CAPISTRANO UNIFIED SCHOOL DISTRICT San Juan Capistrano, California

RESOLUTION NO. 1920-47

RESOLUTION OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT TO AUTHORIZE THE CONVEYANCE OF AN EASEMENT TO CITY OF SAN JUAN CAPISTRANO FOR THE PURPOSES OF PROVIDING NECESSARY PUBLIC WATER AND SEWER PIPELINE FACILITIES FOR THE CITY OF SAN JUAN CAPISTRANO ON PROPERTY OWNED BY THE CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS (CPB) ADJACENT TO SAN JUAN HILLS HIGH SCHOOL

WHEREAS, City of San Juan Capistrano (City) requires an easement from the Capistrano Unified School District (District) in order to operate and maintain, including the right to enter upon, pass, re-pass along said land; to lay, construct, reconstruct, remove, replace, renew, inspect, maintain, repair improve, relocate, fill or re-grade; and otherwise use public water and sewer pipeline facilities (City Facilities); and

WHEREAS, the City Facilities will provide necessary public water and sewer pipeline facilities the City and an adjacent parcel to the District's San Juan Hills High School, identified as Orange County Assessor Parcel No. 644-251-33, also more commonly known as the property owned by the Corporation of the Presiding Bishop of the Church of Jesus Christ Latter Day Saints (CPB) (Adjacent Parcel); and

WHEREAS, the easement sought by City and the specific location of the easement is attached hereto as Exhibit 1, and is incorporated herein by this reference (City Easement); and

WHEREAS, the City Easement is located in an area that will not interfere with the District's operation of its academic facilities on the District's San Juan Hills High School, or otherwise negatively impact school operation; and

WHEREAS, Education Code § 17556 et seq. provides the authority for the District to convey easements after first adopting a resolution declaring such an intent and holding a public hearing to consider such a conveyance; and

WHEREAS, pursuant to Education Code § 17557, the District's Board of Trustees (Board) adopted Resolution No. 1920-39 (Resolution of Intent) on March 18, 2020, declaring its intention to consider the conveyance of the City Easement to City, and establishing April 29, 2020, at 7:00 p.m., or as soon thereafter as reasonably possible, as the time for the Board to conduct a public hearing at its regular meeting to be held at the District Board Room, located at 33122 Valle Road, San Juan Capistrano, California 92675, to receive public comments with respect to the proposed conveyance of the City Easement to City; and

WHEREAS, the District provided notice of the public hearing, as required by Education Code § 17558, by posting a copy of the Resolution of Intent in three public places within the District no later than April 19, 2020 and publishing notice of the hearing in the *Orange County Register* no later than April 24, 2020; and

WHEREAS, the Board conducted a public hearing on April 29, 2020, and considered all comments received, if any; and

WHEREAS, as authorized by Education Code § 17559, the Board may now consider and adopt a resolution to authorize the conveyance of the proposed City Easement to City, unless the Board receives a written protest signed by at least 10 percent of the qualified electors within the District; and

WHEREAS, the Board has not received a petition, signed by any qualified electors objecting to the conveyance of the City Easement; and

WHEREAS, the Board desires to convey the City Easement to City in a manner substantially similar to that set forth in Exhibit 1, subject to the terms and conditions set forth therein.

NOW, THEREFORE, THE BOARD DOES HEREBY DETERMINE, RESOLVE, AND ORDER AS FOLLOWS:

Section 1. The above recitals are true and correct.

- Section 2. At the public hearing held in accordance with Education Code § 17557 and § 17559, the Board provided an opportunity for public comment on the question of whether the District should convey the City Easement, and the Board has considered any and all comments made or received at such time.
- Section 3. The Board hereby authorizes the conveyance of the City Easement to City, in the manner and form set forth in Exhibit 1. The Board hereby authorizes the President of the Board or the Superintendent to execute and deliver the City Easement to City.
- <u>Section 4.</u> The Board hereby authorizes the Superintendent, or the Superintendent's designee, to take such additional action or execute such additional documentation as may be reasonably required to effectuate the intent of this Resolution, including, but not limited to, the delivery of the executed deeds to the appropriate entities.

