

AUDITOR-CONTROLLER/ TREASURER-TAX COLLECTOR



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May 27, 2015

To All Agencies Putting Direct Charges on the Property Tax Roll

Subject: **Direct Charges 2015/2016**

If your district is planning to place special/direct parcel assessments/special tax on the property tax roll, attached are forms, resolutions, and data requirements needed from your agency:

Attachment A: Special Assessment/Tax Control Sheet

Attachment B: Authority to Approve Special Assessment/Tax Charges

Attachment C: Compliance Certification and Hold Harmless Statement

Attachment D: Parcel Listing and charge amounts - The parcel listing must be sorted in numerical order. The charge amounts must be over \$10.00 and divisible by two. Parcel counts over 1,000 must be submitted electronically, see Attachment F.

Attachment E: District Resolution(s) - The annual resolution(s) must state the charge(s) are in compliance with California Code, that they are without regard to property valuation, and the authority (code section) allowing placement of the charge on the tax roll for collection.

Attachment F: Electronic Submission Requirements – Any agency may submit electronically, but parcel counts over 1,000 must be submitted electronically.

Please remit these items by **August 10, 2015** as required by your agreement and/or Government Code Section 26911, Health and Safety Code Sections 5474.4, and 101330. Earlier submission is encouraged.

General Information

Agreement

All **new** agencies applying assessments for the **first time** must have a one-time agreement between the County and your agency that must be approved by the Board of Supervisors. Contact this office if you need an example of this agreement. This is in addition to the annual resolution (Attachment E)

Deletions and Corrections

If your agency determines that an assessment is incorrect or must be removed, this office can correct or delete the assessment before the Secured Tax Roll is extended (generally around September 1.) A new Control Sheet must also be submitted, reflecting these changes. If you submit electronically, a new file of all assessments will need to be submitted. No fees will be charged at this time.

However, if changes are requested **after** the extension, a **fee** of \$25.00 will be charged. All changes at this time must be submitted in writing and received prior to February 15th. Your agency may pay the fee or collect it from the parcel owner. The change requested will not be completed by this office until receipt of payment.

Cancellation of Tax Bills Less Than \$10.00

If a tax bill's amount for the total of ad valorem taxes and direct charges is less than \$10.00, and the tax bill becomes delinquent, the County may cancel these tax bills under the provisions of Revenue and Taxation Code Section 2611.4. This is why this office requires all direct charges to be over \$10.00.

Assessments on Federal, State, Local, or Utility Parcels

A majority of these parcels do not receive a property tax bill from Tulare County and, as a result, they **cannot** be charged a special assessment through the Secured Property Tax Roll. Your agency may bill these parcels directly, if necessary.

Manufactured Home Parcels

As stated in Article XIII A, Section 4 of the California Constitution, agencies may levy charges upon real property. Pursuant to Revenue and Taxation Code Section 5801, a manufactured home is not considered real property unless it is permanently affixed to land on a permanent foundation system as stated in Section 18551 of the Health and Safety Code. The Assessor's Office has identified these parcels with a specific range of parcel numbers. Any parcel that begins with 911, 912, 913, and 914 cannot be charged; additional parcel ranges may be added in the future.

Collections and Apportionments

All direct charges are collected on the Secured Property Tax Bills with payment dates of December 10 and April 10. Payments received are apportioned four times a year:

<u>Collection Timeframe</u>	<u>Apportionment Distribution</u>	<u>% Collected (Est.)</u>
July 1 – December 12	Middle of December	38%
December 13 – December 31	End of December	14%
January 1- April 10	Middle of April	32%
April 11 – April 30	Middle of May	10%
May 1 – June 30	Middle of July	2%

If your agency's funds are in the County Treasury, the apportionment distribution will be made directly to your fund. If not, the distribution will be forwarded to your district.

Delinquent Accounts

Any direct charges not collected by June 30 will be transferred to the redemption roll and collected as such unless judicial foreclosure is required (see "Judicial Foreclosures"). The County discontinued the Teeter Plan as of June 23, 2009. This means the County will no longer advance cities and special districts for any delinquent accounts.

As a result, your agency will receive the apportionment for the delinquencies after collected along with a portion of the penalties.

Collection of delinquent accounts can take five years or more. If the property is sold at tax sale, it may be sold for less than the tax bill owed, in which case, your assessment may not be fully recovered.

