

RESOLUTION NO. 22/23-10

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BEAR VALLEY COMMUNITY SERVICES DISTRICT CALLING FOR AN ELECTION ON A SPECIAL TAX MEASURE AND ORDINANCE REGARDING ADDITIONAL FUNDING FOR GATE OPERATIONS, REQUESTING CONSOLIDATION OF THIS MEASURE AND ORDINANCE WITH THE GENERAL ELECTION ON NOVEMBER 8, 2022, REQUESTING THE PREPARATION OF AN IMPARTIAL ANALYSIS BY THE COUNTY COUNSEL OF KERN COUNTY AND PROVIDING FOR SUCH OTHER ACTIONS AS MAY BE NECESSARY OR CONVENIENT FOR THE ELECTION ON THE BALLOT MEASURE AND ORDINANCE

THE BOARD OF DIRECTORS OF THE BEAR VALLEY COMMUNITY SERVICES DISTRICT RESOLVES AS FOLLOWS:

Section 1. Findings. The Board of Directors finds as follows:

A. The Bear Valley Community Services District is authorized to and has assumed responsibility for the provision of the operation of an entry gate in accordance with the Community Services District Law (commencing with Government Code section 61000, and in particular, Section 61105(g)).

B. The Bear Valley Community Services District, as a community services district organized under the Community Services District Law, is authorized by Section 4 of Article XIII A and Section 2(d) of Article XIII C of the California Constitution, and Government Code section 61121, upon approval of two-thirds of the electorate voting on the ballot measure and ordinance, to levy a special tax for specified purposes.

C. On June 6, 2006, in accordance with applicable law, an election was conducted within the District at which time the voters approved a special tax in the maximum amount not to exceed \$75 per parcel for the operation of the entry gate to restrict access to the District to property owners, residents and authorized visitors ("Gate Operations Special Tax").

D. The Gate Operations Special Tax has not been increased since the adoption of the special tax in 2006.

E. The Gate Operations Special Tax currently generates approximately \$270,000 in revenues per fiscal year. The full cost of operations and services associated with the entry gate under the 2021-2022 fiscal year budget was \$667,445.

F. Because the Gate Operations Special Tax does not generate sufficient revenues to cover existing expenditures for these services, the District has for many years had to draw on its reserve funds, including general funds, to cover such costs.

G. The Board of Directors concludes that it is advisable to request that the Kern County Registrar/County Clerk call an election and submit to the voters of the District the question of whether the District may increase the amount of the annual Gate Operations Special Tax within the District from \$75 per parcel to \$185 per parcel with an annual inflationary adjustment not to exceed two percent (2%) per year as provided in the ballot measure ("Ballot Measure") attached as Exhibit A and the implementing ordinance ("Ordinance") attached as Exhibit B (Text of Gate Operations Special Tax Ordinance).

H. The proposed Ballot Measure and Ordinance, if approved by two-thirds of the voters, will significantly reduce the funding gap for gate operations to a sustainable level with respect to the anticipated reserves and general funds.

Section 2. Special Tax Measure Election. The Board of Directors is authorized pursuant to Government Code section 61121 to order an election for the increased Gate Operations Special Tax and, in accordance with that authority, calls and orders to be held in the territory of the Bear Valley Community Services District, within the County of Kern on Tuesday, November 8, 2022, an election on the special tax Ballot Measure attached as Exhibit A and Ordinance attached as Exhibit B.

Section 3. Call for Election. This Resolution serves as a request for the Kern County Registrar/County Clerk to call an election on this Ballot Measure and Ordinance within the boundaries of the District on November 8, 2022.

Section 4. Consolidation of Election. The Board of Directors, pursuant to Part 3, commencing with Section 10400, Division 10 of the Elections Code, requests that the Gate Operations Special Tax Ballot Measure and Ordinance referred to in this Resolution be consolidated with the statewide general election that is scheduled for Tuesday, November 8, 2022.

Section 5. County to Provide Election Services. Pursuant to Section 10002 of the Elections Code, the Board of Supervisors is requested to permit the County Registrar/County Clerk to render all services specified by Section 10418 of the Elections Code relating to the election, for which services the District agrees to reimburse the County, in accordance with current County proration and allocation procedures, such services to include the publication of notice.

Section 6. Impartial Analysis. The Board of Directors requests the County Counsel of Kern County prepare an impartial analysis of the Ballot Measure and Ordinance in accordance with Elections Code section 9313. In the event that it is determined that Elections Code section 9313 does not apply, and it is otherwise determined that an impartial analysis is necessary, the General Manager will cause the District's general counsel to prepare an impartial analysis.