(Signatures on following page)

	PASSED	AND AI	OOPTED	by the E	Board of	Trustees	of the	Capistrano	Unified	School
District	on April	29, 2020	, by the fo	ollowing	vote:					

AYES	(7)
NOES	(o)
ABSTAIN	(o)
ABSENT	(0)

I, Kirsten M. Vital, Secretary of the Capistrano Unified School District Board of Trustees, hereby certify that the above and foregoing Resolution was duly and regularly adopted by the said Board at the meeting on April 29, 2020, by a roll call vote.

By:

Gila Jones

Clerk of the Board of Trustees

By:

Kirsten M. Vital, Superintendent Secretary of the Board of Trustees

EXHIBIT 1

CITY EASEMENT

RECORDING REQUESTED BY:

City of San Juan Capistrano 32400 Paseo Adelanto San Juan Capistrano, CA 92675

AND WHEN RECORDED MAIL TO:

Maria Morris, City Clerk City of San Juan Capistrano 32400 Paseo Adelanto San Juan Capistrano, CA 92675

Exempt from Recording Fees: CA Gov. Code 27383 City of San Juan Capistrano

This Space for Recorder's Use Only

PROJECT NAME:

Documentary Transfer Tax No Tax Due Recording Requested Per CA Gov. Code Section 27383

Maria Morris, City Clerk

EASEMENT DEED - PARCEL 1 PUBLIC WATER AND SEWER FACILITIES

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

CAPISTRANO UNIFIED SCHOOL DISTRICT, a public body, corporate and politic, ("GRANTOR"), in favor of the CITY OF SAN JUAN CAPISTRANO, A CALIFORNIA MUNICIPAL CORPORATION ("GRANTEE"), a perpetual non-exclusive easement and right-of-way, in, over, under, upon, through and across that portion of real property, in the City of San Juan Capistrano, County of Orange, State of California, as described in EXHIBIT "A" and shown in "EXHIBIT "B", attached hereto and by this reference, made a part hereof by reference, and which is a portion of Section 4, 5, 8 and 9, Township 8 South, Range 7 West of the San Bernardino Meridian, in the City of San Juan Capistrano, County of Orange, State of California, according to Plat of said land filed in the District Land Office April 12, 1875, ("EASEMENT AREA").

Such easement and right-of-way shall be for the construction, operation, repair, replacement and relocation (collectively, "Operation and Maintenance") within the Easement Area of public water and sewer pipeline facilities including service lines, fire hydrants, and appurtenances, and sewer structure and laterals (collectively, "City Facilities") that are above or below ground with the Easement Area. Such easement and right-of-way can be used for the City Facilities for Operation and Maintenance including, without limitation, the right to enter upon, pass, re-pass along said land; to lay, construct, reconstruct, remove, replace, renew, inspect, maintain, repair, improve, relocate, fill or re-grade, and otherwise use City Facilities;

for ingress and egress to City Facilities; to deposit tools, implements and other materials during said work, together with such connections, structures and facilities incidental thereto.

Grantor also grants Grantee perpetual non-exclusive access over the Easement Area for the purposes of Grantee exercising its rights over the Easement Area. Grantee shall have the right to use gates in all of the Grantor's fences which presently or hereafter cross the Easement Area, and to remove, trim, cut and clear away any trees, brush or other landscaping whenever, in Grantee's reasonable judgment, the same shall be necessary for the convenient and safe exercise of the rights granted hereby.

