which may increase or decrease by any amount. By 2012, the property's market value *once again exceeds* what its assessed value would have been absent Proposition 8 (acquisition price plus the 2 percent maximum annual increase). In subsequent years, the property's assessed value is determined by its acquisition price adjusted upward each year.

Figure 5

Assessed Value Can Fall Below Proposition 13 Value



Homeowners Are Eligible for a Property Tax Exemption. Homeowners may claim a $7,000 exemption from the assessed value of their primary residence each year. As shown in "Box A" of the sample property tax bill in Figure 1, this exemption lowers the assessed value of the homeowner's land and improvements by $7,000, reducing taxes under the 1 percent rate by $70 and reducing taxes from voter–approved debt rates by a statewide average of $8.

Two Types of Property Are Assessed at Their Market Value. Two categories of property are assessed at their current market value, rather than their acquisition value: personal property and state– assessed property. (We provide more information about these properties in the nearby box.)Combined, these types of properties accounted for 6 percent of statewide–assessed value in 2011–12. Most personal property and state–assessed property is taxed at the 1 percent rate plus any additional rates for voter–approved debt.

Properties Assessed at Current Market Value

Personal Property. Personal property is property other than land, buildings, and other permanent structures, which are commonly referred to as "real property." Most personal property is exempt from property taxation, including business inventories, materials used to manufacture products, household furniture and goods, personal items, and intangible property like gym memberships and life insurance policies. Some personal property, however, is subject to the property tax. These properties consist mainly of manufacturing equipment, business computers, planes, commercial boats, and office furniture. When determining the market value of personal property, county assessors take into account the loss in value due to the age and condition of personal property—a concept known as depreciation. Unlike property taxes on real property, which are due in two separate payments, taxes on personal property are due on July 3.

State–Assessed Property. The State Board of Equalization is responsible for assessing certain real

properties that cross county boundaries, such as pipelines, railroad tracks and cars, and canals. State–assessed properties are assessed at market value and, with the exception of railroad cars, taxed at the 1 percent rate plus any additional rates for voter–approved debt. (As part of a federal court settlement decades ago, railroad cars are taxed at a rate that is somewhat lower than 1 percent. The railcar tax rate varies each year and currently is about 0.8 percent.)

Determining Other Taxes and Charges

All other taxes and charges on the property tax bill are calculated based on factors other than the property's assessed value. For example, some levies are based on the cost of a service provided to the property. Others are based on the size of a parcel, its square footage, number of rooms, or other characteristics. Below, we discuss three of the most common categories of non–ad valorem levies: assessments, parcel taxes, and Mello–Roos taxes. In addition to these three categories, some local governments collect certain fees for service on property tax bills, such as charges to clear weeds on properties where the weeds present a fire safety hazard. These fees are diverse and relatively minor, and therefore are not examined in this report.

Assessments. Local governments levy assessments in order to fund improvements that benefit real property. For example, with the approval of affected property owners, a city or county may create a street lighting assessment district to fund the construction, operation, and maintenance of street lighting in an area. Under Proposition 218 (1996), improvements funded with assessments must provide a direct benefit to the property owner. An assessment typically cannot be levied for facilities or services that provide general public benefits, such as schools, libraries, and public safety, even though these programs may increase the value of property. Moreover, the amount each property owner pays must reflect the cost incurred by the local government to provide the improvement and the benefit the property receives from it. To impose a new assessment, a local government must secure the approval of a weighted majority of affected property owners, with each property owner's vote weighted in proportion to the amount of the assessment he or she would pay.

Parcel Taxes. With the approval of two–thirds of voters, local governments may impose a tax on all parcels in their jurisdiction (or a subset of parcels in their jurisdiction). Local governments typically set parcel taxes at fixed amounts per parcel (or fixed amounts per room or per square foot of the parcel). Unlike assessments, parcel tax revenue may be used to fund a variety of local government services, even if the service does not benefit the property directly. For example, school districts may use parcel tax revenue to pay teacher salaries or administrative costs. The use of parcel tax revenue, however, is restricted to the public programs, services, or projects that voters approved when enacting the parcel tax.

Mello–Roos Taxes. Mello–Roos taxes are a flexible revenue source for local governments because they (1) may be used to fund infrastructure projects or certain services; (2) may be levied in proportion to the benefit a property receives, equally on all parcels, by square footage, or by other factors; and (3) are collected within a geographical area drawn by local officials.

Local governments often use Mello–Roos taxes to pay for the public services and facilities associated with residential and commercial development. This occurs because landowners may approve Mello–Roos taxes by a special two–thirds vote—each owner receiving one vote per acre owned—when fewer than 12 registered voters reside in the proposed district. In this way, a developer who owns a large tract of land could vote to designate it as a Mello–Roos district. After the land is developed and sold to residential and commercial property owners, the new owners pay the Mello–Roos tax that funds schools, libraries, police and fire stations, or other public facilities and services in the new community. Mello–Roos taxes are subject to two–thirds voter approval when there are 12 or more voters in the proposed district.

What Properties Are Taxed?

Property taxes and charges are imposed on many types of properties. These properties include common types such as owner–occupied homes and commercial office space, as well as less common types like timeshares and boating docks. In the section below, we describe the state's property tax base—the types of real properties that are subject to the 1 percent rate and the share of total assessed value that each property type represents.

Due to data limitations, we do not summarize the tax bases of other taxes and charges. We note, however, that the property tax base for other taxes and charges is different from the tax base for the 1 percent rate. This is because the 1 percent rate applies uniformly to all taxable real property, whereas other taxes and charges are levied at various levels and on various types of property throughout the state (according to local voter or local government preferences). For example, if a suburban school district levies a parcel tax on each parcel in a residential area, the owners of single–family homes would pay a large share of the total parcel taxes. Accordingly, the school district's parcel tax base would be more heavily residential than the statewide property tax base under the 1 percent rate (which applies to all taxable property).

What Properties Are Subject to the 1 Percent Rate?

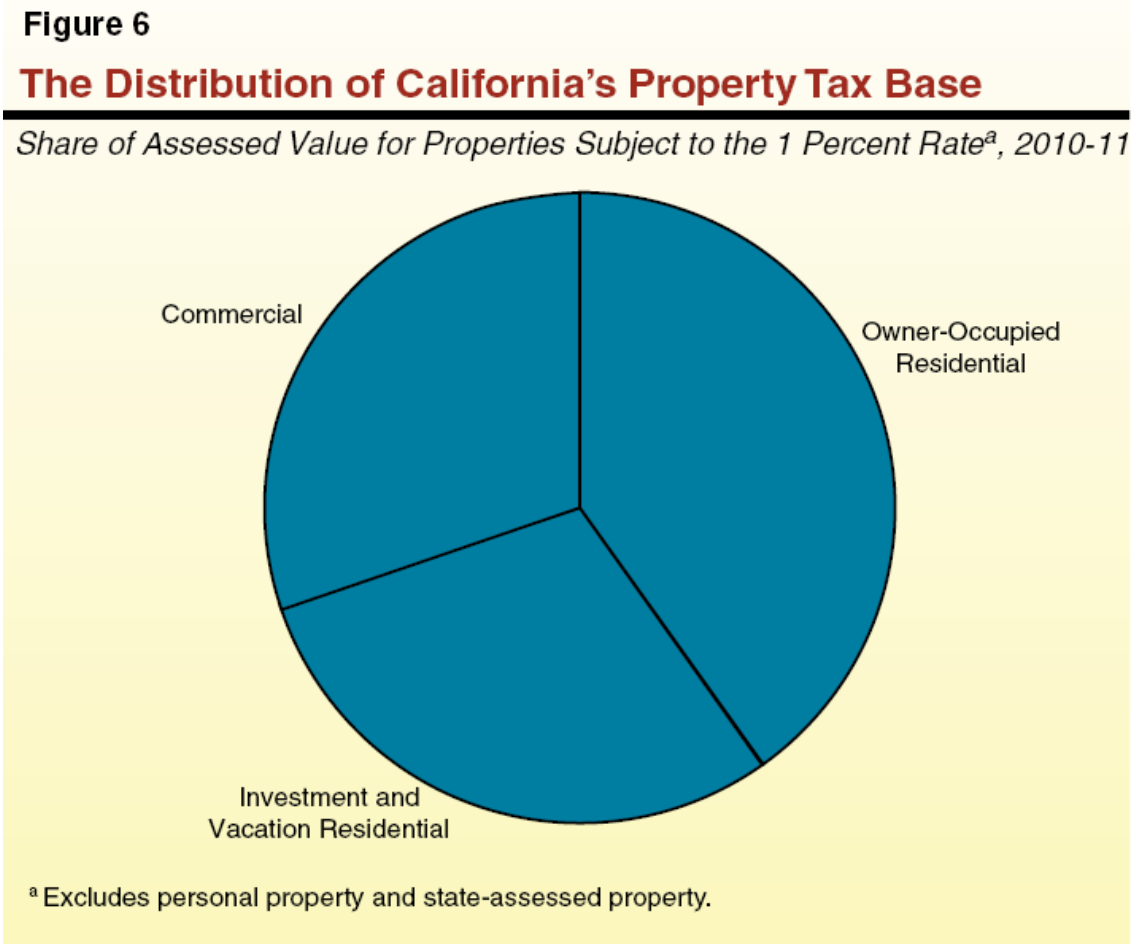
Although most real property is taxable, the Constitution exempts certain types of real property from taxation. In general, these are government properties or properties that are used for non–commercial purposes, including hospitals, religious properties, charities, and nonprofit schools and colleges. California properties that are subject to the property tax, however, can be classified in three ways:

- Owner–occupied residential—properties that receive the state's homeowner's exemption, which

homeowners may claim on their primary residence.
- Investment and vacation residential—residential properties other than those used as a primary residence, including multifamily apartments, rental condominiums, rental homes, vacant residential land, and vacation homes.
- Commercial—retail properties, industrial plants, farms, and other income–producing properties.

Distribution of the Tax Base for the 1 Percent Rate

Owner–Occupied Residential. In 2010–11, there were 5.5 million owner–occupied homes in California with a total assessed value of $1.6 trillion. As shown in Figure 6, owner–occupied residential properties accounted for the largest share—39 percent—of the state's tax base for the 1 percent rate.



Investment and Vacation Residential. Although the majority of residential properties are owner occupied, many others are investment or vacation properties such as multifamily apartments, rental condominiums, rental homes, vacant residential land, and vacation homes. (We classify vacant residential land and vacation homes as investment properties because they are an investment asset for the owner, even if he or she does not receive current income from them.) In 2010–11, there were 4.2 million investment and vacation residential properties. The assessed value of these properties was about $1.4 trillion, which represents 34 percent of the state's total assessed value.

Commercial. In 2010–11, there were approximately 1.3 million commercial properties in California. This amount includes about 600,000 retail, industrial, and office properties (such as stores, gas stations, manufacturing facilities, and office buildings). It also includes 500,000 agricultural properties and 200,000 other properties (gas, oil, and mineral properties and the private use of public land). While commercial properties represent a relatively small share of the state's total properties, they tend to have higher assessed values than other properties. Therefore, as shown in Figure 6, these properties (which have a total assessed value of $1.2 trillion) account for 28 percent of the state's property tax base.

Has the Distribution of the Property Tax Base Changed Over Time?

There is little statewide information regarding the composition of California's property tax base over time. Based on the available information, however, it appears that homeowners may be paying a larger percentage of total property taxes today than they did decades ago. We note, for example, that the assessed value of owner–occupied homes has increased from a low of 32 percent of statewide assessed valuation in 1986–87 to a high of 39 percent in 2005–06. (The share was 36 percent in 2011–12.) It also appears likely that owners of commercial property are paying a smaller percentage of property taxes than they did decades ago. For

example, Los Angeles County reports that the share of total assessed value represented by commercial property in the county declined from 40 percent in 1985 to 30 percent in 2012. In addition, the assessed value of commercial property in Santa Clara County has declined (as a share of the county total) from 29 percent to 24 percent since 1999–00.

