

**SPECIAL MEETING OF THE GOVERNING BOARD OF DUBLIN  
UNIFIED SCHOOL DISTRICT, JULY 17, 2018, 5:30 P.M.**

**Summary of Evidence Supporting the Resolution of Necessity for the Acquisition  
of Property for the Construction of a New Dublin Unified School District High  
School**

**BACKGROUND**

The Dublin Unified School District (the “District”) requires the acquisition of vacant real property generally located between Dublin Boulevard and Central Parkway in the City of Dublin, bearing Assessor’s Parcel Numbers 985-0078-002, 3, 4, 5, 6, and 7, including the 0.71-acre parcel identified as part of South Grafton Street and East Finnian Way on Assessor’s Map 985 (and Parcel Map 9717) (the “Property”), for the construction and operation of a District high school and related educational purposes, including all uses necessary, incidental, or convenient thereto (the “Project”). The District requires fee title to the Property, which has been owned by Grafton Station, LLC (the “Owner”) since May of 2013.

A written offer to purchase the Property pursuant to Government Code Section 7267.2 was made to the Owner by letter dated March 19, 2018. Since that date, there has been extensive correspondence with the Owner. However, to date, the offer has not been accepted, and negotiations have not resulted in an agreement for the District’s purchase of the Property.

**RECOMMENDATION**

Adopt Resolution No. 2018/19-03 determining that the public interest and necessity require acquisition of the Property for public purposes and authorizing proceedings under Education Code Section 35270.5, Title 7 of Part 3 of the Code of Civil Procedure, including, but not limited to, Sections 1230.010 *et seq.*, and 1240.020, and Article I, Section 19 of the California Constitution.

**DISCUSSION**

The Board has been provided with a copy of Resolution No. 2018/19-03 (“Resolution of Necessity”), which would authorize the acquisition of the Property for public purposes by exercising the District’s powers under Education Code Section 35270.5, Title 7 of Part 3 of the Code of Civil Procedure, including, but not limited to, Sections 1230.010 *et seq.*, and 1240.020, and Article I, Section 19 of the California Constitution. The Resolution requires approval by at least two-thirds majority of the Board.

**As set forth in Resolution No. 2018/19-03, the Board is asked to make the following findings:**

1. The public interest and necessity require the Project.

2. The Project is planned or located in the manner that would be the most compatible with the greatest public good and the least private injury.
3. The real property sought to be acquired is necessary for the Project.
4. The District has offered to purchase the Property in compliance with the statutory requirements.
5. The District has complied with all conditions and statutory requirements necessary to exercise the powers granted by Education Code Section 35270.5 and Title 7 of Part 3 of the Code of Civil Procedure (“the right to take”) to acquire the Property described herein

The following information is provided as support for the Board to make the required findings:

**1. The public interest and necessity require the Project.**

The need for the Project is based on population growth and increased residential and commercial development in the City of Dublin, which has caused severe overcrowding within the District’s school facilities.

The District currently educates over 11,500 transitional-kindergarten/kindergarten through twelfth grade students in its 11 schools. (CALPADS 1.3 Enrollment – Primary Status Disaggregated Fall 1 Reporting October.) Of its 11 schools, the District operates a total of seven (7) elementary schools (transitional kindergarten through fifth grade); two (2) middle schools (grades 6 through 8); one (1) high school; and one (1) continuation high school. However, according to the District’s School Facilities Needs Analysis (May 11, 2018) (“SFNA”) and School Fee Justification Study (June 1, 2018) (“SFJS”), the above-named District facilities have a capacity to accommodate only 10,218 students. Dublin’s school facilities thus currently have a deficit of space necessary to house over 1,000 students.

The District’s SFNA and SFJS establish that student enrollment within the District is going to increase vastly over the next five to ten years, as residential and commercial development continues to occur throughout the District. In particular, the District expects to experience the development of approximately 3,700 new residential units over the next five years, and a corresponding increase of student enrollment of approximately 2,000 students, including at the high school level. This increase in enrollment will severely exacerbate the overcrowding within the District’s school facilities. For these reasons, in its Draft Facilities Master Plan (March 2016), the District has identified the need for construction of new schools, and the modernization and improvement of existing schools, totaling over \$620,000,000 in 2016 dollars. Included among these needs is the need for a new high school.

The public interest and necessity therefore require the Project in order to accommodate anticipated residential and commercial development, and to alleviate District school overcrowding.

