

# EXHIBIT B

## ORDINANCE NO. 24-207

### AN ORDINANCE OF THE CAPISTRANO BAY COMMUNITY SERVICES DISTRICT ENACTING A SPECIAL TAX ON PROPERTIES LOCATED IN THE CAPISTRANO BAY COMMUNITY SERVICES DISTRICT FOR INFRASTRUCTURE PROTECTION

#### RECITALS

1. The District's Beach Road Infrastructure Protection Advisory Committee, formed in the second quarter of 2022, identified three critical areas requiring attention:

- Addressing Coastal Commission (CCC) letters threatening action and fines;
- Ensuring homeowners' rights to protect their properties from rising sea levels, waves, and erosion; and
- Working towards remedying beach erosion issues.

2. The Committee has invested considerable time and resources in education, research, strategy development, and engaging necessary stakeholders to achieve these goals.

3. Additional funding is necessary to achieve the various goals identified by the Committee, and the Board has determined that a special tax adopted pursuant to Government Code section 50075 would best serve such purpose.

4. The District engaged with Willdan Financial Services to prepare a financial analysis to assist with determining the amount of funding required and the proposed tax that would be necessary to generate the necessary funding.

5. The Board has determined that the amount of \$3.7 million is necessary to achieve the objectives identified by the Committee, and the financial analysis recommends that the tax be a total amount of \$18,857.14 collected over a 7 year period in non-uniform annual amounts that reflect the cash flow needs of the District to meet the objectives of the Committee.

Be it ordained by the People of the Capistrano Bay Community Services District as follows:

#### SECTION 1. AUTHORITY

The People of the Capistrano Bay Community Services District enact this Ordinance in accordance with the authority granted to community services districts pursuant to Sections 50075 through 50077 and 61121 of the California Government Code.

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## SECTION 2. RECITALS

All Recitals contained in this Ordinance are true and correct and are incorporated herein by reference.

## SECTION 3. DEFINITIONS

For the purposes of this Ordinance, the following terms shall have the meanings provided below:

- A. "Administrator" means an official of the District, or designee thereof, responsible for carrying out the provisions of this Ordinance.
- B. "Assessor's Parcel Number" means the Parcel and Parcel Number as assigned by the Orange County Assessor on the equalized tax roll.
- C. "Board" means the Board of Directors of the District.
- D. "County" means the County of Orange.
- E. "County Assessor" or "Assessor" means the County Assessor of the County of Orange.
- F. "County Assessor's parcel" means a lot or Parcel with an assigned Assessor's Parcel Number used by the County Assessor in preparing the tax roll.
- G. "District" means the Capistrano Bay Community Services District.
- H. "Fiscal Year" means the period starting July 1 and ending the following June 30.
- I. "Parcel" means any County Assessor's parcel in the District based on the equalized tax roll of the County as of January 1 of each Fiscal Year with the exclusion of any County Assessor's parcel located within the census-designated place of Port Costa.
- J. "Special Tax" means the special parcel tax authorized and imposed by this Ordinance.
- K. "Taxable Parcel" means any Parcel that is not a Tax-Exempt Parcel.
- L. "Tax-Exempt Parcel" means any Parcel that is exempt from (1) the Special Tax, as provided for in this Ordinance; or (2) the levy of general ad valorem property taxes under California law, including but not limited to public streets; schools; parks; and public drainage ways, landscaping, wetlands, greenbelts, and open space.

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## SECTION 4. TAX IMPOSED

A. An annual Special Tax is hereby imposed on July 1 of each Fiscal Year in the following amounts on every Taxable Parcel for the purposes described in Section 7 herein.

<i>Fiscal Year</i>	<i>Tax per Taxable Parcel</i>
2024-2025	\$3079.37
2025-2026	\$3079.37
2026-2027	\$2641.89
2027-2028	\$2360.91
2028-2029	\$6,156.86
2029-2030	\$1,025.83
2030-2031	\$512.91

B. The Special Tax shall take effect on July 1, 2024 for Fiscal Year 2024-2025 (Year 1) and shall continue through Fiscal Year 2030-2031.