Judicial Foreclosures

Some agencies have a covenant with bondholders that delinquent accounts will be judicially foreclosed upon rather than follow the tax sale process mentioned above. If your special assessment requires judicial foreclosure, you must notify us at the time your special assessment forms are submitted. As part of this process, your Board of Directors must adopt a **standing resolution** stipulating that your agency will pursue the removal of the delinquent levies from the delinquent secured tax bill as specified by the bond covenant. This resolution must accompany your special assessment forms. Each year for the life of the assessment bond, you shall identify the delinquent levies in your recorded "Notice of Intent to Remove Delinquent Special Tax Installment from the Tax Roll" (**notice**) per Government Code Section 53356.2 and Streets and Highways Code Section 8833. Upon receiving a copy of the recorded notice, this office will remove the identified delinquent levies from the delinquent secured tax bill. By this process, your agency will relieve the County of Tulare of any further responsibility for the collection of these delinquent levies. Contact this office for copies of sample standing resolution and notice of intent to remove delinquent tax.

Administrative Items

It is the responsibility of your agency to determine the validity and accuracy of the assessment amount. This office is not responsible for the validity or the computation of the assessment amount. In order to improve our customer service to the taxpayers, this office requests that your agency respond to taxpayers' inquiries in a timely and efficient manner.

The Brown Act

The Brown Act requires all government agencies to hold open meetings as the public

has the right to observe, monitor, and participate in government decision-making. Attached is an outline titled "Understanding Brown Act." Please visit www.tularecountycounsel.org/default/index.cfm/public-information/ for more detailed information.

Fee Schedule

For the 2015/16 tax roll the fee schedule will be \$3.00 per parcel for manually transmitted assessments and \$1.00 per parcel for electronically submitted assessments. There will be a \$200.00 charge per fund on which direct charges/special tax are to be collected.

The annual maintenance fee and the per-parcel fee will be recovered during the apportionments for December and April (50% for each apportionment).

Preliminary List

If requested, this office may provide your agency a preliminary list of all parcels within your district. Fees for this list are as follows:

Electronic Copy (Text & PDF)	\$66.00 ~OR~
Hard Copy	\$100.00 (1 st 100 pages)
Plus	\$10.00 (Next 100 pages)

If you have any questions, please call our office at (559) 636-5280 or e-mail: TaxDiv1@co.tulare.ca.us.

Enclosures

DIRECT CHARGE (SPECIAL ASSESSMENT) CONTROL**DATE:** _____**TO:** Tulare County Auditor-Controller
Property Tax Section
Courthouse, Room 101-E
Visalia, CA 93291**FROM:** Agency _____

Address _____

City, State, Zip _____

Contact Person, Phone _____

Hours Contact Person is available _____

E-mail (if available) _____

Check items included:

- _____ 1. Resolution (s) stating compliance with code and that the charge is without regard to property valuation.
- _____ 2. Change authorization sheet.
- _____ 3. Parcel listing. (not required if submitting electronically)

Fund/Charge Control

<u>Fund Name</u>	<u>Parcel Count</u>	<u>Amount</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Attach additional control sheets if necessary.

TULARE COUNTY AUDITOR-CONTROLLER

AUTHORITY TO APPROVE DIRECT CHARGE (SPECIAL ASSESSMENT)
CHANGES

DISTRICT/AGENCY _____

The following persons are authorized to approve changes to our Agency’s Special Assessment:

<u>TYPED NAME</u>	<u>SAMPLE SIGNATURE</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

_____	_____
Agency Official	Date

Title

Attachment C

Compliance Certification and Hold Harmless Statement

The City/District of _____ certifies the following:

I have read and am familiar with the requirements of Article XIIC and XIID of the State Constitution as revised by Proposition 218, including the articles cited below, and believe that all of the taxes, assessments, levies and fees accompanying this submission to the County Auditor-Controller for inclusion on the secured property tax roll are in compliance with the law.

Article XIIC. Sec. 2 c. "Any general tax imposed, extended, or increased, without voter approval, by any local government on or after January 1, 1995, and prior to the effective date of this article, shall continue to be imposed only if approved by a majority vote of the voters voting in an election on the issue of imposition, which election shall be held within two years of the effective date of this article and in compliance with subdivision b."

