



## Agenda Report

---

File #: 2023-2753, Version: 1

---

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

**SUBJECT:**

**DEFERRED COMPENSATION PLAN 457(B) ON BEHALF OF ORANGE COUNTY SANITATION DISTRICT BOARD OF DIRECTORS**

**GENERAL MANAGER'S RECOMMENDATION**

RECOMMENDATION:

Adopt Resolution No. OC SAN 23-03 entitled: "A Resolution of the Board of Directors of Orange County Sanitation District (OC San), approving payment by OC San to OC San's 457(b) Deferred Compensation Plan ("457 Plan") on behalf of OC San's Director-Employees in lieu of Contributions Pursuant to the Federal Insurance Contributions Act ("FICA"), as mandated by the Federal Omnibus Budget Reconciliation Act of 1990 ("OBRA"); and Repealing Resolution No. OCSD 98-4".

**BACKGROUND**

The United States Congress enacted the OBRA, changing several provisions of the Federal Social Security Act that apply to local government entity employees. Under these regulations, OC San's Directors must either be brought into a "qualified retirement plan" or OC San must withhold FICA (Social Security & Medicare).

OC San's Directors are not eligible for participation in OC San's Retirement Plan (Orange County Employees Retirement System), but they are eligible for participation in OC San's 457 Plan managed by VOYA, OC San's current provider.

In 1981; and again in 1998, the Board of Directors authorized OC San's Directors to participate in OC San's 457 Plan. It was determined by OC San's Legal Counsel that this would satisfy the legal requirements of Internal Revenue Code Section 3121(b)(7)(F) in the most cost effective manner, by having OC San contribute 7.5% of the Directors' compensation to OC San's 457 Plan.

**RELEVANT STANDARDS**

- Comply with OBRA; FICA, and Internal Revenue Service regulations

## **PROBLEM**

The current Resolution is outdated, and most of the Directors are not participating in the 457 Plan provided.

## **PROPOSED SOLUTION**

Adopt the updated Resolution which waives Voya's requirement of a minimum annual contribution of \$650 per year and approves the payment of 7.5% of the Directors' compensation to be deposited by OC San in each Directors' 457 plan.

## **TIMING CONCERNS**

The Resolution must be adopted to ensure compliance with IRS regulations and provide the most up to date benefits to the Directors.

## **RAMIFICATIONS OF NOT TAKING ACTION**

Without adoption, OC San may be in violation of the OBRA.

## **PRIOR COMMITTEE/BOARD ACTIONS**

July 1998 - Adopted Resolution No. OCSD 98-4.

## **ADDITIONAL INFORMATION**

N/A

## **CEQA**

N/A

## **FINANCIAL CONSIDERATIONS**

This request complies with authority levels of OC San's Purchasing Ordinance. This item has been budgeted.

## **ATTACHMENT**

*The following attachment(s) may be viewed on-line at the OC San website ([www.ocsan.gov](http://www.ocsan.gov)) with the complete agenda package:*

- Resolution No. OCSD 98-4 (Redlined)
- Resolution No. OC SAN 23-03