The rights acquired herein shall be subject to the right of the fee owner, its successors and assigns, to reasonably use the surface of the Easement Area for such purposes which do not unreasonably burden the rights herein granted over the Easement Area, and provided further that Grantor, its successors and assigns shall not, without the prior approval of the City of San Juan Capistrano:

- 1. Construct or place any improvement or structure including, but not limited to, repaving and slurry seal, within the Easement Area.
- 2. Place any pavement or hard surface other than a standard City asphalt roadway.
- 3. Place upon or remove from the Easement Area any earth or material.
- 4. Place any fence or other construction blocking access to the Easement Area.

Dated:
Capistrano Unified School District, a public body, corporate and politic,
Ву:
Name:
Title

A NOTARY PUBLIC OR OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
On_ ,	, before me,	,
a Notary Public, personally appeared		,
who proved to me on the basis of satis	sfactory evidence to be the p	person whose name(s) is/are subscribed
to the within instrument and acknow	ledged to me that he/she/th	hey executed the same in his/her/their
authorized capacity(ies), and that by	his/her/their signature(s) o	on the instrument the person(s), or the
entity upon behalf of which the person	n(s) acted, executed the instr	ument.
I certify under PENALTY OF PER.	JURY, under the laws of	the State of California, the foregoing
paragraph is true and correct.		
WITNESS my hand and official seal.		
Signature of Notary		
(Seal)		

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by that certain **EASEMENT DEED** attached hereto from **CAPISTRANO UNIFIED SCHOOL DISTRICT** to the **CITY OF SAN JUAN CAPISTRANO**, **A CALIFORNIA MUNICIPAL CORPORATION**, is hereby accepted by the undersigned officer on behalf of the City of San Juan Capistrano pursuant to authority conferred by Resolution No. 09-05-05-01 of the City of San Juan Capistrano adopted May 5, 2009 and the Grantee consents to recordation thereof by its duly authorized officer.

Dated:	GRANTEE City of San Juan Capistrano				
	Benjamin Siegel, City Manager				

EXHIBIT "A"

LEGAL DESCRIPTION:

That portion of Section 4, 5, 8 and 9, Township 8 South, Range 7 West, San Bernardino Meridian, in the City of San Juan Capistrano, County of Orange, State of California, according to the Official Plat of said land filed in the District Land Office April 12, 1875, described as follows:

Commencing at the most southeasterly corner of said Parcel "1", of LLA 2014-004, recorded, November 05, 2014, as Instrument No. 2014000452491 of Official Records, being a portion of the "Remainder Parcel" of Tract No. 16634, in the City of San Juan Capistrano, County of Orange, State of California, as shown on a Map thereof, filed in Book 884, Pages 33 through 50, inclusive, of Miscellaneous Maps, Records of County, as described in Deed to Rancho San Juan Development, LLC, recorded August 23, 2011, as Instrument No. 2011000416546 of Official Records of said County,

Thence, along the southerly line of said Parcel 1, South 67°13'56" West, a distance of 211.57 feet to the beginning a tangent 1058.62 foot radius curve, concave northwesterly;

Thence, southwesterly, along said curve, through a central angle 03°27'22", an arc length of 63.86 feet:

Thence, leaving said south line, North 19°17'33" West, a distance of 5.19 feet to the beginning of a non-tangent 35.00 foot radius curve, concave northeasterly, a radial line to said point bears South 11°46'56" West:

Thence, northerly, along said curve, through a central angle 05°09'01", an arc length of 3.15 feet to the **POINT OF BEGINNING**;

Thence, continuing northerly, along said curve, through a central angle 53°46'26", an arc length of 32.85' feet;

Thence, tangent to said curve, and northerly along the westerly line of said Parcel 1, North 19°17'37" W, a distance of 66.11 feet;

Thence, leaving said westerly line, South 70°42'23" West, a distance of 5.46 feet;

Thence, parallel with said westerly line, South 19°17'37" East, a distance of 74.36 feet;

Thence, South 70°42'23" West, a distance of 20.24 feet;

Thence, South 19°20'50" East, a distance of 26.07 feet to a point in the arc of said 1058.62 foot radius curve, a radial line to said point bears South 17°00'17" East;