Article XIIC. Sec. 2 d. "No local government may impose, extend, or increase any special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote. A special tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved."

Article XIID. Sec. 5. "...this article shall become effective the day after the election unless otherwise provided. Beginning July 1, 1997, all existing, new, or increased assessments shall comply with this article."

Article XIID. Sec. 6 d. "Beginning July 1, 1997, all fees or charges shall comply with this section."

In addition, the City/District agrees that it shall be solely liable and responsible, and will defend and hold the County harmless from any liability as a result of claims or claims for refunds and related interest due filed by taxpayers against any assessments, fees, charges or taxes placed on the roll for the City/District by the County; and

The City/District shall be solely liable and responsible, and will defend and hold the County and the County Auditor harmless from any and all legal fees or other costs incurred related to such a claim.

Approved by the governing Board on _____
Date

City/District Manager

Date

EL RANCHO SEWER

#	APN	TOTAL
		DUE
1	202-091-001	\$549.10
2	202-091-002	\$549.10
3	202-091-003	\$549.10
4	202-091-004	\$549.10
5	202-091-005	\$549.10
6	202-091-010	\$549.10
7	202-092-001	\$549.10
8	202-092-003	\$549.10
9	202-092-004	\$549.10
10	202-092-005	\$549.10
11	202-092-006	\$549.10
12	202-092-009	\$549.10
13	202-092-010	\$549.10
14	202-092-013	\$549.10
15	202-093-001	\$549.10
16	202-093-005	\$549.10
17	202-093-006	\$549.10
18	202-093-007	\$549.10
19	202-093-009	\$549.10
20	202-093-011	\$549.10
21	202-093-012	\$549.10
22	202-100-019	\$549.10
23	202-100-025	\$549.10
24	202-100-027	\$549.10
		<u>\$13,178.40</u>

Attachment E

(EXAMPLE ANNUAL DISTRICT RESOLUTION)
(On District letterhead)

RESOLUTION NO. _____

A RESOLUTION OF THE _____ DISTRICT CERTIFYING TO
THE COUNTY OF TULARE THE VALIDITY OF THE LEGAL PROCESS USED TO
PLACE DIRECT CHARGES (SPECIAL ASSESSMENTS) ON THE SECURED TAX
ROLL.

WHEREAS, the notices and election for special assessment fees for the purpose of
_____ to be included on the regular County property tax
bill for property owners of the _____ District was completed on
_____; and

WHEREAS, the District is placing the special assessments on the Tulare County secured
property tax roll for collection; and

WHEREAS, the District has complied with all laws pertaining to the levy of the special
assessments to be collected; and

WHEREAS, the monies collected are not in any way to be based on the assessed
valuation of the properties involved; and

WHEREAS, the District agrees that it shall be solely liable and responsible, and will
defend and hold the County of Tulare harmless from any liability as a result of claims or
claims for refunds and related interest due filed by taxpayers against any assessments,
fees, charges or taxes placed on the roll for the District by the County; and

NOW THEREFORE BE IT RESOLVED by the _____ District
that the list submitted with parcel numbers and amount are certified as being correct, the
_____ or _____ is hereby authorized to
sign any documents required and directed to give the list to the Tulare County Auditor on
behalf of the District for placement on the secured tax roll for collection:

1. Parcel and Assessment listing
2. Direct Charge (Special Assessment) Control Sheet
3. Direct Charge (Special Assessment) Change Authorization Sheet
4. Compliance Certification and Hold Harmless Statement

UPON MOTION OF BOARD MEMBER _____, SECONDED BY
BOARD MEMBER _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF THE _____ DISTRICT, AT AN

Attachment E

OFFICIAL MEETING HELD ON _____, BY THE
FOLLOWING VOTE:

AYES:

NOS:

ABSTAIN:

ABSENT:

ATTEST:

SECRETARY OF THE BOARD

Electronic Submission Requirements

Property Tax Accounting

By
Danny A.

