

MORGAN HILL UNIFIED SCHOOL DISTRICT

BOARD OF EDUCATION

A RESOLUTION ACCEPTING AN OFFER OF DEDICATION REGARDING REAL PROPERTY FOR EDUCATIONAL PURPOSES

(RE: APN NOS. 728-34-002 AND 738-34-003 FRONTING ON PEET ROAD IN
MORGAN HILL, SAN JOSE CALIFORNIA)

WHEREAS, the Board of Education ("Board") of the Morgan Hill Unified School District ("District") has been irrevocably offered by gift deed a site of not less than ten acres (the "Property"), being a portion of parcels with APN Nos. 728-34-002 and 728-34-003, the exact location and legal description yet to be determined by all the parties, located on Peet Road, in the County of Santa Clara ("County"), City of Morgan Hill ("City"), State of California; and

WHEREAS, the District recognizes the City has designated the Property in its general plan as a site for school purposes and the District agrees the Property would be suitable for school facilities to serve the needs of the District; and

WHEREAS, the Property is presently owned by Borello family and Lupine Investors (hereafter collectively referred to as "Grantor") and may, for purposes of effectuating the gift, be assigned to a new entity, which entity shall be required to assume all of the obligations of Grantor; and

WHEREAS, Grantor has agreed to gift the Property to the District on the terms and conditions generally set out below, said terms to be memorialized in an agreement between Grantor and District (the "Agreement"):

1. The Property shall be conveyed in fee simple absolute to the District upon execution of the Agreement; provided, should the District not proceed to use the Property for school purposes within ten years of the conveyance, Grantor may demand a reconveyance of the Property to Grantor and District shall so convey. The term "proceed to use" shall include and be satisfied if the District formally designates the Property to be used for school purposes in compliance with all the requirements of law for such designation.
2. If, in the forty years following the ten years noted in section 1 above, for any reason, the District decides to sell the Property for uses other than school purposes, the District shall first offer the Property to Grantor. If the Grantor chooses to take back the Property, Grantor shall only be obligated to pay the lesser of actual costs or the appraised value of the improvements to District incurred by District related to the Property to the date of sale. Grantor shall be obligated to keep District fully informed of where notice should be sent. Once notice is sent to the address provided by Grantor to District, Grantor shall have sixty days to accept or reject the offer. If the Property is not taken by Grantor, District shall have no further obligation with respect to Grantor and may do with the Property as it chooses.

3. If a school facility is built on the Property, the District shall name the facility after S. G. Borello.
4. All costs and expenses related to the transfer of the Property shall be borne by the District.
5. So long as the land is not being used by the District, the Borello family may continue to farm the land at no cost; provided, the Borello family shall properly insure the farming operation naming the District as a co-insured and the Borello family shall not contaminate the land with any hazardous materials as defined by state and federal law, or if contaminated, the Borello family shall be responsible for its clean-up as required by law; and

WHEREAS, it is in the best interest of the District to acquire the Property for school purposes; and

WHEREAS, upon approval of this Resolution, the District is directing the preparation of an Agreement, along with supporting documents as may be required by law.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF EDUCATION OF THE MORGAN HILL UNIFIED SCHOOL DISTRICT AS FOLLOWS:

1. The Board adopts the foregoing recitals as true and correct.
2. The Board hereby finds and affirms the Property is a preferred site for school purposes based upon the City general plan designation and the District's best determination of what would be a suitable site understanding that the final determination of the Property as a suitable site can only occur following the provisions of the California Education Code and related laws and the District agrees to make a good faith effort to accomplish designation.
3. The Board ratifies the aforementioned irrevocable offer and directs staff to take steps necessary to prepare the Agreement in accordance with the gifting protocol as set forth in the in the recitals above and to accomplish the transfer of the Property as soon as possible.
4. The Board authorizes District legal counsel, Logan & Powell LLP, to prepare all appropriate documents, opinions and instructions as necessary to carry out the terms and provisions of this Resolution and the Agreement to be prepared pursuant to this Resolution.

PASSED AND ADOPTED at the regular meeting of the Morgan Hill Unified School District Board of Education duly held on the 24th day of February 2003, by the following vote:

AYES: Hickey, Khemici, Kinoshita, Masuda, Panos, Thomas

NOES: None

ABSENT: Foster

ABSTAIN: None

Dated: February 24, 2003

Signed:

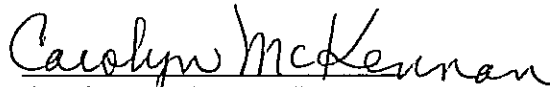


Tom Kinoshita, President
Board of Education

I, Carolyn McKennan, Secretary of the Board of Education, do hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Board of Education of the MORGAN HILL UNIFIED SCHOOL DISTRICT at the regular meeting on February 24, 2003, which resolution is on file in the office of said Board.

Dated: February 24, 2003

Signed:



Carolyn McKennan, Secretary
Board of Education