Section 7. Ballot Argument. The Board President is authorized to prepare an argument in favor of the Ballot Measure and Ordinance not exceeding 300 words in length. The argument will be included with other ballot materials. Any person may prepare an argument against the Ballot Measure and Ordinance not exceeding 300 words in length. If more than one argument is submitted against the Measure, Kern County Registrar/County Clerk may select the argument against the Ballot Measure and Ordinance. The Board President is further authorized to prepare any rebuttal argument.

Section 8. Duty of District Secretary. The District Secretary is hereby directed immediately to file a certified copy of this Resolution to the Kern County Registrar/County Clerk and the Clerk of the Kern County Board of Supervisors.

Section 9. Authorization to Execute Necessary Documents and Take Other Official Actions. The Board President and General Manager are hereby authorized and directed to do any and all things to execute, deliver and perform any and all agreements and documents that are deemed necessary or advisable to effectuate the purpose of this Resolution. This includes making alterations to the Ballot Measure and Ordinance to comply with requirements of law and the Kern County Registrar/County Clerk, or which are, in the best judgment of the Board President and General Manager, in the best interest of the District.

Section 10. Canvass of Election. The Board of Supervisors of Kern County is authorized to canvass the returns of the election pursuant to Elections Code section 10411.

Section 11. Required Vote. The Ballot Measure and Ordinance will pass if two-thirds of the votes are in favor.

Section 12. Environmental Review of Measure and Ordinance. The adoption of this Resolution and the proposed Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") (Public Resources Code Section 21000 and following) under State CEQA Guidelines Section 15378(b)(4), which provides that the creation of government funding mechanisms or other government fiscal activities that do not involve any commitment to a specific project that may result in a potentially significant physical impact on the environment, and Section 15061(b)(3), because it can be seen with certainty that there is no possibility that in itself the adoption of this Resolution and the proposed Ordinance may have a significant effect on the environment

Section 13 Severability. If any section, subsection, sentence, clause, or phrase of this Resolution is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this resolution. The Board of Directors hereby declares that it would have passed this resolution and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Resolution would be subsequently declared invalid or unconstitutional.

Section 14. Effective Date of Resolution. This Resolution will be effective upon adoption.

PASSED, APPROVED AND ADOPTED on August 3, 2022, by the following vote:

AYES:	Grace, Quinn, Hahn
NOES:	Jensen
ABSENT:	None
ABSTAIN:	None



Gregory Hahn, President of the Board of Directors
Bear Valley Community Services District

ATTEST:


Kristy McEwen, Board Secretary

EXHIBIT A

TEXT OF GATE OPERATIONS SPECIAL TAX BALLOT MEASURE

Gate Operations Special Tax Ballot Measure Question:

Shall the Gate Operations Special Tax Ordinance imposing a flat tax on each parcel of real property within the Bear Valley Community Services District at a maximum rate of \$185 per parcel, per year, and with an annual inflationary adjustment not to exceed two percent (2%) per year for the purpose of paying gate personnel, administration and operational costs, including the cost of associated gate equipment and facilities, which is estimated to generate \$665,000 annually until amended or repealed, with regular financial audits, be adopted?	YES	
	NO	

EXHIBIT B

TEXT OF GATE OPERATIONS SPECIAL TAX ORDINANCE

ORDINANCE NO. 22-256

AN ORDINANCE OF THE BEAR VALLEY COMMUNITY SERVICES DISTRICT AUTHORIZING THE DISTRICT TO IMPOSE AND LEVY A SPECIAL TAX FOR GATE OPERATIONS (Gate Operations Special Tax Ordinance)

The people of the Bear Valley Community Services District ordain as follows:

SECTION 1. Authority. This ordinance is adopted pursuant to Article XIII A, section 4, Article XIII B, section 4 and Article XIII C section 2 of the California Constitution, Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5 of the California Government Code, Article 3.7 (commencing with Section 53720) of Chapter 4 of Division 2 of Title 5 of the California Government Code, and California Government Code sections 61105(g) and 61121.

SECTION 2. Definitions. For the purposes of this ordinance the following words and phrases will have the definition set forth in this section:

“Board of Directors” means the Board of Directors of the Bear Valley Community Services District.

“District” means the Bear Valley Community Services District.