Electronic Format Specifications

Field Name	Length	Description
Sequence Number	5	Begin with 00001
Assessment Number	12	Full Parcel Number
Assessment Charge	11	Charge Amount
Tax Code	3	Code assigned by Auditor
Source ID	10	To Uniquely Identify – Agency may assign

- A. File must be submitted in the above format
- B. File must be submitted as a text file.
- C. Assessment Number must include three zeroes at end
Eg. APN 111-222-333-000 is 111222333000
- D. File must be in order by Assessment Number, regardless of tax code (for agencies applying more than one type of charge)
- E. Like Manual Submission, Assessment Charge must be larger than \$10.00 and be equally divisible by two
- F. Sequence Number & Assessment Charge must be zero filled and contain only numeric characters
Eg. Assessment charge of \$125.00 is 00000012500
- G. Source ID is only field that does not need to fill its entire length (10), all others must be filled for their entire lengths
- H. There must be no spaces between each field

Example:

Sequence #	Assessment #	Assessment Charge	Tax Code	Source ID
00001	111222333000	00000012500	123	EXAMPLE
00002	123123123000	00000007025	456	EXAMPLE
00003	234567891000	00000012500	123	EXAMPLE

The text file would look like this:

```
00001111222333000000000012500123EXAMPLE
0000212312312300000000007025456EXAMPLE
00003234567891000000000012500123EXAMPLE
```

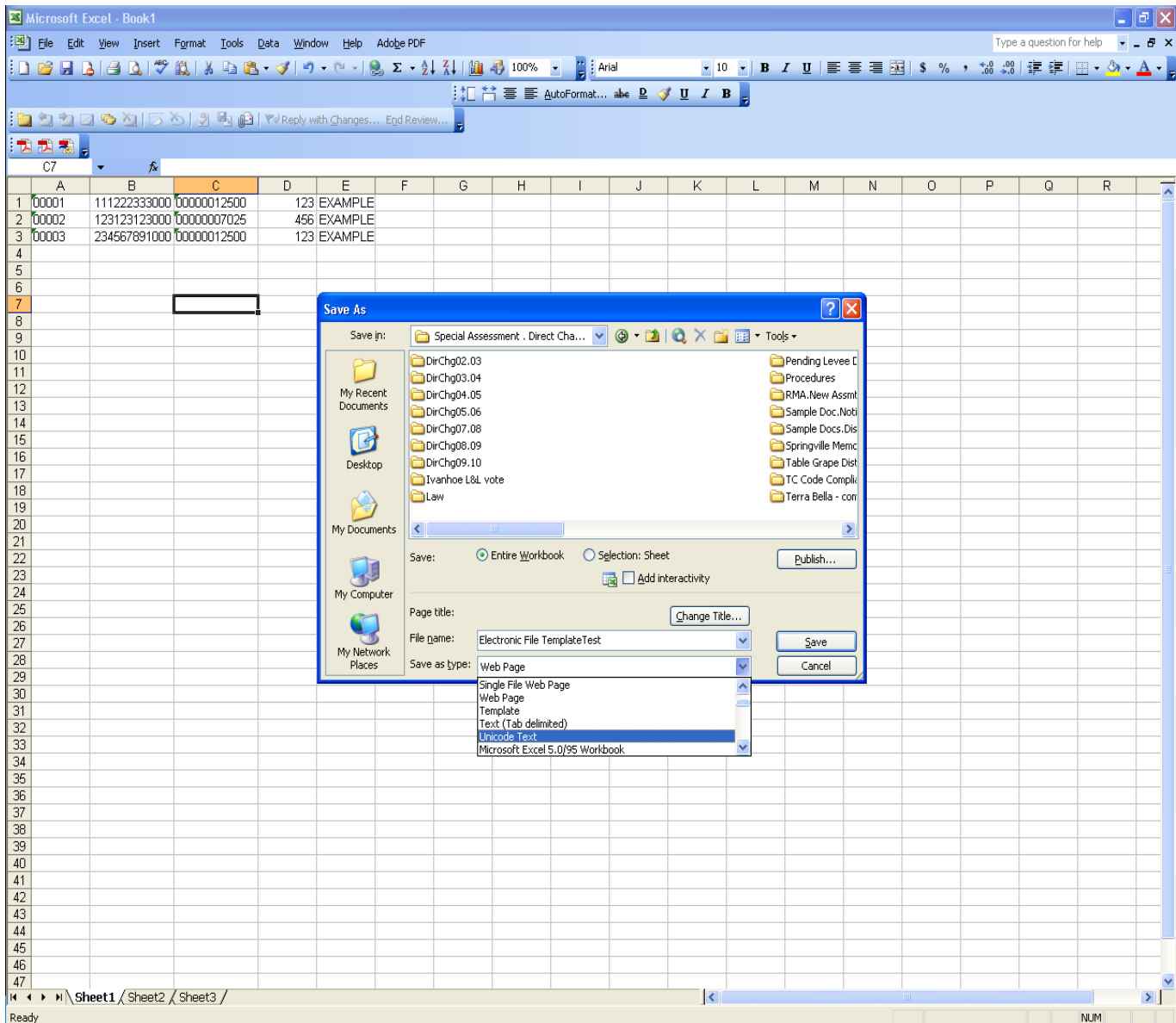
This text file may be submitted via e-mail or on a CD. E-mail is preferred, but not required. It is due on August 12, 2013 along with the other documents. Earlier submission is encouraged.

