

CAPISTRANO UNIFIED SCHOOL DISTRICT
San Juan Capistrano, California

RESOLUTION NO. 2021-14

RESOLUTION OF THE BOARD OF TRUSTEES OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 92-1 OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT (LAS FLORES), AUTHORIZING THE LEVY OF SPECIAL TAXES IN COMMUNITY FACILITIES DISTRICT NO. 92-1 OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT (LAS FLORES) FOR FISCAL YEAR 2020-2021

WHEREAS, the Capistrano Unified School District (District) previously established Community Facilities District No. 92-1 of the Capistrano Unified School District (Las Flores) (CFD No. 92-1) pursuant to the term and provisions of the Mello-Roos Community Facilities Act of 1982, as amended (Act); and

WHEREAS, the Board of Trustees (Board) of the District, pursuant to the Act, adopted Resolution No. 92-142 calling for a public hearing, and such public hearing was duly held on December 21, 1992, 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. 92-1; and

WHEREAS, the Board called and duly held an election on December 21, 1992, for the purpose of presenting to the qualified electors within the territory of CFD No. 92-1 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. 92-1, 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, on April 19, 1993, the Board, acting as the Legislative Body of CFD No. 92-1, adopted Ordinance No. 92-1-1 which authorized the levy and collection of the Special Taxes within CFD No. 92-1 (Ordinance), as provided in the Act and Ordinance and as approved by the qualified electors; and

WHEREAS, CFD No. 92-1 issued its Series 1993 Special Tax Bonds on September 9, 1993, in the amount of \$8,515,000 (Series 1993 Bonds) pursuant to Resolution No. 93-76 adopted by the Board of Trustees (Board) of the District acting as the Legislative Body of CFD No. 92-1, on August 16, 1993; and

WHEREAS, on December 11, 1995, the Board, acting as the Legislative Body of CFD No. 92-1, adopted Resolution No. 9596-57 calling for an election and such special election was duly held on March 11, 1996, amending the method of levy of the special tax with respect to undeveloped property located within CFD No. 92-1, among other Amendments, as defined therein; and

WHEREAS, the Board called and duly held an election on March 11, 1996, for the purpose of presenting to the qualified electors within the territory of CFD No. 92-1 the Amended and Restated Rate and Method of Apportionment (Amended RMA), which Amended RMA was approved by more than two-thirds of the votes cast at said election, thereby authorizing the Board to levy the Special Taxes pursuant to the Amended RMA; and

WHEREAS, CFD No. 92-1 issued its Series 1997 Special Tax Bonds on January 16, 1997, in the amount of \$12,500,000 (Series 1997 Bonds) pursuant to a supplement to Resolution No. 93-76; and

WHEREAS, CFD No. 92-1 issued its Series 1998 Special Tax Bonds on July 1, 1998, in the amount of \$31,360,000 (Series 1998 Bonds) for the purposes of refunding the Series 1993 Bonds and the Series 1997 Bonds and to finance additional capital facilities, pursuant to Resolution No. 9798-102 adopted by the Board on May 18, 1998; and

WHEREAS, CFD No. 92-1 issued its \$14,430,000 Community Facilities District No. 92-1 of the Capistrano Unified School District Series 2013 Special Tax Refunding Bonds (Series 2013 Bonds) for the purpose of refunding the Series 1998 Bonds on July 31, 2013; and

WHEREAS, on August 14, 2013, the Board, acting as the Legislative Body of CFD No. 92-1, voted to apply a portion of the debt service interest savings generated by the issuance of the Series 2013 Bonds to proportionally reduce the annual special tax levy in Fiscal Year 2013-2014; and

WHEREAS, the Board, acting as the Legislative Body of CFD No. 92-1, is authorized pursuant to the resolutions of such Board forming CFD No. 92-1 (Resolutions of Formation) and the Ordinance to levy a Special Tax sufficient to pay principal, interest and administrative expenses with respect to all bonds of CFD No. 92-1, including the Series 2013 Bonds, to pay certain costs of the Facilities (as defined in the Resolutions of Formation) and to pay all expenses incidental thereto; and

WHEREAS, the Board, acting as the Legislative Body of CFD No. 92-1, has been presented with information regarding the authorized facilities expenditures of special taxes collected and administered by the fiscal agent, under the Fiscal Agent Agreement, dated as of July 1, 2013, by and between CFD No. 92-1 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 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. 1617-3032 approving the elimination, as early as possible, of the collection of that portion of Special Taxes in CFD No. 92-1 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 the CFD No. 92-1, does hereby resolve, determine, and order as follows:

Section 1. The above Recitals are all 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. 92-1, 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. 92-1, 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. 92-1, hereby approves and adopts a budget for CFD No. 92-1 for Fiscal Year 2020-2021 in the amount of \$1,961,656.00. 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 the Resolutions of Formation. The Special Tax shall be levied only so long as needed to accomplish the purposes described in the 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 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 Series 2013 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 applicable provisions of any Bonds issued on behalf of CFD No. 92-1.

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 and the DTA Annual Report to the Orange County Auditor, 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 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 19th day of August, 2020.

BOARD OF TRUSTEES OF THE CAPISTRANO
UNIFIED SCHOOL DISTRICT ACTING AS THE
LEGISLATIVE BODY OF COMMUNITY
FACILITIES DISTRICT NO. 92-1 OF THE
CAPISTRANO UNIFIED SCHOOL DISTRICT
(LAS FLORES)

By: 

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

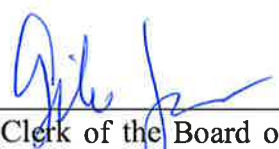
By: 

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

STATE OF CALIFORNIA)
)
) ss.
COUNTY OF ORANGE)

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. 92-1, 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. 92-1, at a regular meeting of said Board held on the 19th day of August, 2020.



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