“Gate” means the entry gate and associated facilities that can be used to restrict access to the District to property owners, residents and authorized visitors pursuant to Government Code section 61105(g).

“Parcel of real property” means a unit of improved or unimproved real property held in separate ownership, including, but not limited to, any vacant property, commercial property, single-family residential property, and condominium unit as defined in California Civil Code section 783, or any other unit of real property subject to the California Subdivided Lands Act (California Business and Professions Code section 11000 and following).

“Special tax” means the special tax authorized and imposed pursuant to this ordinance.

SECTION 3. Use of Special Tax. The limited purpose for which the special tax may be imposed and levied is to raise revenue for the District to use to pay gate personnel, administration and operational costs, including the cost of associated gate equipment and facilities. The revenues collected may also be used for the costs associated with collecting the special tax and to pay the costs of an independent third-party audit of the use of the funds collected.

SECTION 4. Special Tax Authorization and Limit.

A. The Board of Directors is authorized to impose and levy the special tax each year

on each parcel of real property within the District, except parcels of real property owned by a federal, state, or local agency that are exempt from taxation.

B. The special tax may be levied at a rate not to exceed \$185 per parcel of real property.

C. The maximum special tax rate set forth in subsection (B) may be adjusted annually for inflation ("Annual Inflationary Adjustment") at the beginning of each fiscal year starting on July 1, 2023, in an amount not to exceed the lesser of: (A) the annual percentage increase, if any, in the Consumer Price Index-Urban Wage Earners and Clerical Workers, All Items, for the Riverside-San Bernardino-Ontario area ("CPI-W"), as determined by the United States Department of Labor Statistics, or its successor; or (B) 2%. The Annual Inflationary Adjustment based on the change in CPI-W will be calculated based on the percentage amount derived by comparing the CPI-W rate for May of the previous calendar year to the percentage amount derived by comparing the CPI-W rate for the most recent month of May. In the event the Board of Directors does not impose an Annual Inflationary Adjustment for a particular fiscal year, any Annual Inflationary Adjustment for the next fiscal year or thereafter may not exceed 2% as provided in the first sentence of this subsection (C), as any unused carryover or accumulation of the Annual Inflationary Adjustment will not be permitted.

D. The Board of Directors will set and impose the special tax annually by resolution, provided that in no year may the special tax rate exceed the maximum amount specified in this section.

SECTION 5. Levy, Collection and Deposit of the Special Tax. Unless otherwise ordered pursuant to a resolution of the Board of Directors, the special tax will annually be collected on the Kern County property tax bill in the same manner and subject to the same penalty as the county property taxes are collected. The Board of Directors will annually take such steps as are necessary to have the special tax collected through the property tax bill and will coordinate with the Kern County Tax Collector on such collections. All proceeds of the special tax will be deposited in a separate account for the uses provided in Section 3 of this ordinance.

SECTION 6. Annual Report on and Audit of Special Tax Revenues. Each year the special tax remains in effect, the General Manager will cause to be prepared and filed with the Board of Directors an annual report containing information regarding the amount of special tax revenues collected, the amount expended, and the purpose of the expenditures. In addition, the District will cause the annual report on the special tax to be audited on an annual basis for compliance with the provisions of this ordinance by an independent auditor that is a certified public accountant, and the findings of the audit will be presented to the Board of Directors at a public meeting and posted on the District's website.

SECTION 7. Appropriations Limit Increase. Pursuant to Article XIII B of the California Constitution, the appropriations limit for the District will be increased by the maximum projected collection authorized by the levy of this special tax for each year this tax remains in effect.

SECTION 8. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The Board of Directors hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 9. Effective Date and Repeal of Prior Gate Operations Special Tax. If this ordinance is approved by at least two-thirds of the District's qualified voters voting on its approval at the election on November 8, 2022, then this ordinance will become effective 10 days following the date the vote is declared by the Board of Directors in accordance with California Elections Code section 9320. Upon the effective date, this ordinance will repeal and supersede the special tax approved by the voters of the District at an election on June 6, 2006, which approved a special tax in the maximum amount not to exceed \$75 per parcel for gate operations, as well as Resolution 06-1205 approved by the Board of Directors on March 2, 2006.

APPROVED, by a two-thirds vote of the voters of the Bear Valley Community Services District at the election held on November 8, 2022.

Gregory Hahn, President
Board of Directors of the Bear Valley Community Services District

ATTEST:

BY: _____
Kristy McEwen
Secretary to the Board of Directors