Converting Excel to Text

- Many Agencies currently use Excel to store their assessments
- First format your Excel Spreadsheet like the example on the previous slide & below

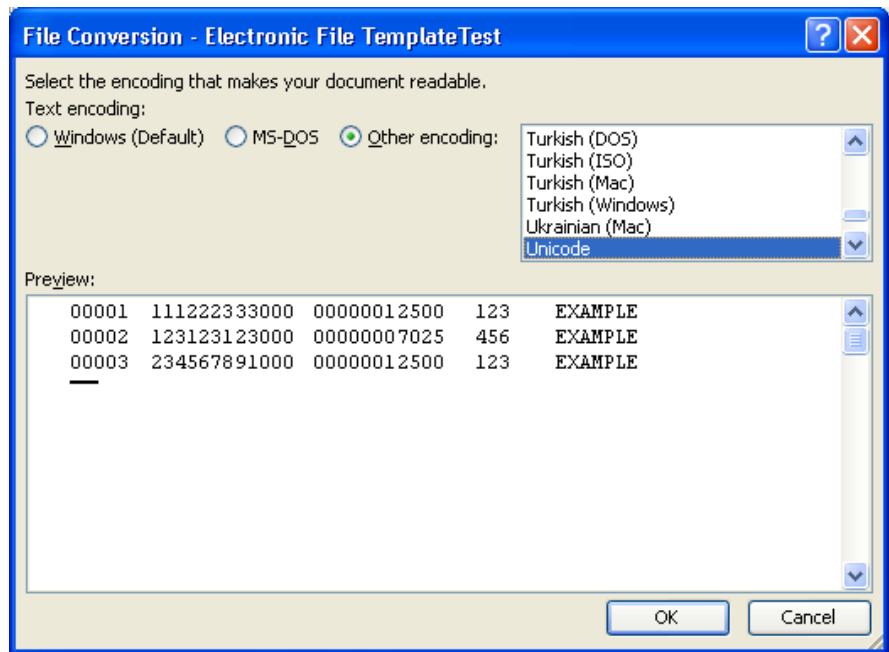
Sequence #	Assessment #	Assessment Charge	Tax Code	Source ID
00001	111222333000	00000012500	123	EXAMPLE
00002	123123123000	00000007025	456	EXAMPLE
00003	234567891000	00000012500	123	EXAMPLE

- NOTE: The following step-by-step instructions were done using Office 2003
 - Older versions may be slightly different than these instructions indicate
- The key to converting an Excel Spreadsheet into the text file needed is removing the spaces between the columns
- To accomplish this it is helpful to use Word as an intermediary (Thanks to Nancy Brunson of Three Rivers Memorial for this tip)
- First remove headers, if any, from Excel Spreadsheet (Only want the data)



- File > Save as Unicode Text
- Accept any pop-up boxes that may appear

- Open text file in Word
- A pop-up box similar to this may appear
- Select Unicode, hit OK and a Word document similar to this preview should appear