Thence, easterly, along said curve, through a central angel 01°04'59", an arc length of 20.01 feet;

Thence, North 19°20'50" West, a distance of 6.68 feet;

Thence, North 70°38'51" East, a distance of 20.00 feet to the **POINT OF BEGINNING.**

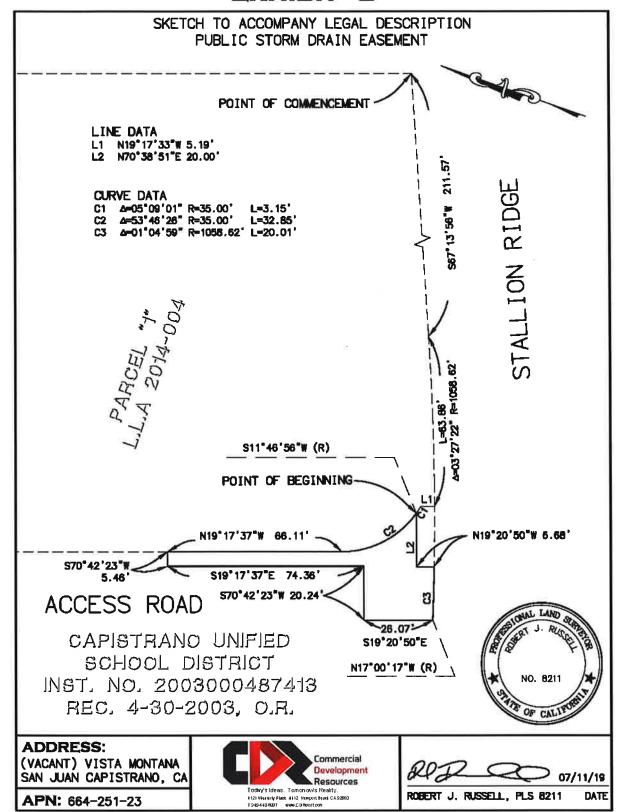
Legal Description prepared by Commercial Development Resources.

Rob Russell, PLS 8211

July 11, 2019

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EXHIBIT "B"



CAPISTRANO UNIFIED SCHOOL DISTRICT San Juan Capistrano, California

RESOLUTION NO. 1920-48

RESOLUTION OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT TO AUTHORIZE THE CONVEYANCE OF AN EASEMENT TO SANTA MARGARITA WATER DISTRICT FOR THE PURPOSES OF PROVIDING NECESSARY PUBLIC WATER FACILITIES TO NEWHART MIDDLE SCHOOL

WHEREAS, Santa Margarita Water District (SMWD) requires an easement from the Capistrano Unified School District (District) in order to access, construct, reconstruct, enlarge, improve, repair, operate, and maintain water pipelines and incidental appurtenances, connections, and structures (Facilities); and

WHEREAS, the Facilities will provide necessary public water facilities to Newhart Middle School (Newhart MS), located at 25001 Veterans Way in the City of Mission Viejo, identified as Orange County Assessor Parcel No. 808-521-02 (District Property) for the new STEAM Building at Newhart MS; and

WHEREAS, the easement sought by SMWD and the specific location of the easement is attached hereto as Exhibit 1, and is incorporated herein by this reference (SMWD Easement); and

WHEREAS, the SMWD Easement is located in an area that will not interfere with the District's operation of its academic facilities on the District Property, or otherwise negatively impact school operation; and

WHEREAS, Education Code § 17556 et seq. provides the authority for the District to convey easements after first adopting a resolution declaring such an intent and holding a public hearing to consider such a conveyance; and

