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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

SAN DIEGO COUNTY OFFICE OF EDUCATION; SAN DIEGO UNIFIED SCHOOL DISTRICT; SWEETWATER UNION HIGH SCHOOL DISTRICT; SOLANA BEACH SCHOOL DISTRICT; SOUTH BAY UNION SCHOOL DISTRICT; ESCONDIDO UNION HIGH SCHOOL DISTRICT; SAN MARCOS UNIFIED SCHOOL DISTRICT; OCEANSIDE UNIFIED SCHOOL DISTRICT; CHULA VISTA ELEMENTARY SCHOOL DISTRICT; and SANTEE SCHOOL DISTRICT

Petitioners,

v.

THE COUNTY OF SAN DIEGO; TRACY SANDOVAL, in her official capacity as Auditor-Controller for the County of San Diego; SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF CHULA VISTA; SUCCESSOR AGENCY TO THE FORMER EL CAJON REDEVELOPMENT AGENCY; IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY; THE CITY OF LEMON GROVE SUCCESSOR AGENCY; SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT COMMISSION AS THE NATIONAL CITY REDEVELOPMENT AGENCY; SUCCESSOR AGENCY OF THE CITY OF OCEANSIDE; CITY OF SAN DIEGO SUCCESSOR AGENCY; SUCCESSOR AGENCY TO THE FORMER SAN MARCOS REDEVELOPMENT AGENCY; SANTEE COMMUNITY DEVELOPMENT COMMISSION SUCCESSOR AGENCY; SUCCESSOR AGENCY OF THE FORMER SOLANA BEACH REDEVELOPMENT AGENCY; SUCCESSOR AGENCY OF THE VISTA REDEVELOPMENT AGENCY; and DOES 1-20

Respondents.

[See next page for Additional Parties]

Case No.
37-2017-00019775-CU-WM-CTL

Exempt from Filing Fees Pursuant to Gov. Code § 6103

VERIFIED PETITION FOR WRIT OF MANDATE

Code Civ. Proc., § 1085

CITY OF CHULA VISTA; CITY OF LEMON GROVE; CITY OF SAN DIEGO; EL CAJON CITY; IMPERIAL BEACH CITY; NATIONAL CITY; CITY OF OCEANSIDE; CITY OF SAN MARCOS; CITY OF SANTEE; CITY OF SOLANA BEACH; CITY OF VISTA; SAN DIEGO COUNTY (GENERAL FUND) (1001-00*); SAN DIEGO COUNTY LIBRARY (1220-00*); COUNTY SERVICE AREA NO. 115 PEPPER DRIVE (2915-00*); COUNTY SERVICE AREA NO. 17 SAN DIEGUITO (2717-00*); COUNTY SERVICE AREA NO. 69 HEARTLAND PARAMEDICS (2769-00*); GREATER SAN DIEGO COUNTY RES. CONSERVATION DISTRICT LAND (6210-00*); GROSSMONT HEALTHCARE DISTRICT (6150-00*); GEN. ELEM. CAJON VALLEY UNION (4112-01*); GEN. ELEM. LA MESA-SPRING VALLEY (4149-01*); GEN. ELEM. LEMON GROVE (4151-01*); GEN. ELEM. NATIONAL (4160-01*); GEN. ELEM. SAN YSIDRO (4188-01*); GEN. ELEM. SANTEE (4187-01*); GROSSMONT UNION HIGH (4231-01*); GROSSMONT-CUYAMACA COMMUNITY COLLEGE (4430-0*); HIGH SAN DIEGUITO UNION (4255-01*); MIRA COSTA COMMUNITY COLLEGE (4450-01*); PALOMAR COMMUNITY COLLEGE (4440-01*); SAN DIEGO COMMUNITY COLLEGE (4455-01*); SOUTHWESTERN COMMUNITY COLLEGE (4460-01*); UNIFIED VISTA (4338-01*); NORTH COUNTY CEMETERY (3616-00*); OLIVENHAIN MUNI. WATER DISTRICT (6650-00*); OTAY WATER IMP. DIST. B - WATER SERVICE (6655-18*); PADRE DAM MUNI. WATER IMP. DIST. C - D/S (6677-00*); PALOMAR POMERADO HEALTH (6160-00*); RINCON DEL DIABLO MUNI. WATER DISTRICT (6675-00*); SAN DIEGO CITY ZOOLOGICAL EXHIBITS - D/S; SAN DIEGO COUNTY FLOOD CONTROL DISTRICT (2810-00*); SAN DIEGO COUNTY WATER DISTRICT; SAN MARCOS FIRE PROTECTION DISTRICT (6224-00*); SAN MIGUEL CONSOL. FIRE PROTECTION DISTRICT (3128-00*); SANTE FE IRRIGATION (6363-00*); SOLANA BEACH CITY - SOLANA BEACH MUNI. IMP. DIST. (6093-05*); SOLANA BEACH LIGHTING DISTRICT - ZONE A (6093-07*); TRI CITY HOSPITAL DISTRICT MAIN (6180-00*); VALLECITOS WATER DISTRICT (6570-00*); VISTA IRRIGATION (6368-00*); and ROES 1 THROUGH 20

Real Parties in Interest.

*San Diego County Auditor-Controller's Fund Number.

Petitioners San Diego County Office of Education, San Diego Unified School District, Sweetwater Union High School District, Solana Beach School District, South Bay Union School District, Escondido Union High School District, San Marcos Unified School District, Oceanside Unified School District, Chula Vista Elementary School District, and Santee School District (collectively "Petitioners") petition this Court for a writ of mandate directed to the above-captioned county, county auditor-controller, and successor agencies. In support thereof, Petitioners allege as follows:

INTRODUCTION

1. In the early 1990s, the California Legislature created, in each county throughout the state, accounting devices called Educational Revenue Augmentation Funds ("ERAFs") to reallocate tax revenue to the public schools for the benefit of the state. Under the ERAF legislation, a portion of property tax revenues that would otherwise go to non-school taxing entities in each county is instead required to be paid into the county ERAF, and the tax revenues in the ERAF are then allocated to the various school districts within each county. The ERAF legislation helped the Legislature balance the state budget in tough economic times: by directing additional local property tax revenues to schools, the ERAF legislation proportionally reduced the amount of money the state was required to contribute to local school districts under the school funding obligations that Proposition 98 had imposed four years earlier.

2. One year after it created ERAFs, the Legislature also passed Assembly Bill 1290 as the Community Redevelopment Law Reform Act of 1993 ("AB 1290"), (chaptered as Stats. 1993, ch. 942), a statute that reformed redevelopment law by, among other things, formalizing the financial relationship between local redevelopment agencies ("RDAs") and other public entities with the power to levy property taxes. After AB 1290 was enacted, RDAs were required to contribute (or "pass-through") to the various affected taxing entities within redevelopment project areas a portion of the property tax revenues (commonly called the "tax increment") that the RDAs had previously been entitled to keep for themselves. Specifically, AB 1290 added Health and Safety Code section 33607.5 to require local RDAs

to make pass-through payments "to the affected taxing entities . . . *in proportion to the percentage share of property taxes each affected taxing entity . . . receives* during the fiscal year the funds are allocated . . . ." (Emphasis added.)

3. Pursuant to the laws governing the dissolution of redevelopment, first codified in conjunction with Assembly Bill 1X26, all of California's redevelopment agencies nominally ceased to exist on February 1, 2012, and their assets and liabilities passed to the so-called "successor agencies" tasked with winding down the former redevelopment agencies' affairs. Assembly Bill 1X26 expressly mandates that, during the dissolution period in which successor agencies pay off the former redevelopment agencies' contractual, legal, and statutory debts, the taxing entities affected by redevelopment will continue to receive the pass-through payments mandated by AB 1290 ("AB 1290 Payments" or "pass-through payments") from the tax revenues that continue to be diverted to the successor agencies and placed in a Redevelopment Property Tax Trust Fund ("RPTTF") each fiscal year. Pursuant to Assembly Bill 1X26 and relevant follow-up legislation, county auditor-controllers are tasked with the duty to make timely and accurate AB 1290 pass-through payments to affected taxing entities out of the RPTTF.