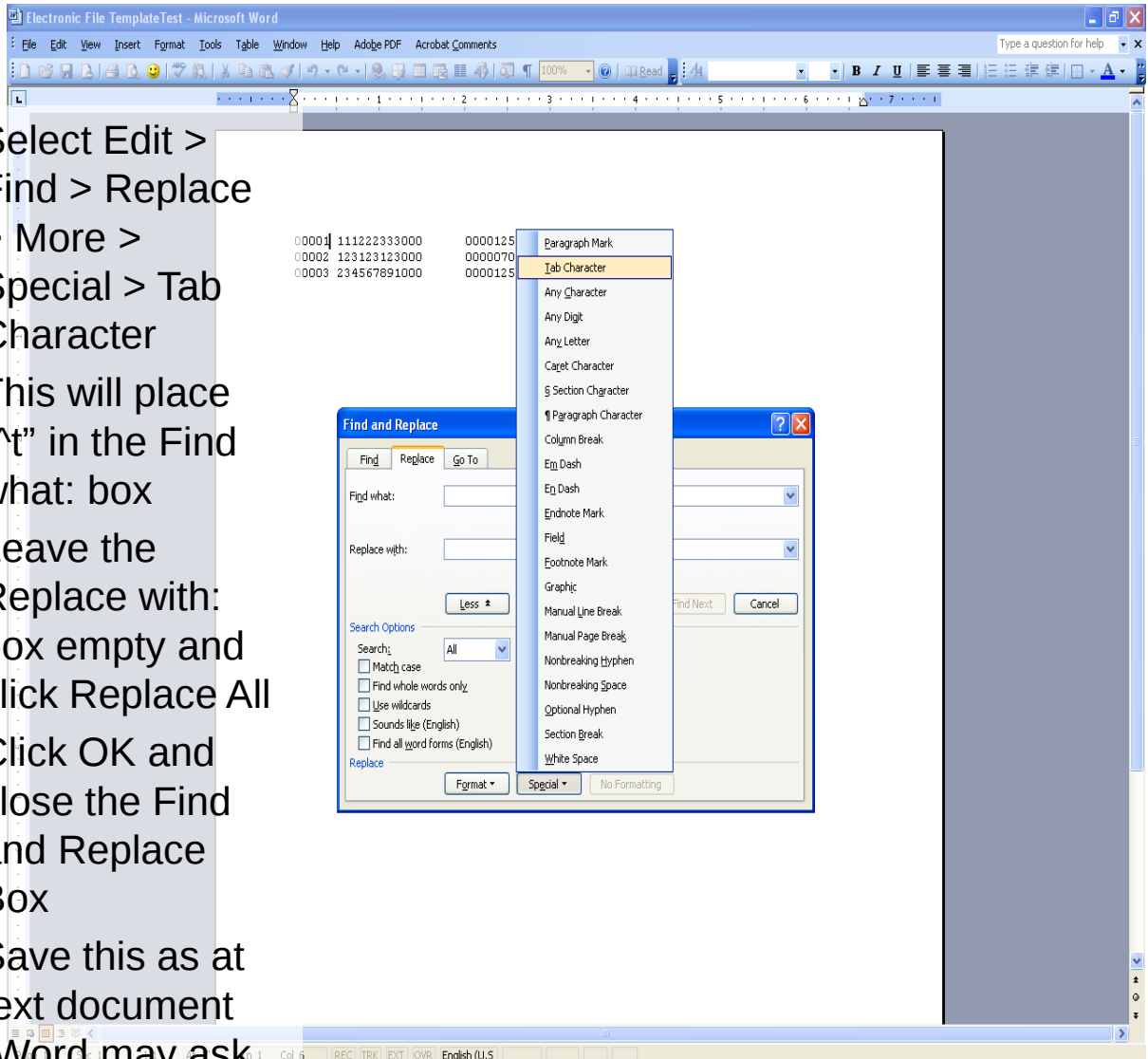


Removing the Spaces

- Notice that the spaces that you see are not really spaces, but tab breaks to simulate the columns from the original Excel document
 - They can be made visible by going to Tools > Options > View Tab > Select Tab characters under Formatting marks (Optional)
- Word has a useful Find & Replace feature that can be used to remove these tabs

Removing the Tabs

- Select Edit > Find > Replace > More > Special > Tab Character
- This will place “^t” in the Find what: box
- Leave the Replace with: box empty and click Replace All
- Click OK and close the Find and Replace Box
- Save this as at text document (Word may ask for a format, Unicode is fine)
- This text document is now ready for submittal!



1 **Understanding Brown Act
Open Meeting Requirements**

Gary S. de Malignon
Chief Deputy County Counsel

2 **The Brown Act
Why?**

- ✗ Government officials are elected by the people, represent the people, and govern on behalf of the people.
- ✗ The public has the right to observe, monitor, and participate in government decision-making.