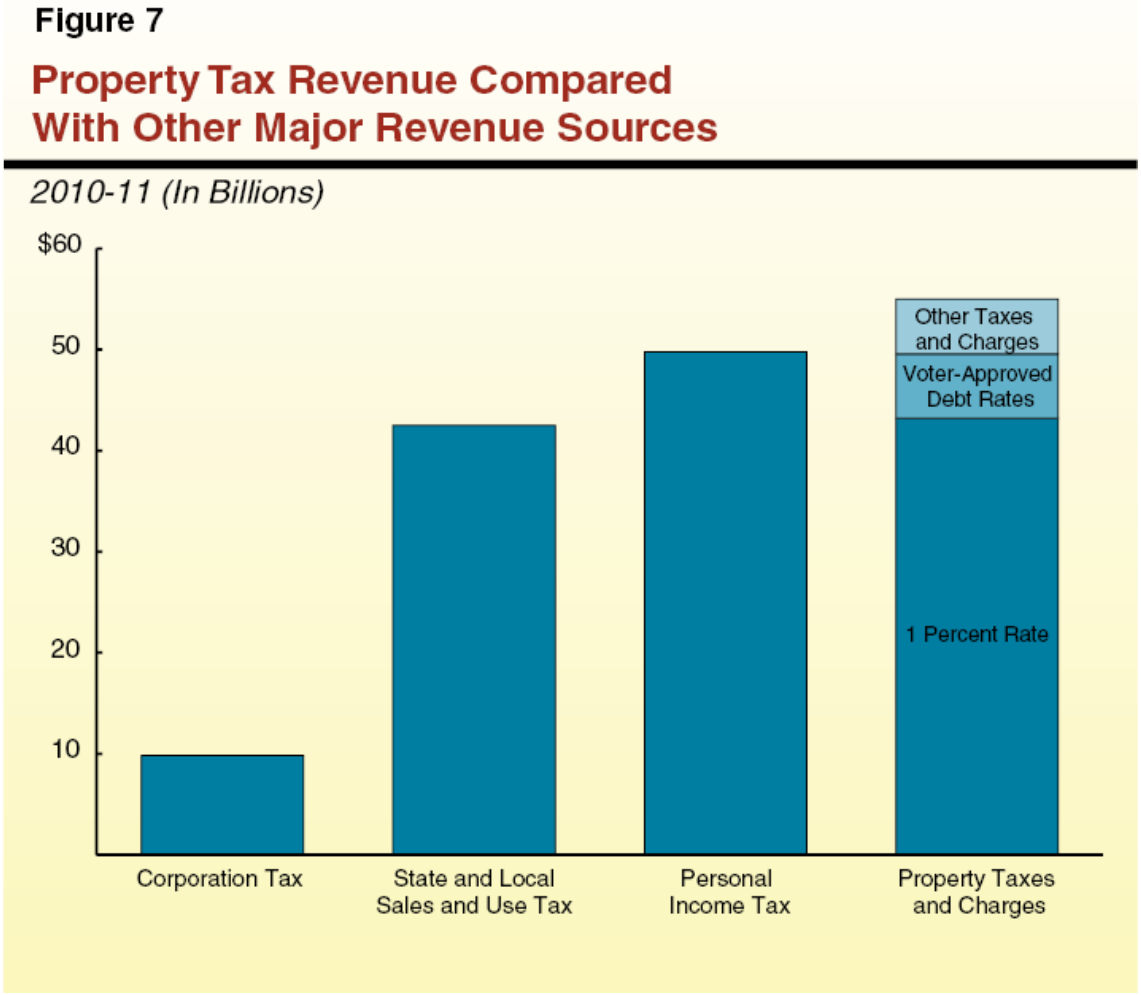
What Factors May Have Contributed to Changes in the Property Tax Base?

Various economic changes that have taken place over time probably have contributed to changes to California's property tax base. For example, investment in residential property has increased significantly since the mid–1970s. Newly built single–family homes have become larger and are more likely to have valuable amenities than homes built earlier. As a result, new homes are more expensive to build and assessed at higher amounts than older homes. Over the same period, commercial activity in California has shifted away from traditional manufacturing, which tends to rely heavily on real property. Newer businesses, on the other hand, are more likely to be technology and information services based. These businesses tend to own less real property than traditional manufacturing firms do. (Technology and information services firms, however, rely heavily on business personal property—for example, computing systems, design studios, and office equipment—that are taxed as personal property and not included in the distribution of the state's real property tax base.)

It also is possible that Proposition 13's acquisition value assessment system has played a role in the changes to California's tax base. Specifically, under Proposition 13, properties that change ownership more frequently tend to be assessed more closely to market value than properties that turn over less frequently. (Because properties are assessed to market value when they change ownership, properties that have not changed ownership in many years tend to have larger gaps between their assessed values and market values.) It is possible that some categories of properties change ownership more frequently than others and this could influence the composition of the overall tax base. The limited available research suggests that investment and vacation residential properties change ownership more frequently than commercial or owner–occupied residential property, indicating that they may be assessed closer to market value than other types of property.

How Much Revenue Is Collected?

In 2010–11, California property tax bills totaled $55 billion. As shown in Figure 7, this amount included $43.2 billion under the 1 percent rate and $5.7 billion from voter–approved debt rates, making ad valorem property taxes one of California's largest revenue sources.



Comparatively little is known about the remaining $6 billion of other taxes and charges on the property tax bill. From various reports summarizing local government finances, elections, and bond issuances, it appears that most of this $6 billion reflects property assessments, parcel taxes, and Mello–Roos taxes, though statewide data are not available on the exact amounts collected for each of these funding sources.

How Is the Revenue Distributed?

California property owners pay their property tax bills to their county tax collector (sometimes called the county treasurer–tax collector). The funds are then transferred to the county auditor for distribution. The county auditor distributes the funds collected from the 1 percent rate differently than the funds collected from the other taxes and charges on the bill. Specifically, the 1 percent rate is a shared revenue source for multiple local governments.

This section describes the distribution of revenue raised under the 1 percent rate and summarizes the limited available information regarding the distribution of voter–approved debt rates and non–ad valorem property taxes and charges.

Revenue From the 1 Percent Rate Is Shared by Many Local Governments

The 1 percent rate generates most of the revenue from the property tax bill—roughly $43 billion in 2010–11. On a typical property tax bill, however, the 1 percent rate is listed as the general tax levy or countywide rate with no indication as to which local governments receive the revenue or for what purpose the funds are used. In general, county auditors allocate revenue from the 1 percent rate to a variety of local governments within the county pursuant to a series of complex state statutes.

More Than 4,000 Local Governments Receive Revenue From the 1 Percent Rate. All property tax revenue remains within the county in which it is collected to be used exclusively by local governments. As shown in Figure 8, property tax revenue from the 1 percent rate is distributed to counties, cities, K–12 schools, community college districts, and special districts. Until recently, redevelopment agencies also received property tax revenue. As described in the nearby box, redevelopment agencies were dissolved in 2012, but a large amount of property tax revenue continues to be used to pay the former agencies' debts and obligations.

Figure 8

How Many Local Governments Receive Revenue From the 1 Percent Rate?

Type of Local Government	Number
Counties	58
Cities	480
Schools and Community Colleges	
K–12 school districts	966
County Offices of Education	56
Community college districts	72
Special Districts	
Fire protection	348
County service area	316
Cemetery	241
Community services	201
Maintenance	136
Highway lighting	117
County water	100
Recreation and park	85
Hospital	64
Sanitary	60
Irrigation	46
Mosquito abatement	43
Public utility	43
Other[a]	400
Redevelopment Agencies[b]	422
Total	**4,254**

[a] Thirty three other types of special districts report receiving property tax revenue from the 1 percent rate. These include county sanitation, municipal water, memorial, water authority, drainage, and library districts.

[b] Dissolved in 2012. A portion of property tax revenue continues to pay

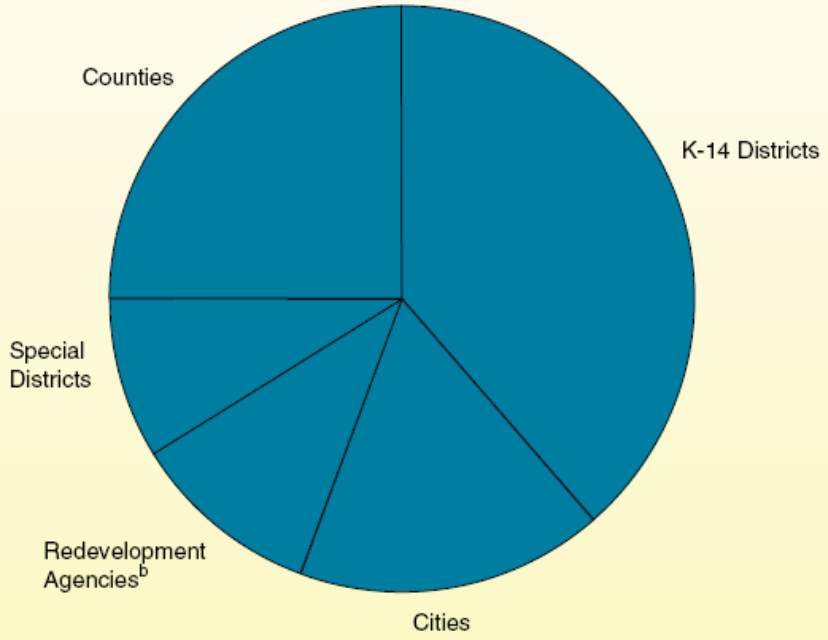
these agencies' debts and obligations.

Figure 9 shows the share of revenue received by each type of local government from the 1 percent rate and voter–approved debt rates. (As described later in the report, however, these shares vary significantly by locality.)

Figure 9

Most Ad Valorem Property Tax Revenue Is Allocated to Schools and Counties[a]

2010-11



[a] As a percentage of total revenue from the 1 percent rate and voter-approved debt rates.

[b] Redevelopment agencies were dissolved in 2012. Successor agencies will continue to use property tax revenue to pay former agencies' debts and obligations.

Redevelopment and Successor Agencies

More than 60 years ago, the Legislature established a process whereby a city or county could declare an area to be blighted and in need of redevelopment. After this declaration, most property tax revenue growth from the redevelopment "project area" was distributed to the redevelopment agency, instead of the other local governments serving the project area. As discussed in our report, *The 2012–13 Budget: Unwinding Redevelopment*, redevelopment agencies were dissolved in February 2012. Prior to their dissolution, however, redevelopment agencies received over $5 billion in property tax revenue annually. These monies were used to pay off tens of billions of dollars of outstanding bonds, contracts, and loans.

In most cases, the city or county that created the redevelopment agency is managing its dissolution as its successor agency. The successor agency manages redevelopment projects currently underway, pays existing debts and obligations, and disposes of redevelopment assets and properties. The successor agency is funded from the property tax revenue that previously would have been distributed to the redevelopment agency. As a result, even though redevelopment agencies have been dissolved, some property tax revenue continues to be used to pay redevelopment's debts and obligations. Over time, most redevelopment obligations will be retired and the property tax revenue currently distributed to successor agencies will be distributed to K–14 districts, counties, cities, and special districts.

Property Taxes Also Affect the State Budget. Although the state does not receive any property tax revenue directly, the state has a substantial fiscal interest in the distribution of property tax revenue from the 1 percent rate because of the state's education finance system. Each K–12 district receives "revenue limit" funding—the largest source of funding for districts—from the combination of local property tax revenue under the 1 percent rate and state resources. Thus, if a K–12 district's local property tax revenue is not sufficient to meet its revenue limit, the state provides additional funds. Community colleges have a similar financing system, in which each district receives apportionment funding from local property tax revenue, student fees, and state resources. In 2010–11, the state contributed $22.5 billion to K–12 revenue limits and community college

apportionments, while the remainder ($14.5 billion) came from local property tax revenue (and student fees).

State Laws Direct Allocation of Revenue From the 1 Percent Rate. The county auditor is responsible for allocating revenue generated from the 1 percent rate to local governments pursuant to state law. The allocation system is commonly referred to as "AB 8," after the bill that first implemented the system—Chapter 282, Statutes of 1979 (AB 8, L. Greene). In general, AB 8 provides a share of the total property taxes collected within a community to each local government that provides services within that community. Each local government's share is based on its proportionate countywide share of property taxes during the mid–1970s, a time when each local government determined its own property tax rate and property owners paid taxes based on the sum of these rates. (The average property tax rate totaled about 2.7 percent.) As a result, local governments that received a large share of property taxes in the 1970s typically receive a relatively large share of revenue from the 1 percent rate under AB 8. (More detail on the history of the state's property tax allocation system—including AB 8—is provided in the appendix of this report.)

