

CAPISTRANO UNIFIED SCHOOL DISTRICT  
San Juan Capistrano, California

**RESOLUTION NO. 2021-17**

**RESOLUTION OF THE BOARD OF TRUSTEES OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 98-2 OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT (LADERA), AUTHORIZING THE LEVY OF SPECIAL TAXES IN COMMUNITY FACILITIES DISTRICT NO. 98-2 OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT (LADERA) FOR FISCAL YEAR 2020-2021**

*WHEREAS*, the Capistrano Unified School District (District) previously established Community Facilities District No. 98-2 of the Capistrano Unified School District (Ladera) (CFD No. 98-2) pursuant to the terms and provisions of the Mello-Roos Community Facilities Act of 1982, as amended (Act); and

*WHEREAS*, CFD No. 98-2 issued its Series 1999 Special Tax Bonds in the amount of \$105,330,000 pursuant to Resolution No. 9899-91, adopted by the Board of Trustees (Board) of the District acting as the Legislative Body of CFD No. 98-2 on March 8, 1999 (Series 1999 Special Tax Bonds), which Series 1999 Special Tax Bonds were refunded on April 28, 2005, by the issuance of the CFD No. 98-2 Series 2005 Special Tax Refunding Bonds (Bonds); and

*WHEREAS*, the Board acting as the Legislative Body of CFD No. 98-2 is authorized, pursuant to Resolutions Nos. 9899-76 and 9899-77 approved on February 8, 1999 (collectively, Resolutions of Formation), and Ordinance No. 98-2-1, approved on March 8, 1999 (Ordinance), to levy a Special Tax on property in CFD No. 98-2 to pay principal, interest, and administrative expenses with respect to all Bonds of CFD No. 98-2, which include the Bonds, to pay for the construction, acquisition, and rehabilitation of certain public facilities authorized to be financed by the levy of Special Taxes of CFD No. 98-2, pursuant to the Resolutions of Formation and to pay all expenses incidental thereto; and

*WHEREAS*, the Board has been presented with authorized facilities expenditures for the special taxes collected and administered by U.S. Bank, National Association, as Fiscal Agent, pursuant to the Bond Indenture, dated as of April 1, 2005, by and between CFD No. 98-2 and U.S. Bank, National Association, and other applicable law; and

*WHEREAS*, on June 24, 2015, CFD No. 98-2 issued its Series 2015 Special Tax Refunding Bonds in an amount not to exceed \$92,500,000 pursuant to Resolution No. 1314-49 adopted by the Board, acting as the Legislative Body of CFD No. 98-2, (Series 2015 Bonds) to refund the Series 2005 Bonds, as well as provide financing for additional capital facilities; and

*WHEREAS*, it is now necessary and appropriate that this Board levy and collect the Special Taxes for Fiscal Year 2020-2021 for the purpose specified in the Ordinance, by the adoption of a Resolution as specified by the Act and the Ordinance; and

*WHEREAS*, on August 17, 2016, the Board adopted Resolution No. 1617-33 approving the elimination, as early as possible, of the collection of that portion of Special Taxes in CFD No. 98-2 used to fund projects on a “pay-as-you-go” basis, and the Special Taxes being levied herein reflect that determination by the Board; and

*WHEREAS*, the Special Taxes being levied hereunder are at the rate or at a lower rate than provided by the Ordinance.

*NOW THEREFORE BE IT RESOLVED* that the Board of Trustees of the District, acting in its capacity as the Legislative Body of CFD No. 98-2, does hereby resolve, determine, and order as follows:

**Section 1.** The above Recitals are true and correct.

**Section 2.** The Special Tax is imposed without regard to property valuation and is levied in compliance with the Act and the Ordinance.

**Section 3.** In accordance with the Act and the Ordinance, there is hereby levied upon the parcels within CFD No. 98-2, which are not otherwise exempt from taxation under the Act or the Ordinance the Special Taxes for Fiscal Year 2020-2021, at the tax rates set forth in the report prepared by the District's Special Tax Consultant, David Taussig and Associates (DTA) entitled, Capistrano Unified School District Community Facilities District Administration Report Fiscal Year 2020-2021 (DTA 2020-2021 Administration Report) submitted herewith. The DTA 2020-2021 Administration Report is on file at the District Office, and is by this reference herein incorporated, which sets forth rates that do not exceed the maximum rates set forth in the Ordinance. After adoption of this Resolution, DTA may make any necessary modifications to the DTA 2020-2021 Administration Report consistent with actions of the Board, acting as the Legislative Body of CFD No. 98-2, in the adoption of this Resolution. After adoption of this Resolution, the Deputy Superintendent, Business and Support Services of the District, or designee, may make any necessary modifications to these Special Taxes to correct any errors, omissions or inconsistencies in the listing or categorization of parcels to be taxed or in the amount to be charged to any category of parcels; provided, however, that any such modifications shall not result in an increase in the Special Taxes applicable to any category of parcels.