4. In 2010, the courts of this state definitively affirmed that the percentage shares of property taxes received each fiscal year by local educational agencies ("LEAs") must include the property taxes shifted to them from the accounts of non-school taxing entities via the ERAF. (*Los Angeles Unified School District v. County of Los Angeles* (2010) 181 Cal.App.4th 414, *rehearing denied* (Feb. 23, 2010), *review denied* (Apr. 28, 2010) (the "LAUSD Decision").) In that decision, the Court of Appeal held that the County of Los Angeles' practice of ignoring the property taxes shifted to ERAFs for the purposes of calculating AB 1290 pass-through payments was contrary to law, explaining that "any property tax revenue deemed allocated to ERAFs . . . necessarily qualifies as property tax revenue to the school that received it." (*Id.*, 181 Cal.App.4th at pp. 425-427.) Despite this controlling authority from 2010, Respondents San Diego County and San Diego County Auditor-Controller (the "County Respondents") have persisted in calculating public schools'

respective pass-through shares using an unlawful methodology that significantly understates the sums that local educational agencies are owed, and diverts an improperly inflated share to the County and to the various cities and special districts — named in this Petition as Real Parties in Interest — that are also affected taxing entities ("ATEs") within the relevant former redevelopment project areas.

5. Over four years *after* the judicial branch had definitively and finally affirmed that schools' pass-through payments must be calculated in a manner that acknowledges their receipt of property taxes via the ERAF, the County of San Diego and its Auditor-Controller revealed in a September 2014 email transmission to local educational agencies that the County had not been making pass-through payments required by AB 1290 and AB 1X26 in accordance with those statutory mandates and the binding 2010 directives of the courts.

6. Flouting their statutory obligations under section 33607.5 and the rule of law announced in the LAUSD Decision, Respondents County of San Diego and its Auditor-Controller (the "County Respondents") continued for over four years to calculate Petitioner's "percentage share of property taxes" *excluding the property taxes distributed to schools through ERAFs.* Apparently, through the decades preceding the dissolution of redevelopment, the former redevelopment agencies in San Diego County distributed improperly diminished pass-through amounts to Petitioners on the basis of the County's miscalculations. Since dissolution, and at least through 2014, the County itself distributed improperly diminished pass-through amounts to Petitioners on the basis of its own persistent miscalculations. These unlawful calculations improperly inflated the amount of property taxes retained by the county, cities, and special districts at the expense of the public schools and the state. In so doing, it contravened the plain meaning, legislative history, and manifest legislative purpose of all the applicable statutes.

7. As a result of those miscalculations, the County Respondents have denied Petitioners the benefit of well over one million dollars in statutory pass-through payments since the Legislature placed the responsibility to make pass-through payments squarely in the hands of county auditors. The County has not fulfilled its ongoing statutory duties to make

full payment to taxing entities of pass-through obligations due from fiscal year 2011-2012, nor does it appear that it has yet remedied the underpayments from intervening years caused by its illegal calculations. And, it remains unclear whether the revised calculations first used by the County in connection with the January 1, 2015 distribution correctly implement the dictates of AB 1290 and the laws governing dissolution.

8. This Petition seeks a writ of mandate directing Respondents County of San Diego and San Diego County Auditor-Controller to pay Petitioners the damages they have suffered as a result of the County's failure to pay critical pass-through revenues that should have been paid in prior fiscal years. It also seeks a writ compelling the County to comply with AB 1290 and the laws governing dissolution in current and prospective fiscal years. To the extent payment of damages or ongoing compliance may necessitate action by successor agencies, Petitioners also seek writ relief directed to Respondent Successor Agencies to the former redevelopment agencies or community development commissions of Chula Vista, El Cajon, Imperial Beach, Lemon Grove, National City, Oceanside, San Diego, San Marcos, Santee, Solana Beach and Vista (the "Successor Agency Respondents").

9. Petitioners estimate that the Respondents' and former RDAs' failure to pay pass-through payments in accordance with the law has cost them, in the aggregate, millions of dollars. The statutes governing the dissolution of RDAs make clear that county auditor-controllers have an ongoing duty to make pass-through payments to ATEs from the tax increment that continues to be diverted to the successor agencies to the former RDAs during the period of dissolution. The law also clearly requires that unpaid liabilities of the former RDAs must be paid out of those incremental tax revenues. Petitioner therefore seeks from this Court a writ of mandate commanding all Respondents to pay Petitioners the full amount of redevelopment pass-through revenue due to them under California law.

JURISDICTION

10. Petitioner brings this petition for writ of mandate to this Court pursuant to the provisions of article VI, section 10 of the California Constitution and sections 1085 and 1095 of the Code of Civil Procedure.

11. State and local jurisdictions perennially face grave fiscal difficulties. In this environment, it is essential that questions about the allocation of tax revenues among jurisdictions be resolved promptly.

PARTIES

12. Petitioner San Diego County Office of Education ("SDCOE") is an agency of the State of California as created by the Legislature and defined in Division 1, Part 2 of the California Education Code and a public entity exercising governmental functions and powers. Among the powers granted to county educational agencies under California law are the powers to levy 55 percent vote ad valorem property taxes and special taxes. (Cal. Const., art. XIIIA, §§ 1, subd. (c) & 4.)

13. Petitioners San Diego Unified School District, San Marcos Unified School District, and Oceanside Unified School District are agencies of the State of California as defined in section 83 the California Education Code and public entities exercising governmental functions and powers. Among the powers granted to unified school districts by California law are the powers to levy 55 percent vote ad valorem property taxes and special taxes. (Cal. Const., art. XIIIA, §§ 1, subd. (c) & 4.)

14. Petitioners Sweetwater Union High School District and Escondido Union High School District are agencies of the State of California as defined in section 86 of the California Education Code and public entities exercising governmental functions and powers. Among the powers granted to union high school districts by California law are the powers to levy 55 percent vote ad valorem property taxes and special taxes. (Cal. Const., art. XIIIA, §§ 1, subd. (c) & 4.)

15. Petitioner South Bay Union School District is an agency of the State of California as defined in section 81 of the California Education Code and a public entity exercising governmental functions and powers. Among the powers granted to union school districts by California law are the powers to levy 55 percent vote ad valorem property taxes and special taxes. (Cal. Const., art. XIIIA, §§ 1, subd. (c) & 4.)

16. Petitioners Solana Beach School District, Chula Vista Elementary School

District, and Santee School District are agencies of the State of California as defined in Division 3, Part 21 of the California Education Code and public entities exercising governmental functions and powers. Among the powers granted to school districts by California law are the powers to levy 55 percent vote ad valorem property taxes and special taxes. (Cal. Const., art. XIIIA, §§ 1, subd. (c) & 4.)

17. Respondent County of San Diego ("San Diego County" or "County") is a legal subdivision of the State of California and a body corporate and politic exercising governmental powers under Government Code section 23000 et seq. Respondent San Diego County has the duty and responsibility to comply with the Constitution and laws of the State of California, including the duty to apportion property tax revenue among the various districts within the County as provided by law. (Cal. Const., art. XIIIA, § 1.)

18. Respondent Tracy Sandoval ("Auditor-Controller") is the Auditor-Controller for Respondent San Diego County and is sued herein in her official capacity. Among the Auditor-Controller's duties is the duty to serve as the chief accounting officer for San Diego County and to calculate and apportion property tax revenue, including the revenues diverted to the Redevelopment Property Tax Trust Fund, among the relevant jurisdictions within the County in accordance with the law.