Revenue Allocated by Tax Rate Area (TRA). The county auditor allocates the revenue to local governments by TRA. A TRA is a small geographical area within the county that contains properties that are all served by a unique combination of local governments—the county, a city, and the same set of special districts and school districts. A single county may have thousands of TRAs. While there is considerable variation in the steps county auditors use to allocate revenue within each TRA, typically the county auditor annually determines how much revenue was collected in each TRA and first allocates to each local government in the TRA the same amount of revenue it received in the prior year. Each local government then receives a share of any growth (or loss) in revenue that occurred within the TRA that year. Each TRA has a set of growth factors that specify the proportion of revenue growth that goes to each local government. These factors—developed by county auditors pursuant to AB 8—are largely based on the share of revenue each local government received from the TRA during the late 1970s.

Figure 10 shows sample growth factors for TRAs in two California cities. As the figure indicates, 23 percent of any growth in revenue from the 1 percent rate in the sample TRA for Norwalk would be allocated to the county, 7 percent would go to the city, and the rest would be allocated to various educational entities and special districts. The percentage of property tax growth allocated to each type of local government can vary significantly by TRA. For example, Walnut Creek's K–12 school district receives 33 percent of the growth in revenue within its TRA while Norwalk's school district receives only 19 percent from its TRA. As noted above, this variation is based largely on historical factors specified in AB 8.

Figure 10

Allocation of Property Tax Growth in Sample Tax Rate Areas

Norwalk, Los Angeles County[a]	Percent Share
Los Angeles County	23%
Educational Revenue Augmentation Fund	20
Norwalk–La Mirada Unified School District	19
Los Angeles County Fire Protection District	18
City of Norwalk	7
Norwalk Parks and Recreation District	3
Los Angeles County Library	2
La Mirada Parks and Recreation District	2
Cerritos Community College District	2
Los Angeles County Flood Control District	1
Los Angeles County Sanitation District	1
Greater Los Angeles County Vector Control	—[b]
Water Replenishment District of Southern California	—[b]
Little Lake Cemetery District	—[b]
Los Angeles County Department of Education	—[b]
	100%

Walnut Creek, Contra Costa County[c]	Percent Share
Mount Diablo Unified School District	33%
Educational Revenue Augmentation Fund	17
Contra Costa County	13
Contra Costa County Fire	13
City of Walnut Creek	9
Contra Costa Community College District	5
East Bay Regional Park District	3
Contra Costa County Library	2

Central Contra Costa Sanitary District	2
Contra Costa County Office of Education	1
Contra Costa County Flood Control	1
Bay Area Rapid Transit	1
Contra Costa Water District	1
Contra Costa County Water Agency	—[b]
Contra Costa County Resource Conservation District	—[b]
Contra Costa County Mosquito Abatement District	—[b]
Contra Costa County Service Area R–8	—[b]
Bay Area Air Management District	—[b]
	100%

[a] Percentages indicate allocation of the growth in property taxes in Los Angeles County tax rate area 06764.

[b] Less than 0.5 percent.

[c] Percentages indicate allocation of the growth in property taxes in Contra Costa County tax rate area 09025.

Some Revenue Is Allocated to a Countywide Account—ERAF. Most of the revenue from the 1 percent rate collected within a TRA is allocated to the city, county, K–14 districts, and special districts that serve the properties in that TRA. State law, however, directs the county auditor to shift a portion of this revenue to a countywide account that is distributed to other local governments that do not necessarily serve the taxed properties. The state originally established this account—the Educational Revenue Augmentation Fund (ERAF)—to provide additional funds to K–14 districts that do not receive sufficient property tax revenue to meet their minimum funding level. State laws later expanded the use of ERAF to include reimbursing cities and counties for the loss of other local revenue sources (the vehicle license fee and sales tax) due to changes in state policy. For example, Figure 10 shows that 20 percent of any revenue growth within Norwalk's TRA is deposited into ERAF. It is possible that some or all of this revenue could be allocated to a city or K–14 district in a different part of Los Angeles County.

Most Revenue From Voter–Approved Debt Distributed to Schools

Voter–approved debt rates are levied on property owners so that local governments can pay the debt service on voter–approved general obligation bonds (and pre–1978 voter–approved obligations). The state's K–12 school districts receive the majority of the revenue from voter–approved debt rates ($3.1 billion of $5.2 billion in 2009–10). The amount received by cities ($520 million), special districts ($470 million), and counties ($320 million) is significantly less. The amount of taxes collected to pay voter–approved debt varies considerably across the state. For example, the average amount paid by an Alameda County property owner for voter–approved debt rates is about $2 for each $1,000 of assessed value, while the average amount paid in some counties is less than 10 cents per $1,000 of assessed value.

Limited Information About Distribution Of Other Property Taxes and Charges

Less information is available about the statewide distribution of the revenue from parcel taxes, Mello–Roos taxes, and assessments.

Parcel Taxes. Recent election reports and financial data suggest that parcel taxes represent a significant and growing source of revenue for some local governments. Specifically, between 2001 and 2012, local voters approved about 180 parcel tax measures to fund cities, counties, and special districts, and about 135 measures to fund K–12 districts. The most recent K–12 financial data (2009–10) indicate that schools received about $350 million from this source. We were not able to locate information on the statewide amount of parcel tax revenue collected by cities, counties, and special districts.

Mello–Roos Taxes. Mello–Roos districts are required to report on their bond issuance, which provides some information about the types of local governments that receive Mello–Roos tax revenue. It is likely that local governments issuing a large amount of Mello–Roos bonds also are collecting a large amount of Mello–Roos tax revenue. Between 2004 and 2011, cities issued about 50 percent of the bonds issued by Mello–Roos districts in California, followed by K–12 districts at about 30 percent. During the same time period, the issuance of Mello–Roos bonds was concentrated in specific regions, as more than 60 percent of the bonds were issued by local governments in four counties—Riverside, Orange, San Diego, and Placer.

Assessments. Most of the property improvements funded by assessments are provided by cities and special districts. In 2009–10, cities and special districts reported receiving $760 million and $650 million, respectively, in revenue from assessments. In contrast, counties reported $11 million in such revenues.

Why Do Local Government Property Tax Receipts Vary?

The share of revenue received by each type of local government from the 1 percent rate varies significantly by locality. County governments, for example, receive as little as 11 percent (Orange) and as much as 64 percent (Alpine) of the ad valorem property tax revenue collected within their county. As shown in Figure 11, revenue raised from the 1 percent rate also varies considerably by locality when measured by revenue per resident. Orange County receives about $175 per resident, while four counties receive more than $1,000 per resident. Although cities, on average, receive about $240 per resident in revenue from the 1 percent rate, some receive more than $500 per resident and many receive less than $150 per resident. School districts also receive widely different amounts of property taxes per enrolled student, with an average of just under $2,000. (As noted above, the state "tops off" school property tax revenue with state funds to bring most schools to similar revenue levels.) Finally, special districts also receive varying amounts of property tax revenue, though data limitations preclude us from summarizing this variation on a statewide basis.

Figure 11

Property Tax Receipts From the 1 Percent Rate for Selected Local Governments

2009–10

Cities	Property Taxes per Resident	Counties	Property Taxes per Resident	Schools[a]	Property Taxes per Student
Industry	$2,541	San Francisco[b]	$1,411	Mono	$10,683
Malibu	559	Sierra	1,126	San Mateo	5,432
Mountain View	344	Inyo	876	Marin	5,213
Los Angeles	332	Napa	522	San Francisco	4,020
Long Beach	268	El Dorado	464	Orange	3,315
Oakland	250	Los Angeles	359	San Diego	2,760
State Average	**242**	**State Average**	**320**	**State Average**	**1,960**
San Jose	200	Alameda	301	Yolo	1,765
Fresno	183	Sacramento	286	Sacramento	1,344
Anaheim	167	Contra Costa	271	San Joaquin	1,163
Santa Clarita	140	San Diego	261	Los Angeles	1,142
Chico	129	Riverside	200	Fresno	810
Modesto	119	Orange	174	Kings	379

[a] Countywide average for K–12 schools.

[b] San Francisco is a city and a county.

Three factors account for most of this variation in local government property tax receipts. We discuss these factors below.

Variation in Property Values

California has a diverse array of communities with large variation in land and property values. Some communities are extensively developed and have many high–value homes and businesses, whereas others do not. Because property taxes are based on the assessed value of property, communities with greater levels of real estate development tend to receive more property tax revenue than communities with fewer developments. For example, high–density cities generally receive more property tax revenue than rural areas due to the greater level of development. Coastal and resort areas also typically receive more property taxes due to the high property values. Certain high–value properties—such as a power plant or oil refinery—also increase property tax revenue. Alternatively, localities with large amounts of land owned by the federal government, universities, or other organizations that are not required to pay property taxes may receive less revenue.

Prior Use of Redevelopment

Prior decisions by cities and counties to use redevelopment also influences the amount of property tax revenue local governments receive. Prior to the dissolution of redevelopment agencies in 2012, most of the growth in property taxes from redevelopment project areas went to the redevelopment agency, rather than other local governments. A large share of property tax revenue now goes to successor agencies to pay the former redevelopment agencies' debts and obligations. The use of redevelopment varied extensively throughout the state. In those communities with many redevelopment project areas, the share of property tax revenue going to other local governments is less than it would be otherwise. In places with large redevelopment project areas —such as San Bernardino and Riverside counties—more than 20 percent of the county's property tax revenue may go to pay the former redevelopment agencies' debts and obligations.

State Allocation Laws Reflecting 1970s Taxation Levels

Finally, the amount of property taxes allocated to local governments depends on state property tax allocation laws, principally AB 8. As discussed earlier in this report (and in more detail in the appendix), the AB 8 system was designed, in part, to allocate property tax revenue in proportion to the share of property taxes received by a local government in the mid–1970s. Under this system, local governments that received a large share of property taxes in the 1970s typically continue to receive a relatively large share of property taxes today. Although there have been changes to the original property tax allocation system contained in AB 8, the allocation system continues to be substantially based on the variation in property tax receipts in effect in the 1970s.

This variation largely reflects service levels provided by local governments in the 1970s. Local governments providing many services generally collected more property taxes in the 1970s to pay for those services. As a result, those local governments received a larger share of property taxes under AB 8. For example, cities and counties that provided many government services, including fire protection, park and recreation programs, and water services, typically receive more property tax revenue than governments that relied on special districts to provide some or all of these services.

Are There Concerns About How Property Taxes Are Distributed?

While no system for sharing revenues among governmental entities is perfect, the state's system for allocating property tax revenue from the 1 percent rate raises significant concerns about local control, responsiveness to modern needs, and transparency and accountability to taxpayers. We discuss these concerns separately below and then address the question: Could the state change the allocation system?

Lack of Local Control

Unlike local communities in other states, California residents and local officials have virtually no control over the distribution of property tax revenue to local governments. Instead, all major decisions regarding property tax allocation are controlled by the state. Accordingly, if residents desire an enhanced level of a particular service, there is no local forum or mechanism to allow property taxes to be reallocated among local governments to finance this improvement. For example, Orange County currently receives a very low share of property taxes collected within its borders—about 11 percent. If Orange County residents and businesses wished to expand county services, they have no way to redirect the property taxes currently allocated to other local governments. Their only option would be to request the Legislature to enact a new law—approved by two–thirds of the members of both houses—requiring the change in the property tax distribution. In other words, local officials have no power to raise or lower their property tax share on an annual basis to reflect the changing needs of their communities. As a result, if residents wish to increase overall county services, they would need to finance this improvement by raising funds through a different mechanism such as an assessment or special tax.

Limited Transparency and Accountability

The state's current allocation system also makes it difficult for taxpayers to see which entities receive their tax dollars. Property tax bills note only that a bulk of the payment goes to the 1 percent general levy. Even if taxpayers do further research and locate the AB 8 local government sharing factors for their TRA, it is difficult to follow the actual allocation of revenue because the fund shifts related to ERAF and redevelopment complicate this system.

In addition to making it difficult for taxpayers to determine how their tax dollars are distributed, the AB 8 system reduces government accountability. The link between the level of government controlling the allocation of the tax (the state) and the government that spends the tax revenue (cities, counties, special districts, and K–14 districts) is severed. For example, if a taxpayer believes the level of services provided by an independent park district is inadequate, it is difficult to hold the district entirely accountable because the state is responsible for determining the share of property taxes allocated to the district.