WHEREAS, pursuant to Education Code § 17557, the District's Board of Trustees (Board) adopted Resolution No. 1920-41 (Resolution of Intent) on March 18, 2020, declaring its intention to consider the conveyance of the SMWD Easement to SMWD, and establishing April 29, 2020, at 7:00 p.m., or as soon thereafter as reasonably possible, as the time for the Board to conduct a public hearing at its regular meeting to be held at the District Board Room, located at 33122 Valle Road, San Juan Capistrano, California 92675, to receive public comments with respect to the proposed conveyance of the SMWD Easement to SMWD; and

WHEREAS, the District provided notice of the public hearing, as required by Education Code § 17558, by posting a copy of the Resolution of Intent in three public places within the District no later than April 19, 2020 and publishing notice of the hearing in the *Orange County Register* no later than April 24, 2020; and

WHEREAS, the Board conducted a public hearing on April 29, 2020, and considered all comments received, if any; and

WHEREAS, as authorized by Education Code § 17559, the Board may now consider and adopt a resolution to authorize the conveyance of the proposed SMWD Easement to SMWD, unless the Board receives a written protest signed by at least 10 percent of the qualified electors within the District; and

WHEREAS, the Board has not received a petition, signed by any qualified electors objecting to the conveyance of the SMWD Easement; and

WHEREAS, the Board desires to convey the SMWD Easement to SMWD in a manner substantially similar to that set forth in Exhibit 1, subject to the terms and conditions set forth therein.

NOW, THEREFORE, THE BOARD DOES HEREBY DETERMINE, RESOLVE, AND ORDER AS FOLLOWS:

- **Section 1.** The above recitals are true and correct.
- Section 2. At the public hearing held in accordance with Education Code §17557 and 17559, the Board provided an opportunity for public comment on the question of whether the District should convey the SMWD Easement, and the Board has considered any and all comments made or received at such time.
- <u>Section 3</u>. The Board hereby authorizes the conveyance of the SMWD Easement to SMWD, in the manner and form set forth in Exhibit 1. The Board hereby authorizes the President of the Board or the Superintendent to execute and deliver the SMWD Easement to SMWD.
- <u>Section 4.</u> The Board hereby authorizes the Superintendent, or the Superintendent's designee, to take such additional action or execute such additional documentation as may be reasonably required to effectuate the intent of this Resolution, including, but not limited to, the delivery of the executed deeds to the appropriate entities.

(Signatures on following page)

District on April 29, 2020, by the following v	vote:
AYES () NOES () ABSTAIN () ABSENT ()	
•	strano Unified School District Board of Trustees, Resolution was duly and regularly adopted by the by a roll call vote.
Ву:	Gila Jones Clerk of the Board of Trustees
Ву:	Kirsten M. Vital, Superintendent Secretary of the Board of Trustees

PASSED AND ADOPTED by the Board of Trustees of the Capistrano Unified School

EXHIBIT 1

SMWD EASEMENT

RECORDING REQUESTED BY:

WHEN RECORDED MAIL TO: Santa Margarita Water District 26111 Antonio Parkway Rancho Santa Margarita, CA 92688

[Space Above This Line Is For Recorder's Use Only]

Mail Tax Statements to: Santa Margarita Water District 26111 Antonio Parkway Rancho Santa Margarita, CA 92688 This document is recorded for the benefit of SANTA MARGARITA WATER DISTRICT. The recording fee is exempt under *Section* 27383 of the Government code. **NO CONSIDERATION**

(Signature)

GRANT OF EASEMENT TO SANTA MARGARITA WATER DISTRICT

The easement and right-of-way granted herein include the incidental rights to enter upon and pass and repass over and along the Easement Area for the construction (including, without limitation, grading, excavation and compaction of the Easement Area), reconstruction, enlargement, improvement, repair, operation and maintenance of the facilities to be constructed by Grantee and for ingress and egress to Grantee's property. After completion of any work performed by Grantee or its agents, contractors or employee which disturbs the surface of Grantor's property, Grantee shall restore the surface of such area as close as reasonable to its original character.

