

CAPISTRANO UNIFIED SCHOOL DISTRICT  
San Juan Capistrano, California

**RESOLUTION NO. 2122-10**

**RESOLUTION OF THE BOARD OF TRUSTEES OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2005-1 OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT (WHISPERING HILLS), AUTHORIZING THE LEVY OF SPECIAL TAXES IN COMMUNITY FACILITIES DISTRICT NO. 2005-1 OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT (WHISPERING HILLS) FOR FISCAL YEAR 2021-2022**

*WHEREAS*, on July 26, 2005, the Board of Trustees (Board) of the Capistrano Unified School District (District) adopted Resolution No. 0506-06, which established Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills) (CFD No. 2005-1) calling for a public hearing, and such public hearing was duly held on July 26, 2005 to consider the levy of a proposed special tax and to incur bonded indebtedness in the amount of \$30,000,000 within the boundaries of CFD No. 2005-1 pursuant to the terms and provisions of the Mello-Roos Community Facilities Act of 1982, as amended (Act); and

*WHEREAS*, the Board called and duly held an election on July 26, 2005 for the purpose of presenting to the qualified electors within CFD No. 2005-1 Propositions A and B authorizing incurring bonded indebtedness in the maximum aggregate principal amount of \$30,000,000 for authorized facilities and the levy of a Special Tax within the boundaries of CFD No. 2005-1, which Propositions were approved by more than two-thirds of the votes cast at said election, thereby authorizing the Board to levy the Special Taxes described in Propositions A and B, respectively, for the purposes described therein and to take the necessary steps to levy the Special Taxes authorized by Propositions A and B; and

*WHEREAS*, the Board, acting as the Legislative Body of CFD No. 2005-1, pursuant to the Act, adopted Resolution No. 0607-66 calling for a public hearing, and such public hearing was duly held on May 7, 2007, to consider the annexation of certain territory into CFD No. 2005-1, as described therein and the maps of such territory referenced therein (Annexed Territory); and

*WHEREAS*, the Board called and duly held an election on May 7, 2007 in the Annexed Territory for the purpose of presenting to the qualified electors within the Annexed Territory Propositions A and B authorizing the levy of a Special Tax within the Annexed Territory, which Propositions were approved by more than two-thirds of the votes cast at said election, thereby authorizing the Board to levy the Special Taxes described in Propositions A and B, respectively, for the purposes described therein and to take the necessary steps to levy the Special Taxes authorized by Propositions A and B; and

*WHEREAS*, the Board, acting as the Legislative Body of CFD No. 2005-1, adopted Resolution No. 1011-43 on March 8, 2011, initiating proceedings to alter the Rate and Method of Apportionment of CFD No. 2005-1 and to reduce the levy of the special taxes of CFD No. 2005-

1 (Special Taxes), considering the adoption of the Revised Rate and Method of Apportionment (Revised RMA), and calling a public hearing thereon (S/T Revision Proceedings), pursuant to the Act; and

*WHEREAS*, on June 13, 2011, the Board adopted Resolution No. 1011-60 ordering certain changes to the Revised RMA, resulting in the First Amended Rate and Method of Apportionment of Special Taxes of CFD No. 2005-1 (First Amended RMA) which replaced the Revised RMA for all purposes relating to the S/T Revision Proceedings; and

*WHEREAS*, on June 13, 2011, the Board held a noticed continued public hearing (Continued Public Hearing), as required by law, relative to the proposed First Amended RMA; and

*WHEREAS*, the Board, subsequent to said Continued Public Hearing, adopted Resolution No. 1011-61 which called an election within CFD No. 2005-1 for June 13, 2011, on the proposition of the proposed First Amended RMA as set forth in Resolution Nos. 1011-43, 1011-60 and 1011-61; and

*WHEREAS*, on June 13, 2011, an election was held within CFD No. 2005-1 in which the eligible voters approved, by more than two-thirds vote, the proposed First Amended RMA and, on June 23, 2011, an Amendment to the Notice of Special Tax Lien of CFD No. 2005-1 was recorded in the County Recorder of the County of Orange, State of California, as Document No. 2011-000306922; and