Limited Responsiveness to Modern Needs and Preferences

An effective tax allocation system ensures that local tax revenue is allocated in a way that reflects modern needs and preferences. In many ways, California's property tax allocation system—which remains largely based on allocation preferences from the 1970s—does not meet this criterion. California's population and the governance structure of many local communities have changed significantly since the AB 8 system was enacted. For example, certain areas with relatively sparse populations in the 1970s have experienced substantial growth and many local government responsibilities have changed. One water district in San Mateo County—Los Trancos Water District—illustrates the extent to which the state's property tax allocation system continues to reflect service levels from the 1970s. Specifically, this water district sold its entire water distribution system to a private company in 2005, but continues to receive property tax revenue for a service it no longer provides.

Changing the Allocation System Is Difficult

Over the years, the Legislature, local governments, the business community, and the public have recognized the limitations inherent in the state's property tax allocation system. Despite the large degree of consensus on the problems, major proposals to reform the allocation system have not been enacted due to their complexity and the difficult trade–offs involved. Because California has thousands of local governments—many with overlapping jurisdictions—reorienting the property tax allocation system would be extraordinarily complex. Updating the AB 8 property tax sharing methodology would require the Legislature to determine the needs and preferences of each California community and local government. This would be a difficult—if not impossible—task to undertake in a centralized manner. Alternatively, the state could allow the distribution of the property tax to be carried out locally, but there is no consensus about what process local governments would use to allocate property taxes among themselves. Whether done centrally or locally, any reallocation is difficult because providing additional property tax receipts to one local government would require redirecting it from another local government or amending the Constitution. In addition, any significant change to the allocation of property tax revenue would require approval by two–thirds of the Legislature due to provisions in the Constitution added by Proposition 1A (2004). (These issues are discussed further in the appendix.)

What Are the Strengths and Limitations of California's Property Tax System?

For many years, California's overall property tax system—the types of taxes paid by property owners and the determination of property owner tax liabilities—has evoked controversy. Some people question whether the distribution of the tax burden between residential and commercial properties is appropriate and whether the amount of taxes someone pays should depend, in part, on how long he or she has owned the property. Other people praise the financial certainty that the tax system gives property owners. From one year to the next, property owners know that their tax liabilities under the 1 percent rate will increase only modestly. In this section, we do not attempt to resolve this long–standing debate. Instead, we review property taxes by looking at how they measure according to five common tax policy criteria—growth, stability, simplicity, neutrality, and equity. Using this framework, we highlight particular aspects of the state's property tax system, both its strengths and limitations, for policymakers and other interested parties.

Economists use the five common tax policy criteria summarized in Figure 12 to objectively compare particular taxes. These criteria relate to how taxes affect people's decisions, how they treat different taxpayers, and how the revenue raised from taxes performs over time. In practice, all taxes involve trade–offs. Sometimes the trade–offs are between two tax policy criteria. For example, revenue sources that grow quickly may be less stable from one year to the next than other revenue sources. Other times, the trade–offs are between tax policy criteria and other governmental policy objectives that may not be directly related to one of the five tax criteria. For example, one such trade–off might be that ensuring that a property owner's taxes do not increase dramatically from one year to the next (a reasonable governmental policy objective) can result in a tax system in which the owners of similar properties are taxed much differently (contrary to the equity criteria of tax policy).

Figure 12

Common Economic Criteria for Evaluating Tax Systems

- **Growth—**Does revenue raised by the tax grow along with the economy or the program responsibilities it is expected to fund?
- **Stability—**Is the revenue raised by the tax relatively stable over time?
- **Simplicity—**Is the tax simple and inexpensive for taxpayers to pay and for government to collect?
- **Neutrality—**Does the tax have little or no impact on people's decisions about how much to buy, sell, and invest?
- **Equity—**Do taxpayers with similar incomes pay similar amounts and do tax liabilities rise with income?

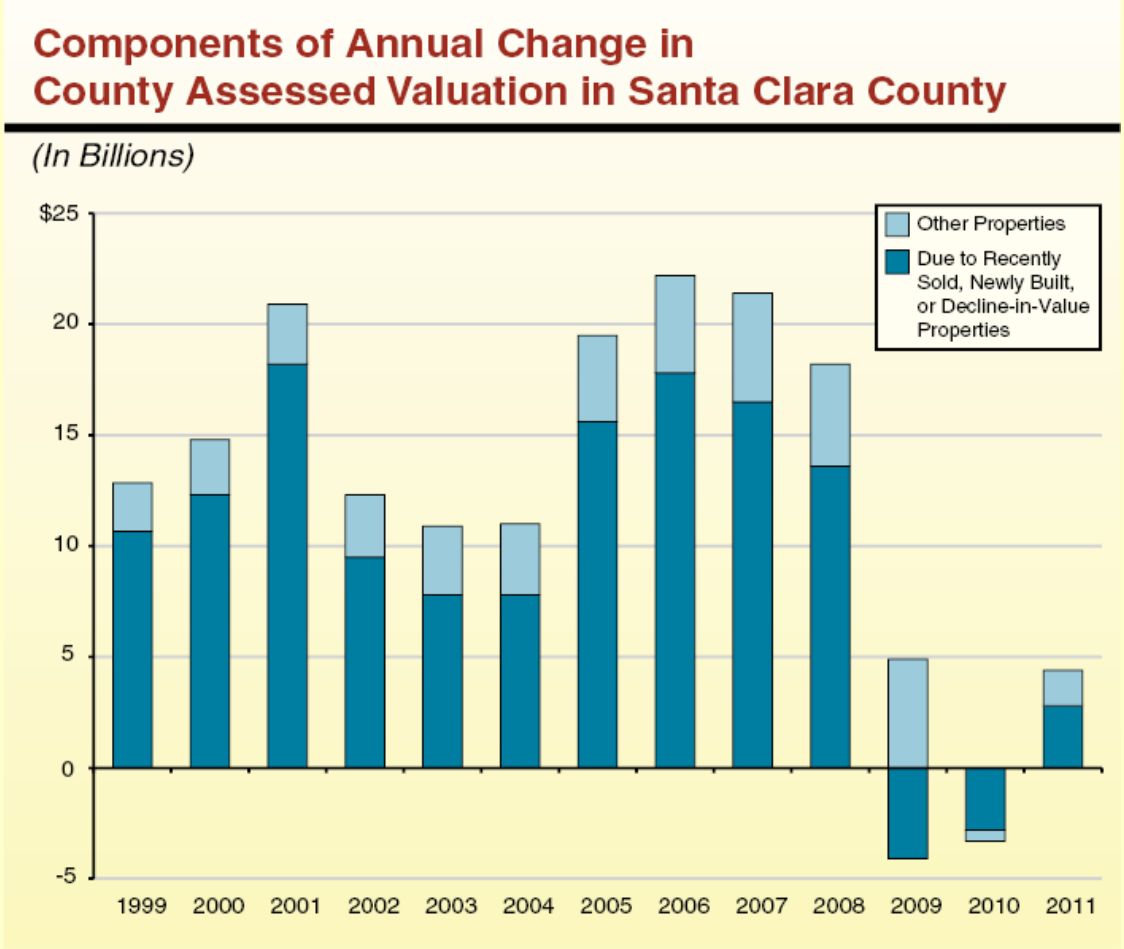
What Factors Affect Property Tax Growth Each Year?

Most of the annual change in property tax revenues is the result of large changes in assessed value that affect a small number of properties, including:

- ***Recently Sold Properties.*** When a property sells, its assessed value resets to the purchase price. This represents additional value that is added to the tax base because the sale price of the property is often much higher than its previous assessed value.
- ***Newly Built Property and Property Improvements.*** New value is added to the county's tax base when new construction takes place or improvements are made—mainly additions, remodels, and facility expansions—because structures are assessed at market value the year that they are built.

- ***Proposition 8 (1978) Decline–in–Value Properties.*** These properties contribute significantly to growth or decline in a county's tax base because their assessed values may increase or decrease dramatically in any year. A particularly large impact on assessed valuation tends to occur in years when a large number of these properties transfer from Proposition 13 assessment to reduced assessment.

As shown by the dark bars in the figure below, recently sold, newly built, and decline–in–value properties typically account for more than two–thirds of total changes in countywide assessed value in Santa Clara County. Other properties, although they represent most of the properties in the county's tax base, contribute less because the growth of these properties' assessed values is limited to 2 percent per year.



What Factors Affect Property Tax Stability?

Acquisition Value Assessment System Contributes to Revenue Stability.The main reason California's property tax revenue is stable is that the assessed value of most properties increases each year by a maximum of 2 percent. In any given year, only a small fraction of properties are sold and reset to market value. This means that real estate conditions affect a relatively small portion of the tax base each year, insulating property tax revenue from year–to–year real estate fluctuations.

Proposition 8 (1978) Decline–in–Value Properties Reduce Revenue Stability. As noted earlier in the report, county assessors may reduce a property's assessed value in the event that its market value falls below its assessed value. Each year thereafter, the property is assessed at market value until it rises above what its assessed value would have been had it remained at its acquisition value adjusted upward each year at a maximum of 2 percent. During 2010–11, more than one in four properties in California was temporarily assessed to market value. Because these properties are assessed each year at market value, they link the property tax base more closely to the local real estate market than other properties, thereby reducing the property tax's stability somewhat.

Revenue Growth

From government's perspective, revenue sources that grow along with the economy are preferable because they can provide resources sufficient to maintain current services. This can help governments avoid increasing existing taxes or taxing additional activities in order to meet current service demands.

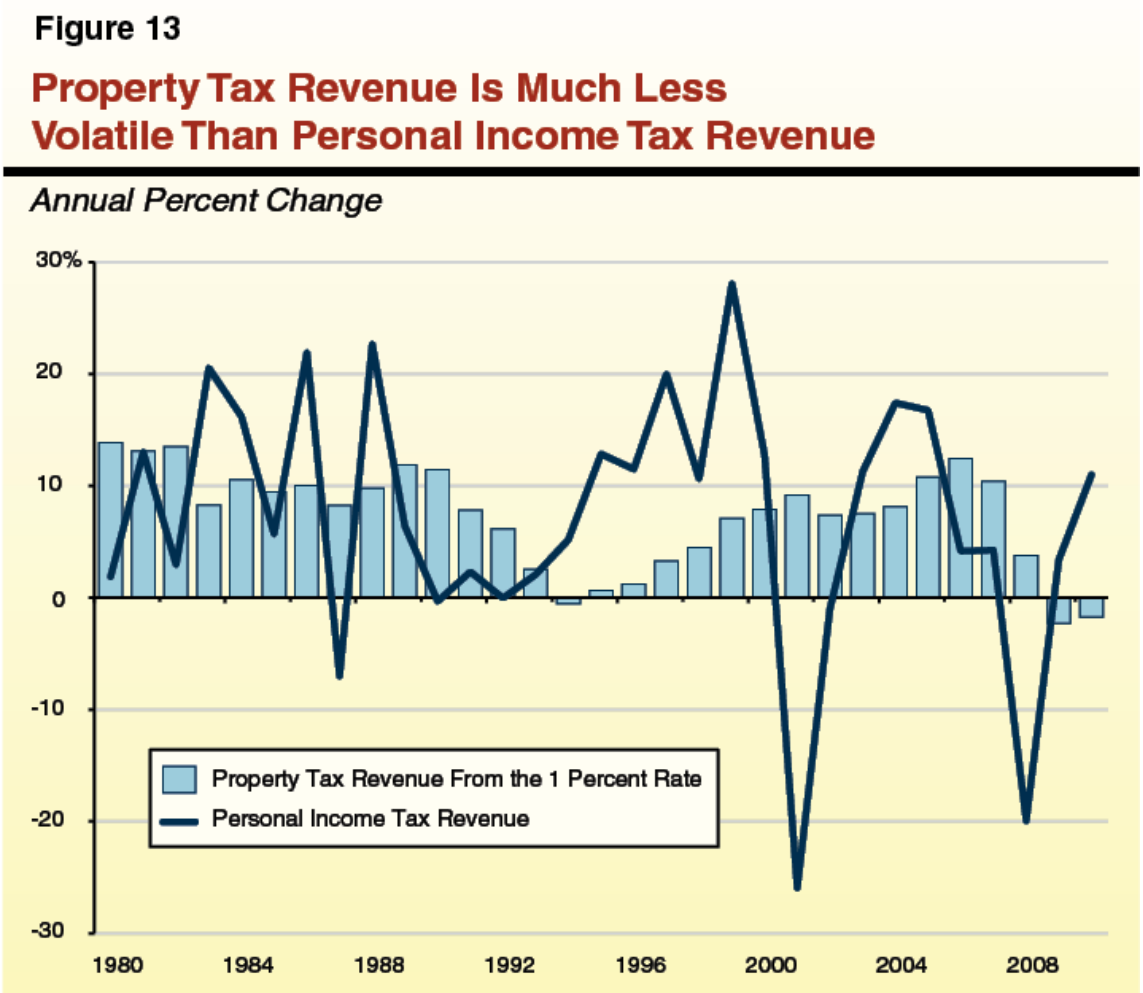
The Property Tax Has Grown Faster Than the Economy. Personal income in California—an approximate measure of the size of the state's economy—has grown at an average annual rate of 6.3 percent since 1979. Over the same period, revenue from the 1 percent property tax rate has grown at an average annual rate of 7.3 percent. As we describe in the nearby box, much of the growth in property tax revenue depends on new construction and property sales.