**2. The Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.**

After considering several different locations for the Project, District staff has determined that the area in which the Property is located will best serve the anticipated future student growth due to planned and projected residential and commercial development in the District. While all of Dublin has experienced increased commercial and residential development, the Property's neighborhood has in particular experienced extensive new residential development for several reasons, including the BART Station connecting the neighborhood to the Cities of San Francisco, Oakland, Concord, and Walnut Creek. As compared to several alternatives considered by the District, the Project will be centrally located relative to its projected student population, as it is surrounded by single-family subdivisions located to the north and northeast, as well as four and five story high-density multifamily housing projects that line Tassajara Boulevard, Gleason Drive, Fallon Road, Dublin Boulevard, and Brannigan Street. District staff has also chosen the Project site based on the desirability of locating the site in the Eastern Section of Dublin for access and safety reasons, and based on the impact on existing schools, availability of municipal services, ease of building on the site, and ability of the site to accommodate more students than some of the alternatives considered.

There are only a limited number of properties within the school district that are available and suitable for use as new school sites. Unlike certain other properties considered by the District, the subject Property is and has been vacant. The District will, therefore, not have to engage in any demolition or displace any businesses, individuals, or families. The Owner has also marketed the Property for sale, although the District has not yet been able to reach agreement for the acquisition.

Prior to consideration of the Resolution of Necessity, the Board will also be asked to evaluate the Property at a public hearing and adopt a Resolution making certain findings pursuant to Title 5 of the California Code of Regulations, sections 14010, *et seq.*, and Education Code sections 17210, *et seq.* In support of such findings, the Board was provided with extensive information and evidence prepared by District staff and consultants including, but not limited to, PlaceWorks, Terraphase Engineering, Inc., QK, Inc., and Lozano Smith LLP. Such evidence is incorporated herein by reference, and supports the conclusion that the Property is suitable for use as a school site in accordance with the school site selection standards contained in Education Code Section 17211 and California Code of Regulations, Title 5, Section 14010, *et seq.* Such evidence further supports the conclusion that use of the Property for the Project is most compatible with the greatest public good and the least private injury.

**3. The Property sought to be acquired is necessary for the Project.**

As indicated above, a new high school will be needed to serve projected population growth in the District, as well as to relieve overcrowding in existing District school sites. The District currently only has one high school to serve its growing elementary school

population. No other suitable property is located in the District which will fulfill all the District's objectives for the Project.

**4. The District has made the statutory offers to purchase the Property from the District.**

California Code of Civil Procedure Section 1245.230 requires that a Resolution of Necessity contain a declaration that the governing body has found and determined that either the offer required by section 7267.2 of the California Government Code has been made to the Owner, or the offer has not been made because the Owner cannot be located with reasonable diligence.

California Government Code Section 7267.2 requires that an offer be made to the Owner and in an amount which the agency believes to be just compensation. The amount must not be less than the agency's approved appraisal of the fair market value of the property. In addition, the agency is required to provide the Owner with a written statement of, and summary of the basis for, the amount it established as just compensation.

As discussed above, the District has offered to purchase the Property from the Owner, in accordance with Government Code Section 7267.2, by letter dated March 19, 2018. Said offer was based on an appraisal prepared by Terry S. Larson, MAI, of Smith & Associates, reviewed and approved by the District, which reflected the amount that the District believes to be just compensation. Said appraisal was provided to the Owner along with the written offer. The District's offer included the additional amount of up to \$5,000 for the Owner to obtain an independent appraisal.

**5. The District has the statutory authority to acquire the real property by eminent domain and has complied with all conditions and statutory requirements necessary to exercise its authority to acquire the Property.**

California Education Code Section 35270.5, Title 7 of Part 3 of the Code of Civil Procedure, including, but not limited to, Sections 1230.010 *et seq.*, and 1240.020, and Article I, Section 19 of the California Constitution empower the District to acquire the Property by eminent domain. Education Code Section 35270.5 provides that "[t]he governing board of any school district may acquire by eminent domain any property necessary to carry out any of the powers or functions of the district." As the governing board of a public school district, the Board has the authority under the California Constitution and the Education Code to make the findings described herein and to authorize the initiation of eminent domain proceedings to acquire the Property.

Notice of this hearing on the proposed Resolution of Necessity and of the opportunity to appear and be heard regarding the required findings was given to the Owner of record and his attorneys by letter dated July 2, 2018, in accordance with California Code of Civil Procedure Section 1245.235(a) and (b).

## **CONCLUSION**

Staff recommends that the Board approve the Resolution of Necessity No. 2018/19-03.