19. Respondents Successor Agency to the Redevelopment Agency of the City of Chula Vista, Successor Agency to the Former El Cajon Redevelopment Agency, Imperial Beach Redevelopment Agency Successor Agency, The City of Lemon Grove Successor Agency, Successor Agency to the Community Development Commission as the National City Redevelopment Agency, Successor Agency of the City of Oceanside, City of San Diego Successor Agency, Successor Agency to the former San Marcos Redevelopment Agency, Santee Community Development Commission Successor Agency, Successor Agency of the Former Solana Beach Redevelopment Agency, and Successor Agency of the Vista Redevelopment Agency (collectively, "Successor Agencies" or "Successor Agency Respondents") are public bodies, corporate and politic, exercising the governmental functions and powers of a successor agency to a former redevelopment agency pursuant to

Health and Safety Code sections 34170 et seq. Respondent Successor Agencies are located within San Diego County and are responsible for the payment of the obligations of the former redevelopment agencies that maintained redevelopment projects within the boundaries of Petitioners. Respondent Successor Agencies have a duty to comply with the Constitution and laws of the State of California, including the duty, under Health and Safety Code sections 34171, 34813, 34183.5, and 34188 to place past-due pass-through payments that were supposed to have been paid by the former redevelopment agencies pursuant to Health and Safety Code sections 33607.5 and 33607.7 on their respective Recognized Obligations Payment Schedules in order to ensure that County Respondents will pay those past-due obligations as required by law.

20. Petitioners do not know the true names and capacities of the Respondents listed in the caption as DOES 1 through 10. Petitioners are informed and believe, and on that basis allege, that each DOE Respondent is in some way responsible for, participated in, or contributed to the wrongs of which Petitioners complain and has legal responsibility to comply with the mandates of Health and Safety Code sections 33607.5, 33607.7, 34171, 34183 and 34188.

21. Real Parties in Interest City of Chula Vista, City of Lemon Grove, City of San Diego, El Cajon City, Imperial Beach City, National City, City of Oceanside, City of San Marcos, City of Santee, City of Solana Beach, City of Vista, San Diego County (General Fund) (1001-00*), San Diego County Library (1220-00*), County Service Area No. 115 Pepper Drive (2915-00*), County Service Area No. 17 San Dieguito (2717-00*), County Service Area No. 69 Heartland Paramedics (2769-00*), Greater San Diego County Res. Conservation District Land (6210-00*), Grossmont Healthcare District (6150-00*), Gen. Elem. Cajon Valley Union (4112-01*), Gen. Elem. La Mesa-Spring Valley (4149-01*), Gen. Elem. Lemon Grove (4151-01*), Gen Elem National (4160-01*), Gen. Elem. San Ysidro (4188-01*), Gen. Elem. Santee (4187-01*), Grossmont Union High (4231-01*), Grossmont-Cuyamaca Community College (4430-0*), High San Dieguito Union (4255-01*), Mira Costa Community College (4450-01*), Palomar Community College (4440-01*), San Diego Community College (4455-01*), Southwestern

Community College (4460-01*), Unified Vista (4338-01*), North County Cemetery (3616-00*), Olivenhain Muni. Water District (6650-00*), Otay Water Imp. Dist. B - Water Service (6655-18*), Padre Dam Muni. Water Imp. Dist. C - D/S (6677-00*), Palomar Pomerado Health (6160-00*), Rincon Del Diablo Muni Water District (6675-00*), San Diego City Zoological Exhibits - D/S; San Diego County Flood Control District (2810-00*); San Diego County Water District; San Marcos Fire Protection District (6224-00*), San Miguel Consol. Fire Protection District (3128-00*), Sante Fe Irrigation (6363-00*), Solana Beach City - Solana Beach Muni. Imp. Dist. (6093-05*), Solana Beach Lighting District - Zone A (6093-07*), Tri City Hospital District Main (6180-00*), Vallecitos Water District (6570-00*); Vista Irrigation (6368-00*) (collectively, "Real Party Taxing Entities") are "affected taxing entities" under Health and Safety Code sections 33607.5 and 33607.7 whose receipt of statutory pass-through payments may be affected by the outcome of this proceeding. They include cities and special districts empowered by California law to levy taxes. As "affected taxing entities" who may have historically received and may receive in the future an improperly augmented share of statutory pass-through payments under the existing illegal calculations of Respondents San Diego County and its Auditor-Controller, Real Party Taxing Entities have an interest in the outcome of this proceeding.

22. Petitioners do not know the true names and capacities of the Real Parties in Interest listed in the caption as ROES 1 through 20. Petitioners are informed and believe, and on that basis allege, that each ROE Real Party in Interest may have received and may receive in the future an improperly augmented share of statutory pass-through payments under the existing illegal calculations of Respondents San Diego County and its Auditor-Controller, and thus may have an interest in the outcome of this proceeding.

GENERAL ALLEGATIONS

The Genesis of Redevelopment

23. Prior to the dissolution of redevelopment agencies ("RDAs") pursuant to Assembly Bill 1X 26 (("AB 1X26") chaptered as Stats. 2011, 1st Exec. Sess. 2011–2012, ch. 5), all growth in property tax revenues above the taxes assessed in the base year of a redevelopment project — commonly referred to as the "tax increment" — was diverted to

the redevelopment agency that sponsored the project pursuant to the Community Redevelopment Law. (See Stats.1963, ch. 1812 (codified as Health & Saf. Code, div. 24, § 33000 et seq.).) The stated purpose of the Community Redevelopment Law was to "protect and promote the sound development and redevelopment of blighted areas" through the expenditure of public funds and use of eminent domain authority. (Health & Saf. Code, § 33037, subds. (a) & (b).)

24. Although it did not give redevelopment agencies the power to levy taxes themselves, the Community Redevelopment Law did enable redevelopment agencies to fund their development projects and activities primarily through what is often termed tax increment financing. When a redevelopment project area was formed (based on a finding of blight), the property tax values on the tax roll at the time were treated as a property tax "base" for tax increment purposes. As development progressed, property values were expected to increase, and as they did, the portion of future property tax receipts exceeding the receipts from this "base" year were categorized as the "tax increment." This tax increment revenue was distributed to the RDA, while the remainder of the property tax receipts (the "base year" amount) continued to be distributed among the local taxing jurisdictions — known as affected taxing entities.

Background: School Funding, Proposition 98, and the LCFF

25. In 1988, 25 years after the passage of the Community Redevelopment Law, California voters passed Proposition 98, which guarantees a minimum level of state funding for California's public schools. The minimum guaranteed funding levels — counter-intuitively termed "revenue limits" — were set annually by the state pursuant to the terms of Proposition 98 for each public school and community college district.

26. In the decades following the adoption of Proposition 98, the funds used to meet a given public school district's revenue limit generally came from two sources. The revenue limit was first funded by a school district's share of local property taxes. Once local property taxes had been applied to the revenue limit, one of two situations existed: either the local property tax revenue was sufficient in itself to meet or exceed the school district's revenue

limit, in which case the state was not required to make any General Fund payments to the local school district in excess of its flat, per-student "basic aid" payment (*see* Cal. Const., art. IX, sec 6; Educ. Code, §§ 14002, 41790, 41800, 41975.); or, where the local property tax revenue is insufficient on its own to meet a school district's revenue limit, the state was required to "backfill" the amount necessary to reach the school's revenue limit through a contribution of state General Fund money.

27. In 2013, the Governor signed groundbreaking legislation to overhaul the complex rules governing the financing of schools in California, known as the Local Control Funding Formula ("LCFF"). In adopting the LCFF, the Legislature largely dissolved the complex web of layered categorical funding programs that had constrained the discretion of school administrators for over three decades, directed state funding to schools under three new "grants" (base, supplemental, and concentration), and delegated control over the spending of those funds back to the local districts that best understand the needs of their varied student populations. The sum total of the grants due to schools under the LCFF now serves the same function as the "revenue limit" under the original Proposition 98 regime described in the preceding paragraph: whenever local property tax revenues are insufficient to satisfy a local educational agency's projected total grant funding under the LCFF, the state is required to "backfill" the amount necessary to reach that agency's promised LCFF funding through a contribution from the state General Fund.