The Growth of Parcel and Mello–Roos Tax Revenues Depends on the Structure of the Tax. The terms of parcel taxes and Mello–Roos taxes vary by locality. Some local governments have taxes with escalation clauses or other provisions that modify the amount of the tax as local government costs change. Other parcel taxes and Mello–Roos taxes are set at fixed amounts per parcel. Depending on their structure, these taxes may or may not provide local governments with a growing source of revenue.

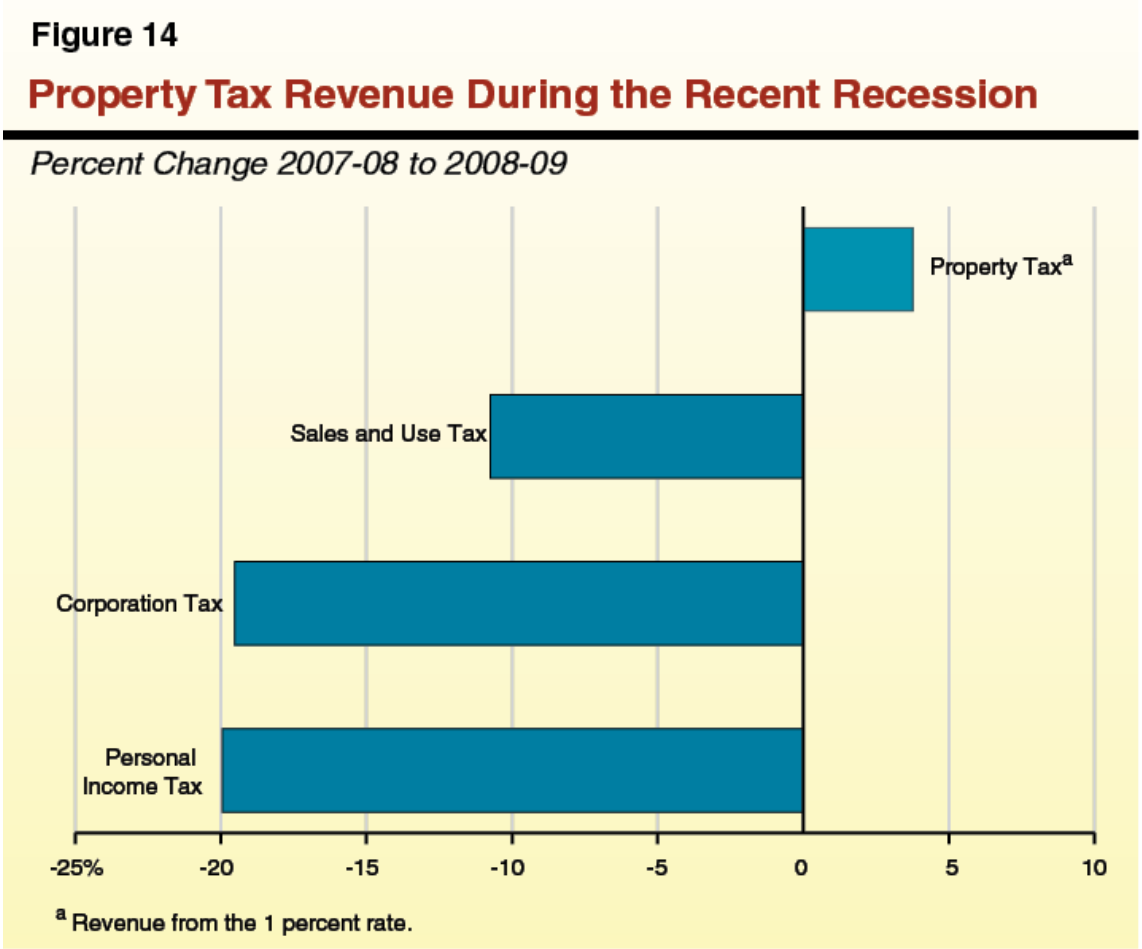
Revenue Stability

Revenue sources that remain relatively stable from one year to the next help governments manage economic downturns, which tend to reduce revenue and at the same time increase demand for certain public services. Stable revenue sources also may help governments plan more effectively for future needs, including long–term investments in transportation, education, and public safety.

The Property Tax Is a Stable Revenue Source. Despite being linked to the volatile real estate market, the property tax is California's most stable major revenue source. Since 1979, as shown in Figure 13, personal income tax revenue has been three times more volatile, on average, than property tax revenue from the 1 percent rate. During the same period, statewide property tax revenue has declined in only three years, 1994–95, 2009–10, and 2010–11.



The Property Tax Was More Stable Than Other Revenue Sources During the Recent Recession. As shown in Figure 14, revenue from the 1 percent property tax rate fared comparatively well during the most recent recession. (In the nearby box, we discuss why the property tax is stable.) Changes in property tax revenue tend to lag economic trends by one or more years because of the state's acquisition value assessment system and the lengthy period between when most properties are assessed (January) and when property tax payments are due (December of that year and April of the next).



Parcel Taxes and Mello–Roos Taxes Also Are Stable. Because most parcel and Mello–Roos taxes are set at fixed amounts per parcel, there is minimal year–to–year fluctuation in the revenues that they raise.

Assessed Valuation in Some Counties, However, Has Declined Significantly. Though statewide property tax revenue has remained comparatively stable throughout the recent recession, some areas of the state have experienced considerable declines in their property tax base. These counties tend to have a large proportion of their properties under Proposition 8 decline–in–value assessments and have high foreclosure rates. For example, Riverside County had the second highest number of foreclosures (17,000) among counties and more than 400,000 decline–in–value properties in 2011. Partly as a result of these trends, total assessed value in Riverside County declined by 15 percent between 2008 and 2011.

Simplicity

A well–designed tax system should be simple for taxpayers to understand and easy and inexpensive for governments to administer. Complex tax systems can be expensive for governments to administer effectively and may be confusing, time–consuming, and costly for taxpayers.

Most of the costs associated with administering the state's property tax system (ad valorem property taxes, parcel taxes, and Mello–Roos taxes) reflect the activities by county assessors, tax collectors, and auditors. While comprehensive data on these costs are not available, total property tax administration costs likely are between 1.5 percent and 2 percent of collections, a somewhat higher level than that of state tax agencies that perform similar functions. A significant component of the property tax's administrative cost is from counties' responsibility to allocate property taxes to local governments pursuant to increasingly complex state laws. County costs related solely to determining property values, the other main component of administration, were slightly less than 1 percent of total revenues collected in 2010–11—a percentage similar to that of state tax agencies.

From the taxpayers' perspective, the property tax is generally a simple tax with which to comply. Tax payments are due in equal installments twice per year. And, in most years, the assessed value of real property grows automatically by a maximum of 2 percent. Reassessments based on market value (which taxpayers are more likely to appeal) occur infrequently for most property owners.

The property tax assessed on personal property is typically more administratively cumbersome for owners and assessors. This is because personal property is assessed annually at market value using complex depreciation schedules. These assessments, therefore, are more likely to be appealed, a process that can take more than a year to resolve.

Neutrality

Nearly all taxes alter taxpayer behavior to some degree. Economists agree, however, that in most cases the ideal tax system is one that alters decisions—about what goods to buy, what products to make, and where to work or live—as little as possible. Economists prefer these "economically neutral" taxes because they assume that people and businesses are in the best position to make consumption, savings, and investment decisions that meet their economic and personal needs. Tax policies that influence what people buy and what businesses produce tend to distance people and businesses from their preferred choices, leaving them less well off than they would be if the tax system were economically neutral. Policymakers design some taxes, on the other hand, to influence taxpayer behavior in a way that promotes or discourages particular activities. In general, these should be well targeted and have strong justifications so that they achieve their policy goals with as little interference as possible in other personal decision making. Below, we describe how ad valorem property taxes may influence taxpayer behavior and then discuss the possible effects of parcel and Mello–Roos taxes.

Some Homeowners and Businesses May Move Less Frequently. California's ad valorem property taxes may affect an individual's decision to move because longer ownership results in a lower effective property tax rate. (An effective property tax rate differs from the 1 percent basic rate in that it is the amount of property taxes paid divided by the current market value of the property.) As shown in Figure 15, effective tax rates can vary considerably. New Owner A, for example, has an effective tax rate of 1 percent because the assessed value of his or her property is the same as its market value. Owners B and C, who have owned their properties longer than Owner A, have assessed values below their market values because their market values increased by more than 2 percent each year (and therefore faster than assessed values). As a result, most owners who have owned a property for many years pay an effective tax rate well below 1 percent. For those choosing to move, however, their effective tax rate is reset to 1 percent, producing a moving penalty that may influence some property owners' relocation decisions. For example, established firms that benefit from their comparatively low effective property tax rates could be dissuaded from relocating—decisions that, absent the moving penalty, could benefit the companies financially. (As we discuss below, differing effective tax rates also affect the equity of the property tax.)

Figure 15

Hypothetical Effective Property Tax Rates for Three Property Owners

	Year Purchased	Market Value	Assessed Value	Property Tax Rate	Property Tax Paid	Effective Tax Rate
Owner A	2012	$300,000	$300,000	1%	$3,000	1.0%
Owner B	2002	300,000	180,000	1	1,800	0.6
Owner C	1986	300,000	110,000	1	1,100	0.4

Homeowners and Businesses May Invest Less in Property Improvements. When a property undergoes improvements, the newly constructed portion of the property is assessed at its full market value. The existing property, on the other hand, is typically assessed below its current market value, meaning that improvements are taxed at a higher effective rate than existing property. Because improvements are subject to higher effective tax rates, the return on investment that businesses receive from new improvements is lower and the taxes that homeowners pay on them are higher than they would be if all property—new and existing—were taxed uniformly. This may lead some businesses and homeowners to invest less than they otherwise would in new property improvements.

Homeowners May Change Behavior in Response to Assessment Exclusions. Voters have approved ballot propositions that exclude some types of property transfers from triggering reassessment to market value. (These exclusions are summarized earlier in this report in Figure 2.) For example, residential property transfers between certain family members do not trigger reassessment. These exclusions could alter decisions homeowners make about their property. For example, a homeowner might transfer property to his or her child (thereby passing on his or her low effective property tax rate) when, absent the exclusion, the owner might have sold the property to a nonrelative. In turn, that child could find it more economical to rent the property (and benefit from the low effective property tax rate) than to sell (and forego the benefit of his or her low effective rate).

Equity

Equity relates to how taxes affect taxpayers with different levels of income or wealth. Economists use two different standards of equity—vertical and horizontal—to evaluate taxes. Vertical equity occurs when wealthier taxpayers pay a greater amount in taxes than less wealthy taxpayers. Horizontal equity, on the other hand, occurs when similar taxpayers—those with similar incomes or wealth—pay the same amount in taxes. Under an equitable property tax system (1) owners of highly valuable property pay more in taxes than owners of less valuable property and (2) the owners of two similar properties pay a similar amount in property taxes. Put differently, an equitable system would tax property owners at the same effective rate. As we discussed in the previous section, however, property owners often are subject to different effective tax rates. Therefore, California's ad valorem property taxes, parcel taxes, and Mello–Roos taxes often do not meet these standards of equity.