**Section 4.** The Board, acting as the Legislative Body of CFD No. 98-2, hereby approves and adopts a budget for CFD No. 98-2 for Fiscal Year 2020-2021 in the amount of \$7,233,490.00. Special taxes shall be levied as set forth in the DTA 2020-2021 Administration Report in accordance with this budget. All of the collections of the Special Tax shall be used only as provided for in the Act and Resolutions of Formation. The Special Tax shall be levied only so long as needed to accomplish the purposes described in Resolutions of Formation.

**Section 5.** The Special Tax shall be collected in the same manner as ordinary ad valorem taxes are collected and shall be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for ad valorem taxes as such procedure may be modified by law or this Board from time to time.

**Section 6.** When Bonds are sold and issued, or such Special Taxes are pledged for Bonds issued as a cumulative remedy, if any amount levied as a Special Tax for payment of

Bond interest or principal, together with any penalties and other charges accruing under this Resolution, are not paid when due, the Board may, not later than four years after the due date of the last installment of principal on the Bonds, order that the same be collected by an action brought in the superior court to foreclose the lien of such Special Tax. The Deputy Superintendent, Business and Support Services of the District, is authorized to pursue collection thereof and to commence such proceedings consistent with the Act and the applicable provisions of any Bonds issued on behalf of CFD No. 98-2.

**Section 7.** The actions of District staff heretofore taken in order to obtain consent from the Orange County Auditor-Controller to a later filing date are hereby ratified and the Clerk is hereby authorized and directed to transmit a certified copy of this Resolution to the Orange County Auditor-Controller, together with other supporting documentation as may be required to place said Special Taxes on the secured property tax roll for Fiscal Year 2020-2021 on or before August 19, 2020, or other duly authorized date, and to perform all other acts which are required by the Act, the Ordinance, or by law in order to accomplish the purpose of this Resolution.

**Section 8.** The District hereby certifies that the Special Taxes to be placed on the 2020-21 Secured Property Tax bill by the District meets the requirements of Proposition 218 that added Articles XIII C and XIII D to the California State Constitution. The District agrees to defend, indemnify, and hold harmless the County of Orange (the "County"), the Board of Supervisors, the Auditor-Controller, and its officers and employees, from litigation over whether the requirements of Proposition 218 were met with respect to the Special Taxes. If any judgment is entered against any indemnified party as a result of not meeting the requirements of Proposition 218 for such assessments, the District agrees that the County may offset the amount of any judgment paid by an indemnified party from any monies collected by the County on the District's behalf, including property taxes, special taxes, fees, or assessments.

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ADOPTED, SIGNED, AND APPROVED this 19th day of August, 2020.

BOARD OF TRUSTEES OF THE CAPISTRANO  
UNIFIED SCHOOL DISTRICT ACTING AS THE  
LEGISLATIVE BODY OF COMMUNITY  
FACILITIES DISTRICT NO. 98-2 OF THE  
CAPISTRANO UNIFIED SCHOOL DISTRICT  
(LADERA)

By: 

Jim Reardon, President of the Board of  
Trustees of the Capistrano Unified School  
District

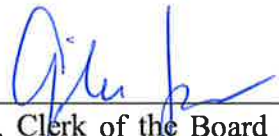
By: 

Gila Jones, Clerk of the Board of Trustees of  
the Capistrano Unified School District

STATE OF CALIFORNIA            )  
  )  
COUNTY OF ORANGE            )        ss.

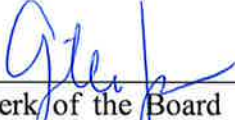
I, Gila Jones, Clerk of the Board of Trustees of the Capistrano Unified School District, do hereby certify that the foregoing resolution was duly adopted by the Board of Trustees of said District, acting as the Legislative Body of CFD No. 98-2, at a meeting of the Board of Trustees held on the 19th day of August, 2020, and that it was so adopted by the following vote:

AYES:     7  
NOES:     0  
ABSENT:   0  
ABSTAIN:  0

By:   
Gila Jones, Clerk of the Board of Trustees of  
the Capistrano Unified School District

STATE OF CALIFORNIA            )  
  )  
COUNTY OF ORANGE            )        ss.

I, Gila Jones, Clerk of the Board of Trustees of the Capistrano Unified School District, do hereby certify that the foregoing Resolution was duly passed, approved, and adopted by the Board of Trustees of the Capistrano Unified School District, acting as the Legislative Body of CFD No. 98-2, at a regular meeting of said Board held on the 19th day of August, 2020.

  
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Gila Jones, Clerk of the Board of Trustees of the  
Capistrano Unified School District