C. The Special Tax constitutes a debt owed by the owner of each Parcel to the District.

D. The Special Tax shall be levied and collected on each Taxable Parcel within the District for which the owner receives a separate ad valorem property tax bill.

E. The Board may elect to collect less than the amount authorized in subsection A above by adopting a resolution that specifies the particular reduction by particular year, but any such reduction shall have no effect on the tax in any other year and the Board may elect to collect the reduced amount in a subsequent year in which the tax remains in effect.

## SECTION 5. EXEMPTIONS

A. The following Parcels shall be exempt from the Special Tax:

- i. Any Parcel exempt from the levy of general ad valorem property taxes under California law, including but not limited to public streets; schools; parks; and public drainage ways, landscaping, wetlands, greenbelts, and open space.

## SECTION 6. COLLECTION OF TAX

The Special Tax may be collected in the same manner as ordinary ad valorem taxes are collected and, if collected in that manner, shall have the same lien priority and be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for ad valorem taxes collected by the County of Orange. The District Board of Directors may provide for other alternative methods of collection of the Special Tax by resolution.



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## SECTION 7. COLLECTION OF UNPAID TAX

The amount of the Special Tax, any penalty, and any interest imposed under the provisions of this Ordinance shall be deemed a debt owed to the District. Any person owing money to the District under the provisions of this Ordinance shall be personally liable to an action brought in the name of the District, at its option, for the recovery for such amount.

## SECTION 8. USE OF TAX REVENUE

A. Revenue from the Special Tax, including penalties and interest thereon, shall be used only for Beach Road infrastructure protection activities, which include, but are not limited to:

- i. Seeking and defending regulatory approvals from the California Coastal Commission and other governmental entities, which may include seeking or assisting with approvals related to specific properties on Beach Road that would protect Beach Road itself from erosion.
- ii. Responding to regulatory actions from the California Coastal Commission and other governmental entities related to Beach Road;
- iii. Participating in regulatory rulemaking and other processes that relate to shoreline erosion and structure protection; and ensuring homeowners' rights to protect their properties from rising sea levels, waves, and erosion; and
- iv. Capital and maintenance projects that address erosion issues.

## SECTION 9. ACCOUNTABILITY

In accordance with the requirements of California Government Code Sections 50075.1 and 50075.3, the following accountability measures, among others, shall apply to the Special Tax:

- A. A separate, special account, referred to as the Infrastructure Protection Fund, shall be created, into which the proceeds of the Special Tax, including penalties and interest earned on such proceeds, must be deposited.
- B. On an annual basis, the District Board of Directors shall adopt a program and budget for use of the proceeds of the Special Tax.
- C. The specific purposes of the Special Tax set forth in Section 8 herein. The proceeds of the Special Tax shall be applied only to those specific purposes as set forth in the maintenance program and budget described in subdivision (B) of this Section 9.
- D. The Administrator shall annually prepare and submit to the District Board of Directors a report regarding the Special Tax funds collected and expended and the status of the maintenance program described in subdivision (B) of this Section 9,

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as well as any other information required by Government Code sections 50075.1 and 50075.3.

## SECTION 10. ANNUAL AUDITS

A. Annually, the District retains an independent auditor to conduct an audit of and provide audited financial statements for all of the District's financial activities. The auditor shall include an accounting of the revenue received from the Special Tax and expenditures thereof in the audited financial statements. The auditor's report shall be presented to the Board and made available to the public.

B. The District Board of Directors may, but is not required to, establish a committee of members of the public to review and report on the revenue and expenditure of funds from the Special Tax adopted by this Ordinance and to advise on the maintenance program and budget described in Section 9, subdivision (B).

## SECTION 11. INTERPRETATION, APPLICATION, AND APPEAL OF SPECIAL TAX FORMULA AND PROCEDURES

A. Any taxpayer who feels the amount of the Special Tax assigned to a Parcel is in error may file a notice with the Administrator appealing the levy of the Special Tax. The Administrator then will promptly review the appeal and, if necessary, meet with the applicant. If the Administrator verifies that the Special Tax levied on the applicant's Parcel should be modified or changed, the Special Tax levy will be corrected and, if applicable in any case, a credit or refund will be granted. The appeal must be filed not later than one year after having paid the Special Tax that is disputed.