Equity Reduced by Acquisition Value Assessment and 2 Percent Assessed Value Cap. California's property tax system does not consistently meet the standards of horizontal or vertical equity. As discussed

earlier in this report, two owners with identical properties may pay different amounts of property taxes if one owner bought the property a decade before the other. In a tax system with horizontal equity, both owners would pay similar amounts. In relation to vertical equity, the tax system's reliance on acquisition value and the 2 percent cap on assessed valuation growth can result in owners of valuable property paying less than owners of (recently acquired) less valuable property. In a tax system with vertical equity, owners of valuable property would pay more in taxes because owners of valuable property generally are wealthier than owners of less valuable property.

Homeowners Who Are Mobile Pay Higher Effective Tax Rates. Homeowners who move often—military families, younger homeowners, or those with jobs that require them to relocate frequently—tend to have higher effective ad valorem tax rates than homeowners who move less frequently because newly purchased properties are assessed at market value. Relocation decisions may result from circumstances that households may not have foreseen, such as employment changes, divorce, or other changes in family composition. Under horizontal equity, in contrast, taxpayers pay similar taxes unless their household income, wealth, or consumption patterns differ.

Fixed–Rate Taxes Do Not Meet Vertical Equity Standard. Parcel taxes and Mello–Roos taxes typically meet the criteria of horizontal equity but not vertical equity because property owners typically are charged the same amounts—regardless of their wealth or their properties' value.

Summary

Our comparison of California's property tax system with common tax policy criteria found mixed results. The ad valorem taxes generally meet the goals of administrative simplicity and providing governments with a growing source of stable revenue, but often do not meet the goals of neutrality and equity. Specifically, California's ad valorem tax system (1) may influence decisions property owners make about relocations and expansions and (2) treat similar taxpayers differently and wealthier taxpayers the same as less wealthy taxpayers.

California's other property taxes (parcel taxes and Mello–Roos taxes) generally perform well relative to the goals of stability, administrative simplicity, and horizontal equity, but may perform less well in regard to the other objectives.

Appendix 1: The History of California's Property Tax Allocation System

California's system for allocating property tax revenue from the 1 percent rate among local governments is complex and has changed over time. The most significant change was voter approval of Proposition 13 in 1978, which shifted the control over the allocation of property taxes from local communities to the state. Since that time the state has made several major changes that affect the amount of property tax revenue from the 1 percent rate distributed to counties, cities, K–14 districts, and special districts. Some of these changes have benefited the state fiscally (by indirectly reducing state costs for education). Others have benefited local governments or taxpayers. This appendix describes the evolution of the state's property tax allocation system. The key events are highlighted in Figure A–1, and described in more detail below.

Figure A–1

History of California's Property Tax Allocation

1972	**SB 90—**Establishes school "revenue limit" funding system, giving the state a significant fiscal interest in the allocation of local property tax revenue.
1978	**Proposition 13—**Voters cap the basic property tax rate at 1 percent and give the state new responsibilities for allocating property tax revenue.
	SB 154—State's first law allocating property tax revenue. Amounts based on share of property tax received prior to Proposition 13, with state providing grants for some of local revenue loss.
1979	**AB 8—**State changes property tax allocations in SB 154, establishes system for allocating future growth in property tax revenue, and absorbs costs of some local programs.
1992	**First ERAF Shift—**State permanently shifts some property tax revenue from counties, cities, and special districts into a fund for K–14 districts.
1993	**Second ERAF Shift—**State permanently shifts additional property tax revenue into a fund for K–14 districts.
2004	**Triple Flip—**State uses some local sales tax revenue to repay deficit–financing bonds. Reimburses counties and cities with property tax revenue from ERAF and K–14 districts.
	The VLF Swap—State permanently shifts some property tax revenue from ERAF and K–14 districts to reimburse cities and counties for the state's reductions to their VLF revenue.
	Temporary ERAF Shift—State shifts some property tax revenue from noneducational local agencies to K–14 districts for two years.
	Proposition 1A—Voters restrict the state's authority to shift property tax revenue away from cities, counties, and special districts.
2009	**Proposition 1A (2004) Borrowing—**State borrows $1.9 billion of property tax revenue from cities, counties, and special districts as authorized by Proposition 1A.
2010	**Proposition 22—**Voters eliminate the state's authority to borrow property tax revenue and to shift redevelopment agencies' property tax revenue.
2012	**Dissolution of Redevelopment Agencies—**Redevelopment agencies are abolished. Over time, their share of

the property tax will revert to other local governments.

ERAF = Educational Revenue Augmentation Fund; VLF = vehicle license fee.

Tax Allocation Prior to Proposition 13

Tax Allocation Determined Locally Until 1978. Prior to voter approval of Proposition 13 in 1978, each local government authorized to levy a property tax set its own rate (within certain statutory restrictions). Each local government annually determined the amount of revenue necessary to finance the desired level of services and set its property tax rate to collect that amount. A property owner's property tax bill reflected the sum of the individual rates set by each taxing entity. Under this system, schools and community colleges received over 50 percent of statewide property tax revenue, counties about 30 percent, and cities about 10 percent. (At the local level, however, the share of property tax revenue supporting each type of local government varied. Some communities, for example, provided a greater percentage of total property tax revenue to schools and others provided more to their county or city.)

Property Tax Allocation Linked to State Budget in 1972. Although local governments had control over the property tax during this period, property tax revenue had an effect on the state's budget beginning in 1972. Chapter 1406, Statutes of 1972 (SB 90, Dills), started an education finance system in which the state guarantees each school district an overall level of funding. For K–12 districts, each district receives an overall level of funding—a "revenue limit"—from local property taxes and state resources combined. Community college districts receive apportionment funding from local property taxes, student fees, and state resources. Thus, if a district's local property tax revenue (and student fee revenue in the case of community colleges) is not sufficient, the state provides additional funds. If a district's nonstate resources alone exceed the district's revenue limit or apportionment funding level, the district does not receive state aid and can keep the excess local property tax revenue for educational programs and services at their discretion. These districts are commonly referred to as "basic aid" districts because historically they have received only the minimum amount of state aid required by the California Constitution (known as basic aid). This system of school finance gives the state a significant fiscal interest in the distribution of local property tax revenue.

Proposition 13 and the State's Response

Proposition 13 fundamentally changed local government finance and assigned the state responsibility for property tax allocation. Property tax receipts fell by more than 60 percent because Proposition 13 lowered the statewide property tax rate to a constitutional maximum of 1 percent. Additionally, the measure required the state, rather than local communities, to determine the allocation of property tax revenue among the local governments within a county. In response to Proposition 13, the Legislature enacted two major bills: Chapter 292, Statutes of 1978 (SB 154, Petris) and then Chapter 282, Statutes of 1979 (AB 8, L. Greene). In general, these bills established methods for allocating the new lower amount of property tax revenue and shifted certain county and school district costs to the state.

First State Allocation System—SB 154

Shortly after the passage of Proposition 13, the Legislature approved SB 154 in an effort to avoid major local government service reductions and significant fiscal distress from the decrease in property tax revenue. Senate Bill 154 was the state's first attempt to allocate property taxes among counties, cities, special districts, and K–14 districts. Under SB 154, a local government's share of the 1 percent property tax rate in 1978–79 was based on the share of *countywide* property tax revenue going to that local government before Proposition 13. For example, if a city received 10 percent of the property taxes collected by all local jurisdictions in the county prior to the passage of Proposition 13, the city would receive 10 percent of the property taxes collected in the county at the 1 percent rate. This was a significant change from the allocation of property taxes prior to Proposition 13, when a local government received property tax revenue only from the properties located *within its jurisdiction*. In addition, to partially offset the revenue loss resulting from the reduction in the property tax rate, SB 154 used state funds to relieve counties of a portion of their obligation to pay for certain health and welfare programs and to provide block grants to counties, cities, and special districts.

The Current Property Tax Allocation System—AB 8

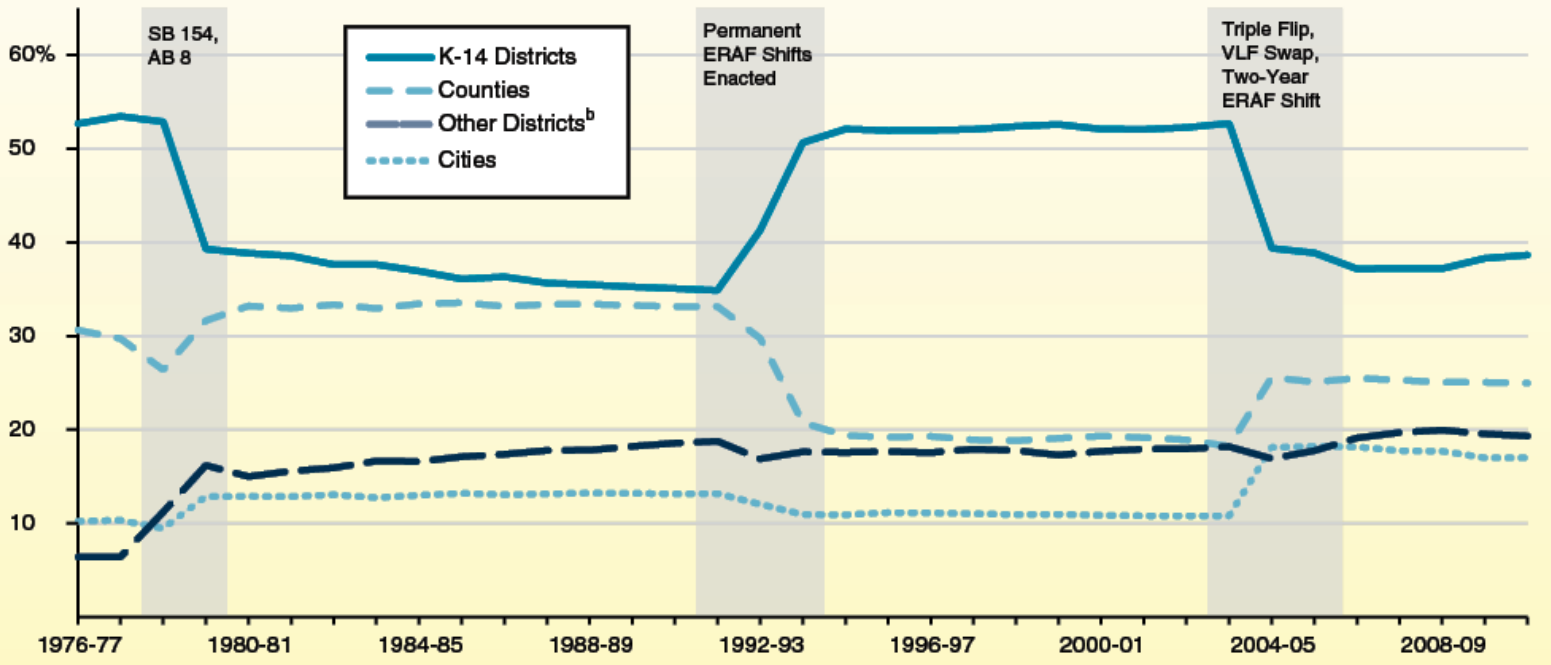
A year after enacting SB 154, the Legislature adopted AB 8, a long–term policy to allocate property taxes and provide fiscal relief to local governments. The legislation (1) directed county auditors to allocate 1979–80 property tax revenue in a manner similar to SB 154 but with some modifications and (2) established a method for allocating property tax growth in future years.

New Base Property Tax Allocation. Assembly Bill 8 established a new base property tax allocation for 1979–80. The new base allocations in AB 8 resembled those in SB 154—a local government's share was based on the share of the countywide property tax going to that local government before Proposition 13—with some modification. Specifically, rather than continue the state block grants included in SB 154, AB 8 increased the base share of property taxes allocated to most counties, cities, and special districts by reducing the base share going to K–14 districts. (Under the state's school finance system, K–14 district losses were in turn made up with increased state funds for education.) For cities and special districts, the increase in the base property tax allocation was derived from the block grant amount provided in SB 154. Cities received increased property taxes equivalent to about 83 percent of their SB 154 block grant amount and special districts 95 percent of their block grant amount. Counties received a combination of increased property taxes, reduced expenditure

obligations for health and social services programs, and a state block grant for indigent health programs. The reduced county expenditure obligations included complete state assumption of the costs for Medi–Cal and the State Supplementary Payment Program, as well as an increased state share of costs for the Aid to Families with Dependent Children program (the predecessor to California Work Opportunities and Responsibility to Kids). (These changes resulted in an increased share of property tax revenue for most counties. As discussed in the nearby box, six counties ended up as so–called negative bailout counties.) In summary, AB 8 shifted property tax revenue away from K–14 districts in order to provide cities, special districts, and most counties with a greater amount of property tax revenue than they received the previous year under SB 154. As shown in Figure A–2, this greatly reduced K–14 districts' share of the statewide property tax.