*WHEREAS*, on July 11, 2011, the Board adopted Ordinance No. 1112-1 (Ordinance), authorizing the levy of the Special Taxes within CFD No. 2005-1 in accordance with the First Amended RMA; and

*WHEREAS*, on October 24, 2013, CFD No. 2005-1 issued its \$8,190,000 Series 2013 Special Tax Bonds (Series 2013 Special Tax Bonds); and

*WHEREAS*, on July 20, 2016, the Board adopted Resolution No. 1617-13, authorizing the issuance by CFD No. 2005-1 of not to exceed \$16,000,000 of additional bonds to be on a parity with the Series 2013 Special Tax Bonds, which additional bonds were issued on September 1, 2016; and

*WHEREAS*, the Board, acting as the Legislative Body of CFD No. 2005-1, has been presented with information relating to the authorized facilities expenditures of special taxes collected and administered by the Fiscal Agent, pursuant to the Fiscal Agent Agreement, dated as of October 1, 2014, by and between CFD No. 2005-1 and U.S. Bank, National Association, and other applicable law; and

*WHEREAS*, it is now necessary and appropriate that this Board levy and collect the Special Taxes for Fiscal Year 2021-2022, for the purpose specified in the Ordinance, by the adoption of a Resolution as specified by the Act and the Ordinance; 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 the CFD No. 2005-1, 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. 2005-1, which are not otherwise exempt from taxation under the Act or the Ordinance, or from and after the date of Resolution No. 1011-60, which are owned by a religious institution and used primarily as a place of worship, the Special Taxes for Fiscal Year 2021-2022 at the tax rates set forth in the report prepared by the District's Special Tax Consultant, David Taussig and Associates (DTA) for CFD No. 2005-1 entitled, Capistrano Unified School District Community Facilities District Administration Report Fiscal Year 2021-2022 (DTA 2021-2022 Administration Report) submitted herewith. The DTA 2021-2022 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 2021-2022 Administration Report consistent with actions of the Board, acting as the Legislative Body of CFD No. 2005-1, 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. 2005-1, hereby approves and adopts a budget for CFD No. 2005-1 for Fiscal Year 2021-2022 in the amount of \$1,256,521.00. Special taxes shall be levied as set forth in the DTA 2021-2022 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 Resolution No. 0506-06. The Special Tax shall be levied only so long as needed to accomplish the purposes described in Resolution No. 0506-06.

**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.** If and when Bonds are issued or such Special Taxes are pledged as to 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. 2005-1.


**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 2021-2022 on or before August 18, 2021, 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.

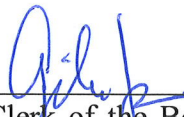
**Section 8.** The District hereby certifies that the Special Taxes to be placed on the 2021-22 Secured Property Tax bill by the District meets the requirements of Proposition 218 that added Articles XIIC and XIID to the California State Constitution. The District agrees to defend, indemnify, and hold 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 18th day of August, 2021.

BOARD OF TRUSTEES OF THE CAPISTRANO  
UNIFIED SCHOOL DISTRICT ACTING AS THE  
LEGISLATIVE BODY OF COMMUNITY  
FACILITIES DISTRICT NO. 2005-1 OF THE  
CAPISTRANO UNIFIED SCHOOL DISTRICT  
(WHISPERING HILLS)

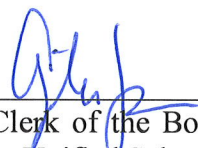
By:   
Judy Bullockus, President of the Board of  
Trustees of the Capistrano Unified School  
District

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

STATE OF CALIFORNIA            )  
  )  
COUNTY OF ORANGE            )            ss.

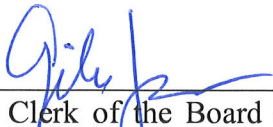
I, Gila Jones, Clerk of the Board of Trustees of the Capistrano Unified School District, do hereby certify that the foregoing resolution was duly adopted by the Board of Trustees of said District, acting as the Legislative Body of CFD No. 2005-1, at a meeting of the Board of Trustees held on the 18th day of August, 2021, and that it was so adopted by the following vote:

AYES:            5  
NOES:            0  
ABSENT:         2  
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. 2005-1, at a regular meeting of said Board held on the 18th day of August, 2021.

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