28. In addition to the funds received from local property tax revenue and state General Fund money, state law also permits school districts to raise funds by issuing bonds and by charging developer fees. However, in contrast to local property taxes and state general funds, which may be used by a school district to cover either facilities expenses (e.g., new school construction) or operational expenses (e.g., teacher salaries), bond proceeds and developer fees may be used only for facilities costs. In a similar vein, and again in contrast to funds from local property taxes, facilities funds raised through bond revenue and developer fees are not counted towards satisfaction of a local educational agency's projected funding under the LCFF.

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The 1990s Budget Crisis and the Creation of ERAF

29. In the early 1990s, California found itself in a financial crisis. The economy was in recession, property values were falling in many areas of the state, and state tax receipts were declining. Moreover, the relatively recent school funding obligations imposed by Proposition 98 had also placed a significant additional drain on the state General Fund. In order to balance the state budget under these trying circumstances, the California Legislature sought various ways to conserve state revenues.

30. One method of conserving state revenues eventually adopted by the Legislature focused on decreasing the state's school funding backfill obligations under Proposition 98. Specifically, in 1992 the Legislature enacted two bills, Senate Bill No. 617 (SB 617, chaptered as Stats. 1992, ch. 699) and Senate Bill No. 844 (SB 844, chaptered as Stats. 1992, ch. 700), that created accounting devices called Educational Revenue Augmentation Funds (ERAFs) in each county. ERAFs serve as mechanisms for the distribution of additional property taxes to school districts. The 1992 legislation required counties to allocate a percentage of property tax revenues that would have otherwise gone to themselves, to cities, and to special districts, to an ERAF instead; the legislation also required redevelopment agencies throughout the state to contribute during the 1992-1993 fiscal year an aggregate of $205 million to ERAFs.

31. In the first fiscal year after their passage (1992-1993), SB 617 and SB 844 shifted a total of approximately $1.4 billion in local property tax revenues to school districts and away from counties, cities, redevelopment agencies, and special districts. Because, in the aggregate, schools across the state had an additional $1.4 billion in local revenue available to apply against their collective revenue limits, the state's General Fund "backfill" liability to schools that year declined by the same $1.4 billion.

32. Although the Legislature had reduced the drain on the state General Fund by $1.4 billion, the budget situation had not improved much by 1993. In that year, the Legislature again enacted legislation to divert additional local property tax revenues into ERAFs — and correspondingly decrease the amount of state general funds needed to ensure

that schools receive their revenue limits. That legislation, Senate Bill No. 1135 (SB 1135, chaptered as Stats. 1993, ch. 68), required the shift of an additional, aggregate $2.6 billion from counties, cities, and special districts statewide to ERAFs.

33. In 1994, the Legislature adopted Assembly Bill 3347 (AB 3347, chaptered as Stats. 1994, ch.1167) to clarify and reorganize the statutes relating to the annual allocation of property tax revenues. AB 3347 reconciled property tax allocation laws with other recently passed or amended statutes, including the ERAF legislation and the redevelopment law. Notably, in this legislation, the Senate introduced what is now subdivision (b) of Revenue & Taxation Code section 97.4 directing county auditor-controllers to deposit into ERAF each year an amount equal to the amount ERAF would have received from the "tax increment" if that "tax increment" had not been diverted to redevelopment agencies. In other words, in addition to the basic property tax allocations set forth in the original ERAF legislation, ERAFs must receive each year a reimbursement of their share of property tax revenues that are otherwise diverted to redevelopment. Subdivision (b)(2) of section 97.4 directs auditor-controllers to deduct the amounts necessary to reimburse ERAF in this fashion from the basic property tax revenue allocations for the county, cities, and special districts within each relevant tax rate area.

34. In any given year, school and community college districts thus receive a share of local property tax revenue via three distinct statutory mandates: first, they receive the share of property taxes allocated directly to them according to their basic tax rate (i.e., their percentage share of the one percent general property tax levy); second, they receive property taxes allocated to them through the accounting vehicle of ERAF according to the basic tax rate for ERAFs; and, lastly, whenever incremental tax revenues have been diverted to redevelopment projects, schools receive — again via the ERAF vehicle — a reimbursement of the share of tax revenues they would have received had the tax increment not been diverted to redevelopment projects.

Problems with Redevelopment

35. At about the same time as it created ERAFs, the Legislature also decided to

take up reform of the Redevelopment Law. In areas without redevelopment projects, all local property tax revenues (including increased revenues as a result of development and reassessment) were available for distribution to school districts and other taxing entities. Where a local RDA had established redevelopment project areas, however, the RDA was entitled to receive the additional increment of tax revenues generated by new development. From the state's perspective, a significant effect of the redevelopment law was thus a reduction of the pot of local property tax money available to school districts, and a corresponding increase in the amount of state General Fund backfill payments that had to be made in order to satisfy the state's obligation under Proposition 98.

36. In addition to its drain on General Fund revenues, then-existing redevelopment law also raised other concerns among state policy makers. First, there was a widespread belief that RDAs were playing fast and loose with the definition of blight, pursuing projects in areas that were not truly blighted and where development would likely have occurred without redevelopment incentives. Second, then-existing redevelopment law permitted a taxing entity adversely affected by a redevelopment project, including schools, to negotiate an agreement with an RDA to share a portion of its tax increment. In the view of many, RDAs proponents used the lure of such agreements to buy off entities that had the legal or political means of challenging proposed redevelopment projects. The apparent widespread abuse of the redevelopment law was giving rise to a growing public outcry to terminate that authority in its entirety.

37. By 1992, the Legislature had already started to take action to ameliorate redevelopment's drain on the state General Fund. As previously noted, it had enacted SB 617 and SB 844, creating ERAFs and directing RDAs across the state to collectively pay $205 million in redevelopment funds in 1992-1993 to county ERAFs for distribution to school districts. (See Health & Saf. Code, § 33681.5 [repealed by own terms on Jan. 1, 2004].) A year later, in 1993 and about the same time that SB 1135 was requiring increased contributions to ERAFs from counties and cities, Governor Wilson proposed in his 1993-1994 budget that RDAs again be required to divert money into county ERAFs — but this

time in an increased aggregate sum of $380 million. The Legislature ultimately decided to divert an additional total of $130 million, in the form of two $65 million diversions over the course of two fiscal years. (See Health & Saf. Code, § 33681.5 [inoperative and repealed by own terms on Jan. 1, 2004].)

A New Deal: AB 1290

38. To put an end to the abuses of the redevelopment authority, the Legislature enacted the Community Redevelopment Law Reform Act of 1993 (Stats. 1993, ch. 942), commonly known as AB 1290, which instituted a fixed statutory formula for RDA pass-through payments to taxing entities, tightened the definition of blight and thereby prevented clearly unwarranted redevelopment projects, and provided some relief to the state General Fund by regularizing pass-throughs to schools that in turn reduce the state's Proposition 98 backfill obligations. AB 1290, which became effective on January 1, 1994, was followed by two "clean-up" statutes that made technical and clarifying changes to the major reforms enacted by AB 1290. (See Stats. 1994, ch. 936 (enacting Senate Bill No. 732); Stats. 1995, ch. 141 (enacting Assembly Bill No. 1424).)

39. As codified in various sections of the Health and Safety Code, AB 1290 and its clean-up statutes eliminated the authority of RDAs and taxing entities individually to negotiate the much-criticized tax-increment-sharing agreements. Instead, AB 1290 created a fixed statutory formula to determine the total amount of RDA pass-through payments and a common-sense rule specifying the manner in which the pass-through amounts should be allocated among the affected taxing entities slated to receive them.