3 ***“...government exists of the people, by the people and for the people.”***

Abraham Lincoln, Gettysburg Address

November 19, 1863

4 **The Brown Act
Purpose**

Fulfills two purposes:

- ✗ Keeps the public informed of the actions, discussions and views of its locally elected and appointed government representatives.
- ✗ Establishes the procedural framework for members of local governmental decision-making bodies to collectively meet, debate, act and listen to their constituents.

5 **The Brown Act
History**

- ✗ Introduced by Modesto Assemblyman Ralph M. Brown more than 50 years ago.
- ✗ Legislature has **frequently** added to the requirements of the Act over the years.
- ✗ Requirements are detailed, comprehensive and complex.

6 **The Brown Act
- Legislature's stated intent -**

“... the public commissions, boards and councils. . . in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions. . . and. . . deliberations be conducted openly.

“The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know.

“The people insist on remaining informed so that they may retain control over the instruments they have created.”
- Government Code § 54950

7 **The Brown Act**

- Heart of the Brown Act -

✗ All meetings of government bodies must be fully open and accessible to the public.

✗ Boards must discuss, deliberate and act on the public's business openly.

✗ Exceptions to the rule of openness are few and narrowly construed.

8 The Brown Act

Who is Covered?

✗ All governing boards of local government agencies.

✗ The advisory and standing sub-committees created by such governing boards.

✗ All boards, committees and bodies created by federal or state law.

9 The Brown Act

What is a Meeting?

A meeting is:

A majority of board members present at the same time and place to “**hear**, **discuss** or **deliberate**” government business.

10 The Brown Act

- 3 Important Points -

✗ Only “face-to-face” meetings of a majority of board members are authorized meetings.

✗ Collective decision-making is a process with three different aspects.

✗ Any gathering of a majority of board members that involves any aspect of the ***decision-making*** process triggers Brown Act open meeting requirements.

11 The Brown Act

What is not a Meeting?

✗ Conferences, training, workshops.

✗ Community forums, and meetings of other government bodies.

✗ Social or ceremonial occasions.

12 The Brown Act

What is an Illegal Meeting?

A majority of members ***cannot***:

✗ Use a telephone, fax machine, e-mail, a chat room, an intermediary or other devices ***to develop*** consensus,

agreement, or a decision.

✗ A “**serial meeting**” is a series of meetings to develop a decision, each of which involves less than a majority of members, but which taken together involve a majority of board members.

13 The Brown Act

Examples of Prohibited Meetings

✗ “Polling” of board members by another board member, or by a staff member is strictly prohibited.

✗ Staff cannot meet with a majority of board members to provide a collective briefing.

14 The Brown Act

What is not an illegal meeting?

✗ Attorney-client communication.

✗ “One-way” communication by staff to solitary board members.

✗ A board member individually may confer with constituents, staff, consultants, or a colleague.

15 The Brown Act

What about E-Mail?

A majority of board members cannot:

✗ Use email to develop a collective consensus, agreement, or decision.

✗ Exchange information about their views or positions on public business.

16 The Brown Act

Basics Requirements

Meetings must:

- ✗ Be noticed in advance;
- ✗ Include only business described in the agenda;
- ✗ Take place within agency boundaries;
- ✗ Be completely accessible by the public.

17 The Brown Act

Notice Requirements

Notice and agenda for regular meeting must be:

- ✗ Posted 72 hours in advance;
- ✗ Posted in an accessible location;
- ✗ Mailed to persons who request notice.

✗ Special meetings may be called by posting an agenda at least 24 hours before the meeting.

18 The Brown Act

Agenda Requirements

- ✗ Agendas must contain a brief description of every item to be discussed, including closed session items.
- ✗ Descriptions must be clear enough to be understood by members of the public.
- ✗ Agendas for regular meetings must include a time for public comment.

19 The Brown Act

What are the Public's Rights?

Members of the public have the right to:

- ✗ address the board on both agenda and non-agenda items;
- ✗ be accommodated, if disabled, so they can access and participate in the meeting;
- ✗ get copies of written materials distributed to the board, except privileged items.

