

DUBLIN SCHOOLS

DUBLIN UNIFIED SCHOOL DISTRICT

RESOLUTION NO. 2018/19-09

**DUBLIN UNIFIED SCHOOL DISTRICT
BOARD OF TRUSTEES, ALAMEDA COUNTY,
STATE OF CALIFORNIA**

**RESOLUTION OF THE DUBLIN UNIFIED SCHOOL DISTRICT FINDING
AND DETERMINING THAT THE PUBLIC INTEREST, CONVENIENCE, AND
NECESSITY REQUIRE THE ACQUISITION OF CERTAIN PROPERTY FOR
PUBLIC PURPOSES AND AUTHORIZING THE ACQUISITION THEREOF**

WHEREAS, the Dublin Unified School District (the "District") is a school district organized and existing pursuant to Chapter 1 of Division 3 of the California Education Code (commencing with Section 35000);

WHEREAS, the Board of Trustees (the "Board") of the District determines that it is necessary to acquire certain real property interests, consisting of a fee interest, along with all improvements located thereon which are needed by the District for public use. Said real property is 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), as legally described in Exhibit "A" hereto (the "Property"). The Property subject to this Resolution is owned by Grafton Station, LLC ("Owner");

WHEREAS, the project for which this Resolution ("the Resolution of Necessity") is being considered is the development, construction, operation, and maintenance of a public high school in the City of Dublin, all uses necessary, incidental, or convenient thereto, and for all public purposes pursuant to the authority conferred upon the Board to acquire property by eminent domain by 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 Section 19 of Article I of the California Constitution (the "Project"). The Project is intended to help relieve District schools from critical overcrowding;

WHEREAS, the Board previously considered and received evidence, information, and public comment on the necessity of the Property's acquisition for the Project at its Board meeting held on July 17, 2018;

WHEREAS, a Notice of Hearing on the intent of the Board to adopt a Resolution of Necessity at its July 17, 2018, Board meeting was mailed to the Owner of the Property in accordance with California Code of Civil Procedure section 1245.235(a) and (b). Said Notice of Hearing advised said Owner of its right to be heard on the matters referred to therein on the date and at the time and place stated therein;

WHEREAS, the Owner appeared at the Board meeting held on July 17, 2018, and did not object to the Resolution of Necessity or proposed acquisition of the Property for the Project;

WHEREAS, a second Notice of Hearing on the intent of the Board to adopt this Resolution of Necessity at its Board meeting of September 25, 2018, was mailed to the Owner of the Property in accordance with California Code of Civil Procedure section 1245.235(a) and (b). Said Notice of Hearing again advised said Owner of its right to be heard on the matters referred to therein on the date and at the time and place stated therein;

WHEREAS, the hearing set out on the second Notice of Hearing was held on September 25, 2018, at the time and place stated in the Notice, and all interested parties were given an opportunity to be heard. The hearing was then closed and the matter considered by the Board for decision, all as required by law;

WHEREAS, the Board has fully considered the agenda report and all references therein, any evidence and comments presented during the Board's consideration of this matter, and other reports pertaining to the Project presented to the Board at its July 17 and September 25, 2018, Board meetings, all of which are incorporated herein by this reference, pertaining to the decision to approve the Project; and

WHEREAS, the Board received and considered all relevant factors, information, and evidence bearing on the findings herein.

NOW, THEREFORE, THE BOARD OF TRUSTEES OF THE DUBLIN UNIFIED SCHOOL DISTRICT, BY A VOTE OF NOT LESS THAN 2/3 OF ITS MEMBERS, DECLARES, FINDS AND RESOLVES AS FOLLOWS:

1. The foregoing recitals are true and correct and, by this reference, incorporated herein as if set forth in full. The agenda report pertaining to this Resolution of Necessity and all attachments to this Resolution are also incorporated by reference.

2. The District is authorized to acquire the Property for the Project pursuant to 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 Section 19 of Article I of the California Constitution.

3. The District will fully comply with all provisions of the California Environmental Quality Act (Pub. Resources Code, §§ 21000, et seq.; Cal. Code Regs., tit. 14, §§ 15000, et seq.) for the Project prior to acquisition of the Property.

4. Based on all evidence presented in this matter, the Board of Trustees specifically finds and determines that:

- a. The public interest and necessity require the proposed Project;
- b. The proposed Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- c. The Property sought to be acquired, which has been described herein, is necessary for the proposed Project;

- d. The District has made pre-condemnation offers to acquire the Property for the Project to the owner of record of the Property in accordance with California Government Code section 7267.2; and
- e. 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.

5. The Property is located within the territorial boundaries of the District.

6. The District plans that the date of use of the Property for the Project will be within seven years from the date the complaint for eminent domain proceedings is filed, pursuant to Code of Civil Procedure Section 1240.220(a).

7. Pursuant to Sections 1240.510 and 1240.610 of the Code of Civil Procedure, to the extent that the Property is already devoted to a public use, the use to which the Property is to be put is a more necessary public use than the use to which the Property is already devoted, or, in the alternative, is a compatible public use which will not unreasonably interfere with or impair the continuance of the public use to which the Property is already devoted.

8. Legal counsel is hereby authorized and directed to take all steps necessary to commence legal proceedings, in a court of competent jurisdiction, to acquire the Property described above and such other interests as may be necessary for construction and operation of the Project by eminent domain in the name of the District. Legal counsel, and the District through its Superintendent or her designee, are further authorized to deposit the probable amount of just compensation with the Treasury of the State of California, to seek an order for prejudgment possession consistent with the needs of the District, and to perform all other acts as convenient or necessary to acquire the Property for the Project.

The Superintendent, and her designees, are also authorized to execute such agreements, certificates, deeds, and other instruments as may be necessary or convenient to facilitate acquisition of the Property through voluntary Purchase Agreement in lieu of eminent domain, and to expend such funds as may be needed for said purposes.

* * *

PASSED and ADOPTED this 25th day of September, 2018, by the Dublin Unified School District Board of Trustees, of the County of Alameda, to wit:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Clerk, Board of Trustees
Dublin Unified School District
County of Alameda
State of California

Exhibit A
Legal Description of Property

The land referred to is situated in the County of Alameda, City of Dublin, State of California, and is described as follows:

PARCEL ONE:

Parcels A, B, 1, 2, 3 and 4, as shown on Parcel Map 9717, filed in the office of the Recorder of Alameda County, California on November 6, 2009 in Map Book 314 at Pages 74 through 77.

APN: 985-0078-002
985-0078-003
985-0078-004
985-0078-005
985-0078-006
985-0078-007

PARCEL TWO:

That portion of Grafton Street and Finnian Way that lie within the bounds of Parcel Map 9717 filed in the Office of the Recorder of the County of Alameda, State of California on November 6, 2009 in Book 314 of Parcel Maps Pages 74 through 77.