40. Specifically, for RDA projects adopted after January 1, 1994, Health and Safety Code section 33607.5 commands RDAs to make pass-through payments according to a three-tier schedule. In tier one, section 33607.5 provides that an RDA must pass through to "affected taxing entities" 25 percent of its net tax increment (after having made a contribution to the Low and Moderate Income Housing Fund) from the first year the RDA receives tax increment revenue until the last year it receives such revenue. In tier two of the schedule, which is triggered in the eleventh year an RDA receives tax increment, section

33607.5 requires an RDA to pass through — in addition to the 25 percent already being paid in tier one — 21 percent of any growth in net tax increment receipts from that year until the last year tax increment money is received. Then, in tier three, triggered in the thirty-first year, an RDA is required to pass through — in addition to the 25 percent and 21 percent in tiers one and two — a further 14 percent of any growth in net tax increment receipts from that year until the last year the RDA receives tax increment funds.

41. With regard to how the total pool of pass-through money must be allocated among local taxing entities — the issue presented by this Petition — AB 1290 adopts the following rule:

> The payments made pursuant to this section to the affected taxing entities, . . . , *shall be allocated among the affected taxing entities*, . . . , *in proportion to the percentage share of property taxes each affected taxing entity*, . . . , *receives* during the fiscal year the funds are allocated. (Health & Saf. Code, § 33607.5, subd. (a)(2) [emphasis added].)

Thus, the total amount of pass-through revenue in any given year is allocated among and distributed to "affected taxing entities . . . in proportion to the percentage share of property taxes" each receives.

42. In general, the passage of AB 1290 did not disturb the then-existing pass-through agreements between RDAs and taxing entities. The pass-through requirements of section 33607.5 do, however, apply to any tax increment generated from newly established RDA plans and from the geographical expansion of any RDA plans adopted prior to January 1, 1994. Also, for certain RDA plans adopted before January 1, 1994, and not subject to pre-existing tax increment sharing agreements, Health and Safety Code section 33607.7 applies the same fixed pass-through schedule and allocation rule found in section 33607.5.

43. In addition, AB 1290 and its successor clean-up statutes made several changes to specifically deal with the treatment of pass-through payments to school districts. Health and Safety Code section 33607.5 provides that 56.7 percent of the pass-through payments to K-12 schools must be used solely for facilities expenses, while the remaining 43.3 percent must be used for operating expenses. AB 1290 also made corresponding changes to the Education Code to provide that the 56.7 percent "facilities" share does not count against a

school district's Proposition 98 revenue limit. The 43.3 percent of pass-through payments for operations, however, is deemed property taxes by the Education Code and does count against a school district's revenue limit and thereby reduces the state's General Fund backfill obligations.

44. Finally, in response to other concerns with redevelopment law, AB 1290 and the two later clean-up statutes also tightened the definition of blight (a finding of which must be made before redevelopment efforts can commence) and imposed more stringent reporting requirements on RDAs.

Changes Affecting ERAFs from the 2003-2004 Legislative Session

45. Prompted by the state's renewed financial difficulties and local governments' related complaint that the state had become too reliant on taking local property tax revenues to balance the state budget, the California Legislature again changed the laws concerning ERAFs during the 2003-2004 legislative session. These changes illuminate the Legislature's understanding of, and intent regarding, the interaction of the statutes regulating ERAFs and the AB 1290 pass-through payment framework.

46. The first change occurred as the result of Governor Schwarzenegger's effort to restore state financial stability through an initiative proposal for a deficit bond issue, denominated Proposition 57, which the voters approved in March of 2004. The text of this initiative called for financing of the deficit bonds through a mechanism referred to as the "triple flip" — a shorthand evocation of the three-step process by which the financing would be arranged. Briefly summarized, the three-step process involved the imposition of a 0.25 percentage point hike in the state sales tax to pay the interest on the deficit bonds, a corresponding 0.25 percentage point reduction in the maximum local sales and use tax rate (so that consumers would see no increase in the overall sales tax rate), and a diversion of property tax revenue from ERAFs to local governments in amounts equal to the estimated sales tax revenue lost from the 0.25 percentage point reduction in the local sales tax rate.

47. Assembly Bill 1766 (AB 1766, chaptered as Stats. 2003, ch. 162) was enacted to effect the third step of the triple flip, that is, the replenishment of lost local sales tax

revenue by a diversion of property tax revenues that would otherwise be allocated to ERAFs. As codified at section 97.68 of the Revenue and Taxation Code, AB 1766 provides that "the total amount of ad valorem property tax revenue otherwise required to be allocated to a county's [ERAF]" should be reduced by an amount equal to the loss of sales tax revenue that a particular county, and the cities within that county, had suffered as the result of the triple flip.

48. The Legislature changed the laws governing ERAFs a second time during the 2003-2004 session in connection with a broad revision of the law governing state Vehicle License Fee ("VLF") revenues, portions of which the state had traditionally remitted to local governments. Governor Schwarzenegger, as part of the deal struck with local governments regarding the state-local fiscal relationship, agreed to reform the VLF law in a way commonly referred to as the "VLF swap." Simplified for present purposes, the VLF swap reduced state VLF revenue payments to local governments (i.e., cities and counties) in exchange for additional local property tax payments — to be diverted from ERAFs — in an amount equal to the proposed VLF payment reduction.

49. The VLF swap was enacted as part of Senate Bill 1096 (SB 1096, chaptered as Stats. 2004, ch. 211). To effect the second step of the VLF swap (the increase in property tax revenues to local governments), SB 1096 added section 97.70 to the Revenue and Taxation Code. As presently codified, section 97.70 gives additional property tax revenue to local governments and special districts in an amount equal to "the countywide vehicle license fee adjustment amount," defined to be roughly the amount of VLF revenues lost as the result of the first step of the VLF swap.

50. It was clear that the operation of the "triple flip" and the "VLF swap," as set forth respectively in Revenue and Taxation Code sections 97.68 and 97.70, would significantly reduce the amount of property tax dollars going to schools via ERAFs. Section 97.68 diverts from ERAF a portion of the property tax revenues, which had previously been going to schools, to pay deficit bond principal and interest; section 97.70 diverts a further portion of the revenues from ERAFs to compensate local governments for the loss of VLF

revenues. But what perhaps was not clear at the time of the addition of sections 97.68 and 97.70 was the effect that the reduction of revenues in ERAFs would have on the amount of RDA pass-through payments that school districts would receive.

51. While Proposition 98 guaranteed that school districts would receive state general funds to fully compensate them for any reduction in property tax revenues they had been receiving through ERAFs, this compensatory infusion of state general funds was obviously not comprised of *property tax revenues*. Thus, under the pass-through allocation rule established by AB 1290 (based on the proportion of each entity's share of property taxes received), the reduction in property tax revenues going to schools through ERAFs due to sections 97.68 and 97.70 substantially diminished the schools' property tax share — and, accordingly, the schools' share of redevelopment pass-through payments.

52. Shortly after the enactment of section 97.70, the Legislature took action to eliminate the harmful (and unintended) impact that sections 97.68 and 97.70 would have on the magnitude of property tax revenue schools would receive in the form of RDA pass-through payments. In Assembly Bill 2115 (AB 2115, chaptered as Stats. 2004, ch. 610), a clean-up bill for SB 1096 (the bill that added section 97.70 to the Revenue and Taxation Code), the Legislature amended Health and Safety Code section 33607.5 to provide that school districts' percentage share of property taxes should be calculated as if the changes in law made by sections 97.68 and 97.70 (giving to counties and cities property tax revenue that had been going to schools) had never occurred:

> The payments made pursuant to this section to the affected taxing entities, including the community, shall be allocated among the affected taxing entities, including the community if the community elects to receive payments, in proportion to the percentage share of property taxes each affected taxing entity, including the community, receives during the fiscal year the funds are allocated, *which percentage share shall be determined without regard to any amounts allocated to a city, a city and county, or a county pursuant to Sections 97.68 and 97.70 of the Revenue and Taxation Code*, and without regard to any allocation reductions to a city, a city and county, a county, a special district, or a redevelopment agency pursuant to Sections 97.71, 97.72, and 97.73 of the Revenue and Taxation Code and Section 33681.12. (Health & Saf. Code, § 33607.5, as amended by Stats. 2004, ch. 610, § 3 [emphasis added].)

