

ORDINANCE NO. 2023-11

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE SALTON
COMMUNITY SERVICES DISTRICT, REQUIRING THE PAYMENT OF
ATTORNEYS' FEES BY CERTAIN PARTIES**

**THE BOARD OF DIRECTORS OF THE SALTON COMMUNITY SERVICES
DISTRICT ORDAINS AS FOLLOWS:**

Section 1. ATTORNEYS' FEES:

(a) Unless preempted or prohibited by applicable law, the District is entitled to recover its attorneys' fees and costs from opposing parties whenever it is the prevailing party in an adversarial legal proceeding regarding a matter within the jurisdiction of the District. The term "adversarial legal proceeding" is to be broadly construed and includes any lawsuit, arbitration or quasi-adjudicatory hearing to which the District is a party. The right of recovery provided by this section applies at all levels of state and federal courts and without regard to whether the District participated as plaintiff or defendant, petitioner or respondent, appellant or appellee.

(b) The District is deemed to be a "prevailing party" if the outcome of the proceeding is generally more favorable for the District than it is for the opposing parties. The term "outcome" is to be broadly construed and includes any event which brings an end to an adversarial legal proceeding, including entry into a settlement agreement.

(c) Unless preempted by state law as a matter of statewide concern, the term "matter within the jurisdiction of the District" means any matter that directly involves or affects the District, including but not limited to all of the following: District regulations and resolutions; code enforcement; nuisance abatement; sewer user fees; assessments; taxes; resolutions; public contracts; and other charges for District services.

(d) The costs recoverable under this section include any District expenses incurred during or as a result of the District's participation in a legal proceeding, such as court costs, expert witness fees, photocopying costs, and the estimated value of any time spent by District officials and staff on the matter.

(e) To provide notice of this section to potential parties who may be affected by it, the District shall exercise due diligence to cite or otherwise refer to this section in contracts, and other relevant District documents provided to third parties regarding a matter within the jurisdiction of the District. But any failure to provide such notice will not affect the District's rights of recovery under this Section. Notwithstanding any other provision of this Ordinance, in any action, administrative proceeding or special proceeding brought by the District to abate a nuisance, the prevailing party shall be entitled to a recovery of reasonable attorneys' fees. This Section shall apply only if the District elects, at the initiation of the individual action or proceeding, to seek recovery of its own attorneys' fees. The amount of attorneys' fees awarded to the prevailing party in the action, administrative proceeding or special proceeding shall not exceed the amount of reasonable attorneys' fees incurred by the District in the action or proceeding.

Section 2. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable, or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

Section 3. Effective Date: Transitional Clause. This Ordinance shall take effect thirty days after adoption as provided by California Government Code Section 25123.

Section 4. Certification. The Secretary of the District shall certify to the passage and adoption of this Ordinance and shall cause the same to be published according to California Government Code section 25124.

Section 5. Publication and Certification. The Board Secretary shall cause this ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this ordinance, and shall cause this ordinance and certification, together with proof of publication, to be entered in the book of ordinances of the Council of this City.


Introduced at a regular meeting of the Board of Directors of the Salton Community Services District, Salton District, California, on October 18, 2023;

PASSED, APPROVED AND ADOPTED, at a regular meeting of the Board of Directors of the Salton Community Services District, Salton District, California, on November 15, 2023 by the following vote.

	YES	NO
Michelle Gilmore, President	<u>X</u>	___
Michael Friese, Vice President	<u>X</u>	___
Manuel H. Ramos, Director	___ <u>Absent</u>	___
Dale Johnson, Director	<u>X</u>	___
Lidia Sierra, Director	<u>X</u>	___



Michelle Gilmore, President of the Board of Directors

ATTEST: 

Sonia Thania Garcia, Secretary of the Board of Directors