B. Interpretations may be made by the District, by Resolution or Ordinance of the Board, for purposes of clarifying any vagueness or ambiguity as it relates to the Special Tax rate, the classification of properties, or any definition applicable to the Special Tax.

C. Without Board approval, the Administrator may make minor, non-substantive administrative and technical interpretations of the provisions of this Ordinance for purposes of administrative efficiency or convenience or to comply with new applicable federal, state, or local law, so long as any interpretation does not materially affect the rate and manner of collection of the Special Tax.

## SECTION 12. AMENDMENTS

This Ordinance may only be amended by a vote of the people if the amendment would result in the Special Tax being imposed, extended, or increased in a manner not authorized by this Ordinance as originally approved by the voters, or if the amendment would substantially alter the purpose of the Special Tax. The District Board of Directors may enact other amendments, including but not limited to amendments necessary to implement or administer the Special Tax.



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## SECTION 13. EXPIRATION OF TAX

The authority to levy the Special Tax shall remain in effect until June 30, 2031.

## SECTION 14. ADJUSTMENT OF APPROPRIATIONS LIMIT

Pursuant to California Constitution Article XIII B and applicable laws, the appropriation limit for the Capistrano Bay Community Services District is hereby increased by the aggregate sum authorized to be levied by this Special Tax for Fiscal Year 2023-2024 and each year thereafter.

## SECTION 15. SEVERABILITY

If any provision of this Ordinance is held by any court or by any Federal or State agency of competent jurisdiction, to be invalid as conflicting with any Federal or State law, rule or regulation now or hereafter in effect, or is held by such court or agency to be modified in any way in order to conform to the requirements of any such law, rule or regulation, such provision shall be considered a separate, distinct, and independent part of this ordinance, and such holding shall not affect the validity and enforceability of all other provisions hereof. In the event that such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed, so that the provision thereof which had previously been held invalid or modified is no longer in conflict with such law, rule or regulation, said provision shall thereupon return to full force and effect and shall thereafter be binding. If any section, subsection, phrase, clause, sentence, or word in this Ordinance shall for any reason be held invalid or unconstitutional by a court of competent jurisdiction, it shall not nullify the remainder of this Ordinance but shall be confined to the article, section, subsection, subdivision, clause, sentence or word so held invalid or unconstitutional.

## SECTION 16. SAVINGS CLAUSE

No section, clause, part, or provision of this Ordinance shall be construed as requiring the payment of any tax that would be in violation of the Constitution or laws of the United States or of the Constitution or laws of the State of California.

## SECTION 17. DATE OF ADOPTION AND EFFECTIVE DATE

This Ordinance will be approved if two-thirds of voters voting on the measure vote in favor of it. The date of adoption shall be the date of the declaration of the vote, and this Ordinance shall become effective ten (10) days after the date of the declaration of the vote.

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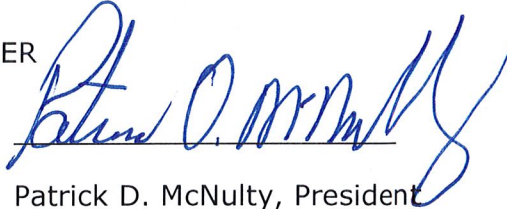
Passed, approved and adopted this 10th day of January, 2024 by the following vote:

AYES: McNULTY, WIERSIG, and JENKINS

NOES: NONE

ABSENT: LURNER and MISHER

ABSTAIN: NONE



Patrick D. McNulty, President  
Capistrano Bay Community Services District

ATTEST:

STATE OF CALIFORNIA        )  
COUNTY OF ORANGE        ) SS  
CAPISTRANO BAY DISTRICT )

(DISTRICT SEAL)

I, DONAL S. RUSSELL, hereby certify that the above foregoing is a true and correct copy of Ordinance No. 24-207 adopted by the Board of Directors of the Capistrano Bay District at a regular meeting held on January 10th, 2024.



Donal S. Russell, Secretary/Manager  
Capistrano Bay Community Services District