53. By taking action to preserve the magnitude of AB 1290 pass-through payments

in the manner outlined in the preceding paragraphs, the Legislature unambiguously confirmed its understanding that ERAF funds are "property taxes" that are "received," for the purpose of section 33607.5, by schools. Indeed, the amendments to section 33607.5 made by AB 2115 make no sense and serve no purpose if ERAF funds are not so construed. Stated in the inverse, because sections 97.68 and 97.70 of the Revenue and Taxation Code reduce the size of ERAF, those statutes cannot affect the percentage allocations under Health and Safety Code section 33607.5 *unless* ERAF funds are included in the appropriate share of property taxes received by affected taxing entities; thus, the amendments made to Health and Safety Code section 33607.5 by AB 2115 — mandating that sections 97.68 and 97.70 of the Revenue and Taxation Code be ignored — *presume* that ERAF funds are properly attributed to schools for the purpose of calculating pass-through shares.

54. In *Los Angeles Unified School District v. County of Los Angeles* (2010) 181 Cal.App.4th 414, the court of appeal definitively addressed whether property taxes that schools receive via the ERAF shift are indeed property taxes "received" by schools for the purposes of calculating and paying pass-through payments under AB 1290. The Court of Appeal squarely held that the County Respondents and former RDAs' practice of ignoring the property taxes shifted to ERAFs for the purposes of calculating AB 1290 pass-through payments was contrary to law, explaining that "any property tax revenue deemed allocated to ERAFs . . . necessarily qualifies as property tax revenue to the school that received it." (*Id.*, 181 Cal.App.4th at pp. 425-427.)

55. Including the property taxes that Petitioner receives each year via ERAF in the calculation of pass-through shares, however, does not complete the operation that Health and Safety Code section 33607.5 plainly requires. Health and Safety Code section 33607.5, subdivision (a)(2) further specifies that pass-through payments must be calculated "in proportion to the percentage share of property taxes each affected taxing entity . . . receives," but "***without regard to*** *any amounts allocated to a city, a city and county, or a county pursuant to Sections 97.68 and 97.70 of the Revenue and Taxation Code*." (Emphasis added.) To properly apportion pass-through payments, therefore, Respondents must calculate

each taxing entity's share of property taxes, disregarding the changes in law made by sections 97.68 and 97.70 of the Revenue and Taxation Code, i.e., schools must be credited with the receipt of the property taxes they *would have received* via ERAF in the absence of sections 97.68 and 97.70. After issuance of the original LAUSD Decision in 2010, the County of Los Angeles and select successor agencies attempted to diminish the amounts owed to schools by refusing to comply with this clear directive. The Court of Appeal ultimately rejected these attempts affirming that any property tax revenues diverted from the ERAF by the Triple Flip or VLF Swap legislation must be counted as property taxes received by schools for the purpose of AB 1290 pass-through payments. (*Los Angeles Unified School District v. County of Los Angeles* (2013) 217 Cal.App.4th 597, *review denied* (Oct. 2, 2013).)

Dissolution of Redevelopment Agencies

56. On December 29, 2011, the California Supreme Court filed its decision in *California Redevelopment Association v. Matosantos* (2011) 54 Cal.4th 231, upholding the constitutionality of Assembly Bill 1X26 ("AB 1X26"), a statute that prospectively terminated the authority of all redevelopment agencies in California to incur new contractual indebtedness and established "successor agencies" to replace those agencies and service their legal, statutory, and contractual liabilities on an ongoing basis. The Supreme Court also modified certain statutory deadlines to allow for the orderly implementation of AB 1X26. Pursuant to AB 1X26, all of the state's redevelopment agencies nominally ceased to exist on February 1, 2012, and their assets and liabilities passed to successor agencies that are now tasked with winding down the former redevelopment agencies' affairs. AB IX26 *expressly mandates*, however, that affected taxing entities will continue to receive statutory pass-through payments pursuant to Health and Safety Code sections 33607.5 and 33607.7 each fiscal year throughout the period that successor agencies are also paying off the former redevelopment agencies other contractual, legal, and statutory indebtedness. (Health & Saf. Code, § 34183, subd. (a)(1).)

57. Pursuant to AB 1X26, the County Respondents are responsible for calculating the ongoing pass-through payments that are required to be paid to affected taxing entities

pursuant to Health and Safety Code sections 33607.5 and 33607.7, and also with remitting those pass-through payments directly to the appropriate agencies each fiscal year on an ongoing basis. (Health & Saf. Code, §§ 34183 & 34188.)

58. AB 1X26 specifically provides that, for each former redevelopment agency, the successor agency shall automatically be the sponsoring community of the redevelopment agency (i.e., the city or county that sponsored the creation of the redevelopment agency), unless the sponsoring community affirmatively elects not to serve as a successor agency. (Health & Saf. Code, § 34173, subd. (d)(1).) The successor agencies named as Respondents in this Petition are the successor agencies to the former Chula Vista, El Cajon, Imperial Beach, Lemon Grove, National City, Oceanside, San Diego, San Marcos, Santee, Solana Beach, and Vista redevelopment agencies.

59. AB 1X26 further provides that successor agencies to former RDAs are bound by statute to "[p]erform obligations required pursuant to any enforceable obligation" of the former RDAs in the course of winding down their affairs. (Health & Saf. Code, § 34177, subd. (c).) Among such enforceable obligations are "preexisting obligations to the state or obligations imposed by state law." (*Id.*, § 34171, subd. (d)(1)(c).) And AB 1X26 explicitly states that statutory pass-through obligations incurred *before* the dissolution of the state's RDAs continue as "obligations of the successor entities." (*Id.*, § 34183, subd. (a)(1).)

60. In calculating annual pass-through payments due to affected taxing entities pursuant to sections 33607.5 and 33607.7, the County Respondents now appear to have historically calculated pass-through entitlements pursuant to calculations that impermissibly exclude the property taxes received by schools via the ERAF. Pursuant to those miscalculations, in the years before dissolution, the former redevelopment agencies appear to have then made improperly diminished pass-through payments to schools and improperly inflated payments to non-school taxing entities. The former redevelopment agencies or their successor agencies were required to make correct pass-through payments through the first half of fiscal year 2011-12 — i.e., payments in conformity with the rule of law announced in the LAUSD decision — and the County Respondents are required to make up for any

shortfall in the payment due in that fiscal year on an ongoing basis. In all subsequent fiscal years, it has been the County Respondents' duty to make correct pass-through payments.

AB 1484

61. In 2012, the Legislature adopted additional provisions of law governing the dissolution of redevelopment through Assembly Bill 1484 (2011-2012 Reg. Sess.) ("AB 1484"). Among other things, AB 1484 enacted Health and Safety Code section 34183.5 in order to remedy "disruption to the application of [the dissolution laws] and other law with respect to passthrough payments" as a result of the delays caused by legal challenges to the dissolution laws. (Health & Saf. Code, § 34183.5, subd. (a).) Section 34183.5 requires county auditor-controllers to make payments to taxing entities of any shortfalls in the amounts owed by a former redevelopment agency or successor agency for the 2011-12 fiscal year. Further, if "the amount available property tax allocation [*sic*] to a successor agency is not sufficient to make the required payment[s], the county auditor-controller shall continue to reduce allocations to the successor agency . . . until the time that the owed amount is fully paid." (*Id*.)

62. As noted above, on April 28, 2010, the courts of California definitively affirmed that pass-through payments must be apportioned among ATEs in a manner that credits LEAs with the receipt of property taxes shifted to them from the accounts of non-school taxing entities via the ERAF. (*Los Angeles Unified School District v. County of Los Angeles* (2010) 181 Cal.App.4th 414, *rehearing denied* (Feb. 23, 2010), *review denied* (Apr. 28, 2010).) Despite this unambiguous judicial guidance, the County Respondents and Successor Agency Respondents did not alter their conduct in 2010 and did not begin calculate or make the correct pass-through payments required by law.