Figure A-2

Major Changes in Allocation of California Property Tax Revenue[a]



[a] As a percentage of total revenue from the 1 percent rate and voter-approved debt rates.
[b] Special districts and redevelopment agencies. Payments from redevelopment agencies to K-14 schools not included.
ERAF = Educational Revenue Augmentation Fund; VLF = vehicle license fee.

What Are "Negative Bailout Counties?"

Assembly Bill 8 did not provide additional property tax revenue to six counties (Alpine, Lassen, Mariposa, Plumas, Stanislaus, and Trinity). Under the provisions of AB 8, the increased share of the base property tax allocation to counties was calculated as the value of the SB 154 block grant *plus* a small adjustment for the cost of the Aid to Families with Dependent Children program *less* the amount of the indigent health block grant. In these six counties, the value of the indigent health block grant was so great that it exceeded the value of the adjusted SB 154 block grant. In order for these counties to be treated in the same way as all other counties, the amount of property taxes allocated to these counties was reduced. Because these counties received a smaller percentage of total property taxes collected after implementation of AB 8 relative to their pre–Proposition 13 shares, these counties are termed negative bailout counties.

New Method for Allocating Property Tax Growth. Assembly Bill 8 also established a new process for allocating growth (or decline) in property tax revenue in future years. In contrast to the property tax allocation process in 1978–79 and 1979–80 (that distributed revenue on a countywide basis without regard to where the property was located), the legislation specified that future growth in property tax revenue would be allocated only to those local governments serving the property where the revenue increase took place. Accordingly, beginning in 1980–81, AB 8 required that each local government receives the same amount of property tax it received in the prior year plus its share of any growth or decline in property tax revenue that occurred in its jurisdiction.

To ensure that each local government receives the property tax growth from the properties it serves, each county is divided into tax rate areas (TRAs). Each local government represented in a TRA receives a share of the property tax growth that occurs within that TRA. As required by AB 8, county auditors developed a

methodology to determine the percentage of property tax growth—known as TRA factors—to allocate to each local government in each TRA. These TRA factors were based largely on the 1979–80 base allocation established by AB 8 (including the shift of property tax revenue from K–14 districts to other local governments). In most counties, these TRA factors remain constant. Thus, if a city received 25 percent of the property tax revenue growth generated in a TRA in 1980–81 (the first year TRA factors were used to distribute property tax revenue growth), it continued to receive 25 percent of the growth in property taxes in future years. As a result, the distribution of property tax revenue among local governments continued to closely resemble the 1979–80 distribution until the first major changes to the AB 8 system occurred in the 1990s.

In summary, the AB 8 property tax allocation system provides each local government with the same amount of property tax revenue it received in the prior year (the base), plus its share of any growth or decline in property tax revenue that occurred in its jurisdiction in the current year.

Changes to the AB 8 System

The state property tax allocation system set up in AB 8 continues to be the basis for property tax allocation among local governments today. Since 1979, however, there have been some significant changes to the original property tax allocation system contained in AB 8. In most cases, the changes reflect the complex fiscal relationship between the state and local governments. Because of the state's role in allocating property tax revenue after Proposition 13 and in funding K–14 districts and other local programs, decisions regarding the state budget and other policy issues have led the Legislature and Governor to occasionally change how property tax revenue is distributed. We highlight the major changes in property tax allocation below. It is important to note, however, that these changes in property tax allocation do not explain the entire scope of the state–local fiscal relationship—a relationship that also has involved the realignment of many government programs and changes in other revenue sources such as the sales tax and the vehicle license fee (VLF). Some of these decisions have benefited the state fiscally, and others have benefited local governments or taxpayers.

No and Low Property Tax Cities

One change in property tax allocation relates to so–called "no and low property tax cities." Cities that did not levy a property tax, levied only a very low property tax, or were not incorporated as cities prior to the passage of Proposition 13 typically received few property taxes under AB 8. During the 1980s the Legislature directed county auditors to modestly increase the amount of property taxes going to some of these cities by shifting a share of county property tax revenue to them.

Property Taxes Shifted to Schools

Ongoing Property Tax Shifts Started in 1990s. In 1992–93 and 1993–94, in response to serious budgetary shortfalls, the Legislature and Governor permanently redirected almost one–fifth of statewide property tax revenue—over $3 billion in 1993–94—from cities, counties, and special districts to K–14 districts. (The legislation also temporarily required redevelopment agencies to make payments to K–14 districts.) Under the changes in property tax allocation laws, the redirected property tax revenue is deposited into a countywide fund for schools, the Educational Revenue Augmentation Fund (ERAF). The property tax revenue from ERAF is distributed to non–basic aid schools and community colleges, reducing the state's funding obligation for K–14 school districts.

The amount transferred into ERAF from each city, county, and special district was based on many factors, including the magnitude of the fiscal relief that the state provided the local government in AB 8 and, for counties, the level of taxable sales within its borders. As a result, individual local government ERAF obligations varied widely. For example, the ERAF shifts from cities formed after 1978 typically were lower than those for older cities because the newer cities did not receive any AB 8 benefits. Similarly, counties with many retail developments typically had larger ERAF shifts than rural counties because the state anticipated that extensively developed counties would receive more relief from the state's primary ERAF mitigation measure: a half–cent sales tax for local public safety (Proposition 172, 1993). As shown in Figure A–2, after the ERAF transfer of the early 1990s, schools and community colleges once again received more than 50 percent of the state's property tax revenue, while other local governments received less.

"Excess ERAF" Shifted Back. In the late 1990s, some county auditors reported that their ERAF accounts had more revenue than necessary to offset all state aid to non–basic aid K–14 districts. In response, the Legislature enacted a law requiring that some of these surplus funds be used for countywide special education programs and the remaining funds be returned to cities, counties, and special districts in proportion to the amount of property taxes that they contributed to ERAF. The ERAF funds that are returned to non–education local governments are known as excess ERAF.

Additional Temporary Property Tax Shift. The 2004–05 budget package also shifted $1.3 billion of property taxes from noneducation local agencies (cities, counties, special districts, and redevelopment agencies) to ERAF in 2004–05 and again in 2005–06. This temporary ERAF shift reduced the state's funding responsibilities for K–14 districts to help address the budget shortfalls in those two years.

Changes to ERAF

The Triple Flip. In 2004, state voters approved Proposition 57, a deficit–financing bond to address the state's budget shortfall. The state enacted a three–step approach—commonly referred to as the triple flip—that

provides a dedicated funding source to repay the deficit bonds:

- Beginning in 2004–05, one–quarter cent of the local sales tax is used to repay the deficit–financing bond.
- During the time these bonds are outstanding, city and county revenue losses from the diverted local sales tax are replaced on a dollar–for–dollar basis with property taxes shifted from ERAF.
- The K–14 tax losses from the redirection of ERAF to cities and counties, in turn, are offset by increased state aid.

The triple flip increases the amount of property tax revenue going to cities and counties and reduces the amount of ERAF provided to K–14 districts. Overall, however, cities, counties, and K–14 districts do not experience any net change in revenue from the triple flip. Cities and counties receive more property tax revenue, but this revenue gain is offset by the reduction in sales tax revenue. K–14 districts receive less property tax revenue, but this is offset with increased state aid. The flip of sales taxes for property taxes ends after the deficit–financing bonds are repaid (currently estimated to occur in 2016).

The VLF Swap. The VLF—a tax on vehicle ownership—provides revenue to local governments. In 1999, the state began reducing the VLF rate and backfilling city and county revenue losses from this tax reduction with state aid. The 2004–05 budget package permanently replaced the state VLF backfill by diverting property tax revenue from ERAF and, if necessary, non–basic aid K–14 districts to cities and counties. In 2004–05, cities and counties did not experience a change in overall revenue from the VLF swap, as the amount of property tax shifted to them was equal to the VLF backfill amount. In subsequent years, state law specifies that each local government's VLF swap payment grows based on the annual change in its assessed valuation. As a result, most cities and counties benefit fiscally from the VLF swap because assessed valuation typically grows more quickly than VLF revenue. Similar to the triple flip, K–14 districts' property tax revenue losses are made up with increased state aid.

Distributing ERAF

The triple flip and VLF swap further expanded the use of ERAF and changed the priorities governing how its resources are used. As shown in Figure A–3, the original purpose of ERAF was to supplement the property tax revenue of non–basic aid K–14 districts. Under current law, however, funding K–14 districts falls to the fourth priority. As a result, non–basic aid school districts do not receive any ERAF resources unless additional funds remain after the county auditor (1) returns excess ERAF, (2) reimburses the triple flip, and (3) make payments for the VLF swap. This change in priorities has a significant effect on the amount of ERAF available for school districts. In 2010–11, for example, auditors in 33 counties reported using *all* ERAF resources for the first three priorities, leaving no ERAF for schools.