The easement and right-of-way acquired herein are acquired subject to the right of Grantors, their successors and assigns, to use the surface and subsurface of the land within the Easement Area to the extent that such use is compatible with the full and free exercise of the easement and right-of-way by Grantee; provided, however, that no fences, block walls, or other structures or other improvements shall be constructed upon, over and along the Easement Area without the prior written consent of Grantee, which consent shall not be unreasonably withheld or delayed.

No fill or paving of any nature shall be placed or maintained on the surface of the ground within the Easement Area, nor shall any earth be removed from the cover of the pipeline after construction, without prior written consent of Grantee, which consent shall not be unreasonably withheld or delayed.

Grantee shall have the right to use gates in all of Grantors' fences which presently or hereafter cross the Easement Area, and to remove, trim, cut and clear away any trees and brush whenever in Grantee's reasonable judgment the same shall be necessary for the convenient and safe exercise of the rights granted hereby.

 IN	WITNESS	WHEREOF ,, 20	this	instrument	has	been	executed	this		day of
				CAPISTR Grantor	ANO) UNI	FIED SC	НОО	L DIS	FRICT
					-	-	Deputy Support Service		endent,	-

PLEASE NOTARIZE ALL SIGNATURES

ACKNOWLEDGMENT

A Notary public or other officer completing this

certificate verifies only the identity of the

individual who signed the document to which this certificate is attached, and no the truthfulness, accuracy, or validity of that document. State of California County of On before me, (insert title of the officer) personally appeared name and who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct. WITNESS my hand and official seal. Signature (Seal)

CERTIFICATE OF ACCEPTANCE

The undersigned, being the duly appointed agent of SANTA MARGARITA WATER
DISTRICT, a public corporation ("District"), Orange County, California, pursuant to its
Resolution No. 88-10-2, does hereby accept on behalf of District, the grant of all interests in real
estate for public purposes as described in the attached Grant of Easement dated the
day of, 2020, by and between District and GG and does hereby
certify District consents to the recordation of the attached Grant of Easement.
DATED:
SANTA MARGARITA WATER DISTRICT
By:
Secretary

(SEAL)

EXHIBIT "A" SANTA MARGARITA WATER DISTRICT WATER EASEMENT LEGAL DESCRIPTION

PARCEL A

THAT PORTION OF LOT 1 OF TRACT NO. 8807, IN THE CITY OF MISSION VIEJO, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 423, PAGES 43 THROUGH 50, OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT IN THE NORTHEASTERLY LINE OF SAID LOT 1, SAID POINT BEING THE NORTHWESTERLY TERMINUS OF THAT COURSE SHOWN AS "NORTH 47°19'00" WEST 218.35 FEET" ON SAID TRACT MAP, THENCE SOUTHEASTERLY ALONG SAID NORTHEASTERLY LINE, SOUTH 47°19'35" EAST 62.08 FEET TO THE TRUE POINT OF BEGINNING;

THENCE LEAVING SAID NORTHEASTERLY LINE, SOUTH 42°40'25" WEST, 8.30 FEET;

THENCE SOUTH 47°19'35" EAST, 20.60 FEET;

THENCE NORTH 42°40'25" EAST, 8.30 FEET TO SAID NORTHEASTERLY LINE:

THENCE NORTHWESTERLY ALONG SAID NORTHEASTERLY LINE, NORTH 47°19'35" WEST, 20.60 FEET TO SAID TRUE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 171 SQUARE FEET OR 0,004 ACRES, MORE OR LESS.

SUBJECT TO COVENANTS, CONDITIONS, RESERVATIONS, RESTRICTIONS, RIGHTS OF WAY, AND EASEMENTS OF RECORD, IF ANY.

ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B", ATTACHED HERETO AND MADE A PART HEREOF.

THIS DOCUMENT HAS BEEN PREPARED BY ME, OR UNDER MY DIRECTION, IN CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYOR'S ACT.

TIMOTHY S. FETTIG P.L.S 542

01/27/2020

DATE



Page 1 of 1