63. To the contrary, over *four years later*, on or about September 15, 2014, the Property Tax Services Division of the San Diego County Auditor-Controller issued a statement to local educational agencies in San Diego County to the following effect:

> "As the pre-dissolution litigation *Los Angeles Unified School District v. County of Los Angeles et al.* became final late last year [*sic*], we will be implementing the Court's ruling starting October 1, 2014. At a very basic

> level, the Court ruled that the Educational Revenue Augmentation Fund (ERAF) must be included in the calculation of the percentage share of property taxes. The percentage share of property taxes will be adjusted to include ERAF for statutory pass-through payments and residual/other money distributions."

64. Though less than forthcoming, the implication of the 2014 statement described in the preceding paragraph is that the County Respondents had not been following the law as written and as definitely interpreted by courts of California in 2010 in any prior fiscal year. In advance of the County Respondents' 2014 statement, Petitioners had no knowledge and no reason to suspect that the County Respondents had not been following the laws governing the calculation of AB 1290 pass-through payments in any fiscal year after the issuance of the final LAUSD Decision in 2010.

65. Once the San Diego County Auditor-Controller became responsible for making pass-through payments upon RDA dissolution on Feb. 1, 2012, County Respondents paid pass-through payments in the same manner as property taxes (i.e., via electronic funds transfer), but on the dates designated in Heath and Safety Code 34183(a)(1) as amended by AB 1484 (i.e., on June 1, 2012 and Jan. 2, 2013 and every June 1 and Jan. 2 thereafter). For at least the first two pass-through distributions, County Respondents notified all ATEs via e-mail, either directly to all ATEs, or indirectly to Petitioners through the County Office of Education, that pass-throughs (and other RDA revenues required by HEATH AND SAFETY CODE 34183(a)(1)) had been made. These notification only presented the ATEs with a summary notation of the pass-through amounts categorized by type of payment and by RDA Project as shown in an attached summary report.

66. Those summary reports provided to ATEs, directly or indirectly, by County Respondents only included an indication of the total amounts paid. They did not include any information showing how those amounts were calculated, nor any of the subject data used to calculate the amounts paid. In the absence of data used to calculate the amounts, even an expert in forensic analysis of pass-through payments would not have been able to discern whether pass-through amounts were correct of not, including specifically whether such amounts included ERAF's share of pass-through payments as required by law.

67. On information and belief, at no time prior to Sept. 15, 2014 did County Respondents

advise Petitioners that pass-through payments to Petitioners made by the County Respondents did not include the share of pass-through payments associated with Respondents' receipt of property taxes via the ERAF as required by law. At no time prior to the County's September 15, 2014 statement did Petitioners have any knowledge or reason to suspect that the County Respondents had not been following the laws governing the calculation of AB 1290 pass-through payments in any fiscal year after the issuance of the final LAUSD Decision in 2010.

68. The San Diego Auditor-Controller first purported to revise its calculations of pass-through payments to conform with the rule of law announced in the 2010 LAUSD decision in connection with distributions due to be made on January 1, 2015 for fiscal year 2014-2015. The County Respondents have made no payments to Petitioners to account for underpayment of pass-through due in any prior fiscal year. Nor, specifically, have the County Respondents fulfilled their independent statutory obligation to make full payment of pass-through amounts owed from the 2011-2012 fiscal year.

69. On information an belief, the revised calculations currently used by the County Respondents still do not fully comply with the laws governing redevelopment pass-through payments and the rule of law announced in the LAUSD Decision.

70. Since the dissolution of redevelopment, auditor-controllers in other California counties have followed the plain mandate of AB 1290, and the binding decisions of the judicial branch, to apportion pass-through payments according to the percentage share of property taxes received by affected taxing entities, including the property taxes received via the ERAF. Despite the clarity of this law, its legislative history, and the binding judicial decisions interpreting both, Respondents San Diego County and its Auditor-Controller defied the clear intentions of the Legislature and diverted to themselves and other non-school taxing entities an illegally inflated share of redevelopment pass-through payments. Respondents' defiance of the law has deprived Petitioners and other school entities within San Diego county of their full share of property tax revenues.

FIRST CAUSE OF ACTION

(Against All Respondents: Failure to Include Property Taxes Distributed Through ERAF When Calculating the Share of Property Taxes Petitioner Receives)

(Writ of Mandate, Code Civ. Proc., §§ 1085, 1095)

71. Petitioners re-allege and incorporate the allegations of paragraphs 1 through 70 above.

72. Respondents have a clear, present, and ministerial duty to include property tax revenues paid to Petitioners through ERAFs when calculating the share of property taxes that Petitioners respectively receive, as provided by Health and Safety Code sections 33607.5, 33607.7, 34171, 34183, 34183.5 and 34188. Respondents have breached that duty, and have failed to pay Petitioners pass-through payments in the amounts required by law.

73. All counties in California, including Respondent San Diego County, are given the responsibility to collect all local property tax revenues and then apportion those revenues to themselves and to all taxing entities in their jurisdiction as provided by law. (Cal. Const., art. XIII A, § 1.) The law also requires counties like Respondent San Diego County to apportion some of those property tax revenues to ERAFs, which revenues are then allocated to LEAs. School districts thus receive property tax revenues primarily through two routes: (1) directly from a county auditor to school districts; and (2) from a county auditor through an ERAF to school districts.

74. Health and Safety Code section 33607.5, subdivision (a)(2), requires that pass-through payments be made to taxing entities "in proportion to the percentage share of property taxes each affected taxing entity . . . receives," but "without regard to any amounts allocated to a city, a city and county, or a county pursuant to Sections 97.68 and 97.70 of the Revenue and Taxation Code." To apportion pass-through payments, therefore, Respondents must first calculate each taxing entity's share of property taxes, disregarding the changes in law made by sections 97.68 and 97.70 of the Revenue and Taxation Code.

75. However, Respondents, in calculating pass-through payments to Petitioners and other public schools in San Diego County, have excluded the property tax revenues distributed to schools through ERAFs when calculating the share of property taxes the

schools receive. Not only did Respondents impermissibly exclude ERAF disbursements from Petitioner's shares, Respondents attributed those disbursements to Respondent San Diego County and to Real Party taxing entities, thereby improperly reducing the pass-through payments to public schools and improperly increasing the pass-through payments to Respondent San Diego County and other non-school taxing entities.

76. The County Respondents' improper calculations have resulted in diminished pass-through payments to Petitioners, while payments made to San Diego County itself (and to the various Real Party cities and special districts within San Diego County) have been improperly inflated.

77. Pursuant to Health and Safety Code sections 33607.5, 33607.7, 34171 and 34183, the Successor Agency Respondents are required to effect or facilitate the payment of any historical shortfall in pass-through payments due to Petitioners.

78. For all pass-through payments due following the dissolution of redevelopment, the County Respondents are liable for, and required to make payment of, any shortfall in pass-through payments due to Petitioners.

79. Because the County Respondents miscalculated pass-through liabilities in defiance of unambiguous judicial guidance, and misallocated an illegally inflated share of pass-through payments from the RPTTF to themselves and other non-school ATEs, they must be ordered to disgorge their ill-gotten gains, and must be ordered to make up any remaining shortfall in pass-through payments owed to Petitioners.

80. On information and belief, at no time prior to Sept. 15, 2014 did County Respondents advise Petitioners that pass-through payments to Petitioners made by the County Respondents did not include the share of pass-through payments associated with Respondents' receipt of property taxes via the ERAF as required by law. At no time prior to September 15, 2014 did Petitioners have any knowledge or reason to suspect that the County Respondents had not been following the laws governing the calculation of AB 1290 pass-through payments in any fiscal year after the issuance of the final LAUSD Decision in 2010. Accordingly, any statute of limitations applicable to this cause of action has been tolled.

81. All past due sums at issue in this case are subject to pre-judgment interest at the constitutional rate of seven percent per annum.

82. Petitioner has a direct and beneficial interest in the performance by Respondents of their legal duty.

83. Petitioner lacks a plain, speedy, or adequate remedy in the ordinary course of law other than the relief sought in this Petition.