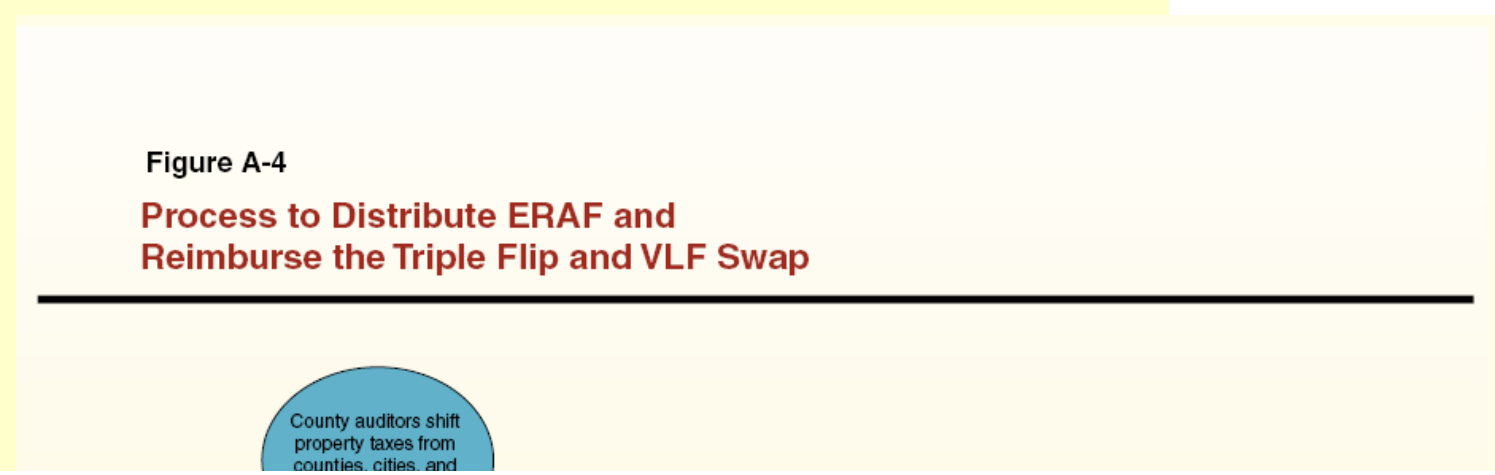
Figure A–3

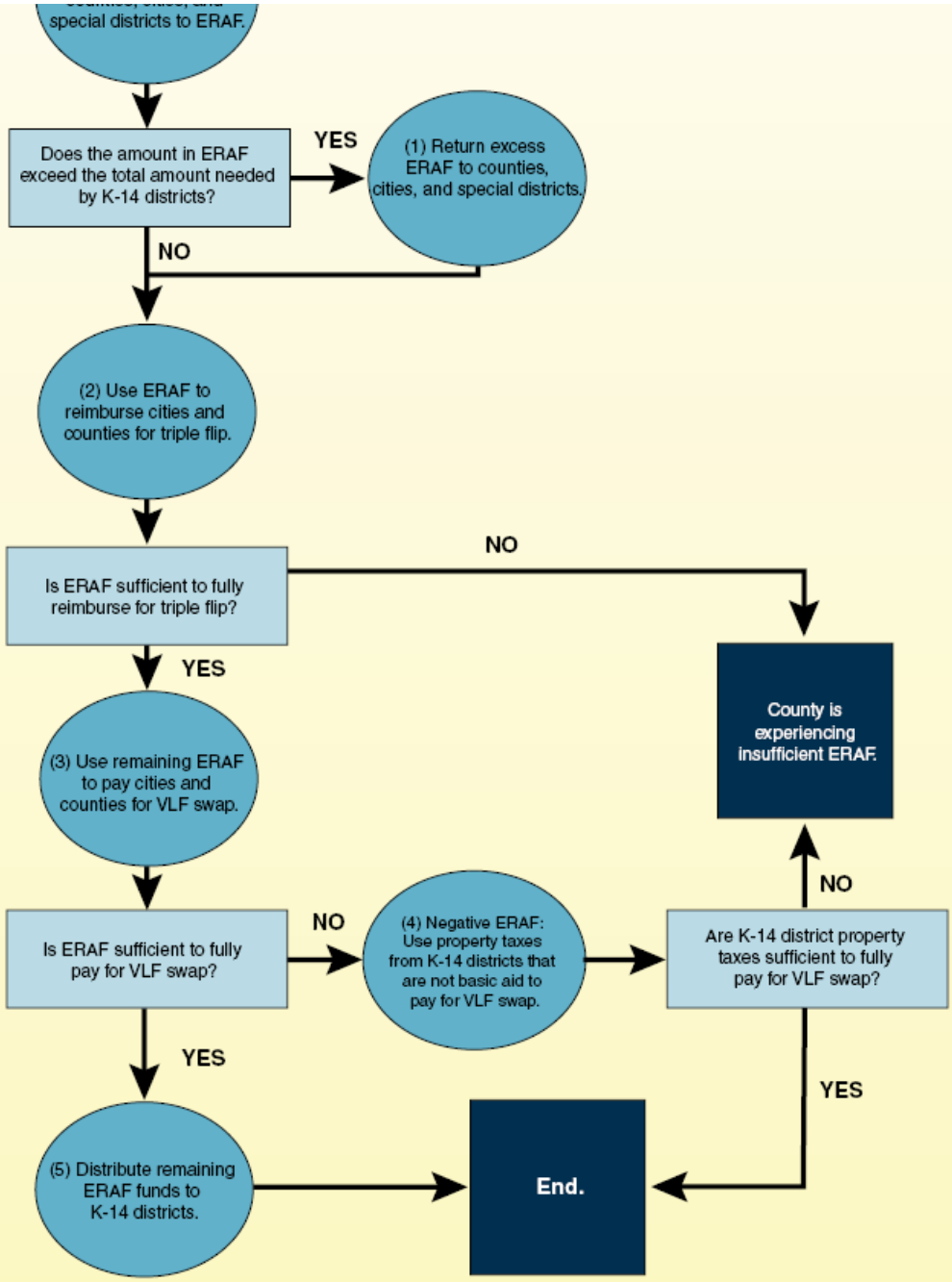
Uses of ERAF Listed in Priority Order

Priority	Early 1990s	Late 1990s to 2004	2004 to Present
First	**Fund non–basic aid K–14 districts**	Return excess ERAF	Return excess ERAF
Second		**Fund non–basic aid K–14 districts**	Reimburse triple flip
Third			Make payments for VLF swap
Fourth			**Fund non–basic aid K–14 districts**

ERAF = Educational Revenue Augmentation Fund; VLF = vehicle license fee.

Figure A–4 displays the complex process county auditors follow to allocate ERAF and to reimburse cities and counties for the triple flip and VLF swap. This figure also shows that, under certain circumstances, it is possible that the auditor could determine that there are not enough funds to fully compensate cities and the county for the triple flip and/or the VLF swap. These funding insufficiencies are referred to as "insufficient ERAF."





ERAF = Educational Revenue Augmentation Fund; VLF = vehicle license fee.

Step 1: Return Excess ERAF. As shown in the figure, the first step is for each county auditor to determine whether the funds deposited into the countywide account exceed the amount needed by all non–basic aid K–14 districts in the county, plus a specified amount for special education. If so, the excess ERAF is returned to cities, special districts, and the county in proportion to the amount of property taxes they contributed to ERAF. This calculation of excess ERAF was modified recently to reflect the increased revenue that K–14 districts and ERAF receive from the dissolution of redevelopment agencies. Specifically, to maximize the state fiscal benefit related to redevelopment dissolution, Chapter 26, Statues of 2012 (AB 1484, Committee on Budget) directs county auditors to exclude property taxes related to the dissolution of redevelopment agencies in the calculation of excess ERAF.

Step 2: Reimburse Triple Flip. Following the calculation and distribution of excess ERAF, state law directs county auditors to reimburse local governments for their revenue losses associated with the triple flip. This reimbursement is shown in the figure as step two. If the county auditor uses all available ERAF, but determines that the local governments have not been fully reimbursed for the triple flip, the county has insufficient ERAF.

In this situation, additional state action is required if cities and counties are to be fully reimbursed for the triple flip.

Steps 3 and 4: Pay for VLF Swap. After reimbursing the triple flip, the next use of ERAF is to make payments to local governments for the VLF swap. If the county auditor determines that ERAF resources are not sufficient to fully pay cities and the county for the VLF swap, the county auditor redirects some property taxes from non–basic aid K–14 districts for this purpose, as shown in step 4. The redirection of school property taxes is commonly referred to as negative ERAF because it decreases K–14 property taxes rather than supplementing them (the original purpose of ERAF). If the amount of property taxes deposited in ERAF and allocated to non–basic aid school district is not enough to make the payments required under the VLF swap, then the county has insufficient ERAF. In this situation, additional state action is required for cities and counties to receive the full VLF swap payment. In 2012–13, the first time this issue came before the Legislature, the state included $1.5 million in the budget to compensate the county and cities in Amador County for insufficient ERAF.

Step 5: Distribute Remaining ERAF to K–14 Districts. Any funds remaining in ERAF after the other uses have been satisfied are distributed to schools and offset state education spending.

Limits on the State's Authority Over Property Tax Allocation

The state's use of property tax shifts to help resolve its severe budget difficulties—as well as other actions affecting the state–local fiscal relationship—have been a source of considerable friction between state and local government. In response, local government advocates have sponsored initiatives to limit the state's authority over local finances, including two constitutional measures reducing the state's authority over property tax allocation. As a result, much of the authority granted to the state in Proposition 13 and used to establish AB 8, ERAF, the VLF swap, and the triple flip is now restricted.

Proposition 1A (2004)

In 2004, voters approved Proposition 1A, amending the State Constitution to prohibit the state from shifting property tax revenue from cities, counties, and special districts to K–14 districts. The measure, however, provided an exception to its restrictions. Beginning in 2008–09, the measure allowed the state to shift a limited amount of local property tax revenue to schools and community colleges provided that the state repaid local governments for their property tax losses, with interest, within three years. The measure also specified that any change in how property tax revenue is shared among cities, counties, and special districts must be approved by two–thirds of both houses of the Legislature (instead of by majority vote). For example, state actions that shift a share of property tax revenue from one local special district to another, or from the county to a city, require approval by two–thirds of both houses of the Legislature.

The state utilized Proposition 1A's exception for shifting property tax revenue to provide state fiscal relief in its 2009–10 budget package. Specifically, the state borrowed $1.9 billion of property tax revenue from cities, counties, and special districts—revenue equal to roughly 8 percent of each local agency's property tax revenue. (Under Proposition 1A, the state was required to repay these funds by 2012–13. Companion legislation, however, allowed local governments to borrow against the state's future repayments so that local government budgets were not negatively affected in 2009–10.) The 2009–10 budget package also required redevelopment agencies to make payments totaling $1.7 billion (2009–10) and $350 million (2010–11) to K–12 school districts serving students living in or near their redevelopment areas. Unlike the borrowing from cities, counties, and special districts, the state did not reimburse redevelopment agencies for these required payments.

Proposition 22 (2010)

In 2010, voters approved Proposition 22, which, among other things, prohibits the state from redirecting property tax revenue as it did in 2009–10. Specifically, Proposition 22 eliminates the state's authority to borrow property tax revenue from local governments as previously allowed under Proposition 1A and prohibits the state from requiring redevelopment agencies to shift revenue to K–14 districts or other agencies. As discussed in the nearby box, the prohibition on shifting redevelopment funds contributed indirectly to the dissolution of redevelopment agencies in February 2012.

The Dissolution of Redevelopment Agencies

As discussed in our report, *The 2012–13 Budget: Unwinding Redevelopment*, redevelopment had the overall effect of increasing state costs for K–14 education. For this reason, the state frequently required redevelopment agencies to shift some funds to support K–14 education. Under Proposition 22 (2010), however, the state no longer had the authority to require redevelopment agencies to shift property tax revenue to school districts. Facing considerable fiscal constraints and not authorized to shift funds from redevelopment for state fiscal relief as it had done in the past, the Legislature took a new approach as part of the state's 2011–12 budget. Specifically, the Legislature approved and the Governor signed Chapter 5, Statutes of 2011 (ABX1 26, Blumenfield), which dissolved all redevelopment agencies. They also approved Chapter 6, Statutes of 2011 (ABX1 27, Blumenfield), allowing redevelopment agencies to avoid dissolution by voluntarily agreeing to make annual payments to school districts. The Supreme Court later ruled ABX1 27 unconstitutional, meaning all redevelopment agencies were subject to ABX1 26's dissolution requirement.

Under the dissolution process, the property tax revenue that formerly went to redevelopment agencies is first used to pay off redevelopment debts and obligations and the remainder is distributed to local governments in accordance with AB 8.

Looking Forward

Proposition 1A and Proposition 22 limit the state's authority to change property tax allocation laws. Measures that reallocate property tax revenue among counties, cities, and special districts require a two–thirds vote of the Legislature and measures that change state laws to increase the percentage of property taxes allocated to schools are prohibited. Even without additional legislative action, however, the distribution of property tax revenue will change in the near future for two reasons.

- ***End of Redevelopment.*** As the debts and obligations of former redevelopment agencies are paid off, property tax revenue that previously was allocated to redevelopment agencies will be distributed to K–14 districts, counties, cities, and special districts.
- ***The End of the Triple Flip.*** We estimate that the state's deficit–financing bonds will be paid off in 2016–17. At that time, the state sales tax rate will decline by one–quarter cent and the local sales tax rate will increase by one–quarter cent. Because the local sales tax rate is restored in full, the property tax revenue currently used to backfill cities and counties for the loss in sales tax revenue will be allocated to K–14 districts. Although none of these entities will experience any change in overall revenue, cities, and to a lesser extent counties, will receive a smaller share of the property tax than they do today. In addition, the property tax revenue allocated to K–14 districts will reduce the state's education costs.

Appendix 2: Property Tax and Local Government Publications

Property Taxes

Property Tax Agents at the Local Level in California: An Overview (June 20, 2012)

Discusses the role of property tax agents in appealing property assessments.

Reconsidering AB 8: Exploring Alternative Ways to Allocate Property Taxes (February 3, 2000)

Examines the problems in the current property tax allocation system and discusses the tensions and trade–offs inherent in five reform proposals.

Reversing the Property Tax Shifts (April 2, 1996)

Explains the mechanics of the Educational Revenue Augmentation Fund shift and the formulas which implemented it.

Local Finance

Major Milestones: Over Four Decades of the State–Local Fiscal Relationship (November 29, 2012)

Provides a timeline summarizing major changes in the state–local relationship.

Local Government Bankruptcy in California: Questions and Answers (August 7, 2012)

Addresses some common questions about the Chapter 9 process for local governments.

The 2012–13 Budget: Unwinding Redevelopment (February 17, 2012)

Reviews the history of redevelopment agencies, the events that led to their dissolution, and the process communities are using to resolve their financial obligations.

The 2011–12 Budget: Should California End Redevelopment Agencies? (February 8, 2011)

Examines the Governor's proposal to end redevelopment.

Ten Events That Shaped California State–Local Fiscal Relations (December 16, 2009)

Discusses key events and measures that influenced state–local relations.

Overview of California Local Government (June 17, 2010)

Summarizes key issues related to local government.

Understanding Proposition 218 (December 17, 1996)

Examines the constitutional requirements related to property assessments and fees.

Acknowledgments This report was prepared by Chas Alamo and Mark Whitaker and reviewed by Marianne

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