20 The Brown Act

Location of Meetings

21 The Brown Act

Location of Meetings

Boards must meet within the boundaries or jurisdiction of the government agency.

Certain exceptions:

- ✗ Inspect real/personal property;
- ✗ Meet with federal/state officials to discuss legislative or regulatory issues;
- ✗ Hold a closed session meeting with legal counsel.

22 The Brown Act

Are Closed Door Meetings Allowed?

- ✗ Closed sessions are narrowly authorized for specific matters.
- ✗ Special disclosures have to be made by the board before and after holding a closed session.

23 The Brown Act

Closed Session – Personnel

- ✓ To consider the employment, evaluation of performance, discipline or dismissal of a public employee.
- ✓ To hear complaints and charges against an employee by another person or employee.

24 The Brown Act

Closed Session – Student Matters

- ✓ To consider the expulsion, suspension, discipline, or any other action concerning a pupil that would divulge pupil information.

- ✓Written notice must be provided to the parent and pupil of their right to request that the matter be considered in an open session.

25  The Brown Act

Closed Session – Collective Bargaining

- ✓To meet with bargaining representatives to review the agency’s negotiating position and instruct its representatives regarding represented or unrepresented employees.

26  The Brown Act

Closed Session – Pending Litigation

- ✓To consult with or receive advice from legal counsel concerning pending litigation when a public discussion of such matters would prejudice the local agency in the litigation.

27  The Brown Act

Closed Session – Real Property Matters

- ✓To grant authority to the agency’s negotiator regarding price and terms of payment prior to the purchase, sale, exchange, or lease of real property.

- ✓ A discussion of potential sites is **not** authorized.

28  The Brown Act

Closed Session – Security of Public Facilities

- ✓To meet with law enforcement or security consultants on matters posing a threat to the security of school buildings or to the operation of the educational program.

29  The Brown Act

Limited Scope of Closed Sessions

Caveat:

- ✗Discussions in closed session must not go beyond the limited scope of the closed session.

30  The Brown Act

Special Requirements for Closed Sessions

- ✗Agenda must include a brief description of the nature of the closed session.
- ✗The board must disclose, in open session, the items to be discussed in closed session.
- ✗The board must make a public report of certain actions taken in closed session.

31  The Brown Act

Closed Session – Confidentiality

- ✗Except for reporting-out requirements, confidentiality of closed session matters must be preserved.
- ✗Sanctions – violation can result in a lawsuit to enforce confidentiality, disciplinary action against an employee, or referring the matter to the grand jury.

32  The Brown Act

Can you be sued?

Civil Remedies:

- ✗ Compliance with the Brown Act can be enforced by civil lawsuit.
- ✗ A court can declare board actions void that are not in compliance with the Act, if not cured.
- ✗ The agency can be liable for significant costs and attorneys' fees.

33 The Brown Act

Criminal Penalty

- ✗ A violation of the Brown Act may be a misdemeanor if a member participates in board action with the “wrongful intent to deprive the public of information.”

34 Conclusion

- Board members are representatives of the people who the people entrust to manage government affairs.
- The Brown Act is for the benefit of the public that board members represent.
- The Brown Act must be taken seriously; failure to do so can result in legal penalties and public criticism.

35 The Brown Act

Quiz

True or False?

1. *A meeting as defined in the Brown Act occurs only when some action is taken.*
2. *Board members may poll each other by e-mail on any issues which may come before the board.*
3. *A telephone conference between two board members is a meeting under the Brown Act if they discuss district business.*

36 The Brown Act

Quiz

4. *The board may take a vote by secret ballot in open session; in closed session.*
5. *Any person may record an open meeting of the board via audio or video tape recordings.*
6. *A member of the public may address the board on any item of interest to the public provided the matter is within the jurisdiction of the board.*

37 The Brown Act

Quiz

7. *The board may limit the amount of time members of the public are allowed to speak on matters of public interest?*
8. *The board is not required to announce in open session the items to be discussed in closed session?*

9. When considering the discipline of employees, the board must provide the employee 24 hours notice of his/her right to request a public session?

38 ☐

The Brown Act

Quiz

10. In general, reportable action taken in closed session must be reported out in open session at the same meeting.

11. The board may hold its meetings at any location it chooses within the county provided the public is notified.

12. A board member may divulge closed session information provided that he/she so advises the board before