84. If not otherwise directed by this Court's issuance of a peremptory writ of mandate, Respondents will continue to violate their ministerial duties described above and will continue to refuse to provide Petitioner with its fair share of local property tax revenue as required by law. Issuance of the requested writ of mandate is therefore necessary under state law in order to prevent the error and neglect of duty that has occurred in Respondents' failure to comply with the requirements of the California Constitution and the Health and Safety Code.

SECOND CAUSE OF ACTION

(Against County Respondents: Failure to Make Full Payments of Amount Owed Pursuant to Health and Safety Code § 34183.5)

(Writ of Mandate, Code Civ. Proc., §§ 1085, 1095)

85. Petitioners re-allege and incorporate the allegations of paragraphs 1 through 83 above.

86. Pursuant to Health and Safety Code sections 33607.5, 33607.7, 34171, 34183, and 34183.5, the County Respondents are under a continuing obligation to make payment to Petitioners of any historical shortfall in pass-through payments due to Petitioners from fiscal year 2011-1012.

87. Because the County Respondents miscalculated pass-through liabilities in defiance of unambiguous judicial guidance, and misallocated an illegally inflated share of pass-through payments from the RPTTF to themselves and other non-school ATEs, they must be ordered to disgorge their ill-gotten gains, and must be ordered to make up any remaining shortfall in pass-through payments owed to Petitioners.

88. On information and belief, at no time prior to Sept. 15, 2014 did County Respondents advise Petitioners that pass-through payments to Petitioners made by the County Respondents did not include the share of pass-through payments associated with Respondents' receipt of property taxes via the ERAF as required by law. At no time prior to September 15, 2014 did Petitioners have any knowledge or reason to suspect that the County Respondents had not been following the laws governing the calculation of AB 1290 pass-through payments in any fiscal year after the issuance of the final LAUSD Decision in 2010. Accordingly, any statute of limitations applicable to this cause of action has been tolled.

89. All past due sums referenced in the preceding paragraphs are subject to pre-judgment interest at the constitutional rate of seven percent per annum.

90. Petitioner has a direct and beneficial interest in the performance by Respondents of their legal duty.

91. Petitioner lacks a plain, speedy, or adequate remedy in the ordinary course of law other than the relief sought in this Petition.

92. If not otherwise directed by this Court's issuance of a peremptory writ of mandate, Respondents will continue to violate their ministerial duty as described above and will continue to refuse to provide Petitioner with its fair share of local property tax revenue as required by law. Issuance of the requested writ of mandate is therefore necessary under state law in order to prevent the error and neglect of duty that has occurred in Respondents' failure to comply with the requirements of the California Constitution and the Health and Safety Code.

PRAYER FOR RELIEF

WHEREFORE Petitioners pray that this Court issue its alternative and peremptory writs of mandamus:

A. Commanding all Respondents to include the revenues paid to Petitioners through ERAFs when calculating the share of property tax revenues that Petitioners receive

for the purpose of implementing Health and Safety Code sections 33607.5, 33607.7, 34171, 34183, 34183.5 and 34188, enjoining them from doing otherwise, and declaring their practices to the contrary to be unlawful.

B. Commanding Respondent San Diego County immediately to remit to Petitioners the respective amounts of pass-through payments due but wrongfully withheld from June 30, 2011, to the date of this Verified Writ Petition as damages sustained due to the acts herein alleged.

C. Commanding Respondent Successor Agencies immediately to remit to Petitioners the respective amounts of pass-through payments due but wrongfully withheld from June 30, 2011, to the date of this Verified Writ Petition as damages sustained due to the acts herein alleged.

D. Granting Petitioners their costs of suit, including reasonable attorneys' fees.

E. Granting Petitioners attorneys' fees pursuant to Code of Civil Procedure section 1021.5 or other provision of law.

F. Granting Petitioners such other or additional relief as the Court deems just and proper.

Dated: May 31, 2017

STRUMWASSER & WOOCHER LLP
Gregory G. Luke
Dale K. Larson

By _____
Gregory G. Luke

Attorneys for Petitioners San Diego County Office of Education, San Diego Unified School District, Sweetwater Union High School District, Solana Beach School District, South Bay Union School District, Escondido Union High School District, San Marcos Unified School District, Oceanside Unified School District, Chula Vista Elementary School District, and Santee School District

VERIFICATION

I, Lora Duzyk, declare:

I am the Assistant Superintendent, Business Services, for the San Diego County Office of Education. I am authorized to make this verification for Petitioner.

I have read the foregoing Petition for Writ of Mandate and know the contents thereof. Said contents are known to me to be true except those matters alleged on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 31st day of May, 2017, at San Diego, California.

Lora Duzyk

VERIFICATION

I, Candi Lukat, declare:

I am the Controller for the San Diego Unified School District. I am authorized to make this verification for Petitioner.

I have read the foregoing Petition for Writ of Mandate and know the contents thereof. Said contents are known to me to be true except those matters alleged on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 30 day of May, 2017, at San Diego, California.

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Candi Lukat

VERIFICATION

I, Karen Michel, declare:

I am the Chief Financial Officer for the Sweetwater Union High School District. I am authorized to make this verification for Petitioner.

I have read the foregoing Petition for Writ of Mandate and know the contents thereof. Said contents are known to me to be true except those matters alleged on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 31 day of May, 2017, at Chula Vista, California.

Karen Michel

VERIFICATION

I, Lisa Davis, declare:

I am the Assistant Superintendent of Business Services of the Solana Beach School District. I am authorized to make this verification for Petitioner.

I have read the foregoing Petition for Writ of Mandate and know the contents thereof. Said contents are known to me to be true except those matters alleged on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 31 day of May, 2017, at Solana Beach, California.

Lisa Davis

VERIFICATION

I, Abdollah Saadat, declare:

I am the Assistant Superintendent, Business Services, for the South Bay Union School District. I am authorized to make this verification for Petitioner.

I have read the foregoing Petition for Writ of Mandate and know the contents thereof. Said contents are known to me to be true except those matters alleged on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 30th day of May, 2017, at Imperial Beach, California.

Abdollah Saadat

VERIFICATION

I, Michael Simonson, declare:

I am the Assistant Superintendent, Business Services of the Escondido Union High School District. I am authorized to make this verification for Petitioner.

I have read the foregoing Petition for Writ of Mandate and know the contents thereof. Said contents are known to me to be true except those matters alleged on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 31 day of May, 2017, at Escondido, California.

Michael Simonson

VERIFICATION

I, Mark Schiel, declare:

I am the Assistant Superintendent, Business Services, for the San Marcos Unified School District. I am authorized to make this verification for Petitioner.

I have read the foregoing Petition for Writ of Mandate and know the contents thereof. Said contents are known to me to be true except those matters alleged on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 31 day of May, 2017, at San Diego, California.

Mark Schiel

VERIFICATION

I, Christopher Wright, declare:

I am the Associate Superintendent, Business Services, for the Oceanside Unified School District. I am authorized to make this verification for Petitioner.

I have read the foregoing Petition for Writ of Mandate and know the contents thereof. Said contents are known to me to be true except those matters alleged on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 30th day of May, 2017, at Oceanside, California.

Christopher Wright

VERIFICATION

I, Oscar Esquivel, declare:

I am the Assistant Superintendent of Business Services and Support for the Chula Vista Elementary School District. I am authorized to make this verification for Petitioner.

I have read the foregoing Petition for Writ of Mandate and know the contents thereof. Said contents are known to me to be true except those matters alleged on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 30 day of May, 2017, at Chula Vista, California.

Oscar Esquivel

Oscar Esquivel

VERIFICATION

I, Karl Christensen, declare:

I am the Assistant Superintendent, Business Services, for the Santee School District. I am authorized to make this verification for Petitioner.

I have read the foregoing Petition for Writ of Mandate and know the contents thereof. Said contents are known to me to be true except those matters alleged on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 31st day of May, 2017, at SANTEE, California.

Karl Christensen