

**MORGAN HILL UNIFIED SCHOOL DISTRICT  
MORGAN HILL, CALIFORNIA**

**RESOLUTION OF WRITTEN DETERMINATIONS AND FINDINGS  
FOR THE PROPOSED BORELLO ELEMENTARY SCHOOL SITE**

**WHEREAS**, the Morgan Hill Unified School District (“District”) desires to acquire real property on Peet Road, east of Mission Avenida in the City of Morgan Hill, (“City”), County of Santa Clara, State of California (APNs 728-55-015, 728-55-016, 728-55-017), owned by Stanley Borello, Robert Borello, Pamela Cancilla, Richard Borello, Barbara Borello, Rudy A. Borello Jr., Christina Borello, and Kathleen Borello (collectively, “Borello”) and Lupine Investors LLC, a California limited liability company (“Lupine”); (Borello and Lupine, collectively referred to as the “Sellers”); and

**WHEREAS**, Borello is the owner of certain real property, consisting of approximately one and ninety-two one hundredths (1.92) acres of land, located in the City of Morgan Hill, County of Santa Clara, State of California and more particularly identified as Parcel E (“Parcel E”) on subdivision map entitled “Tract No. 10094 Alicante Phase 4” filed for record on December 16, 2011 in Santa Clara County, Book 849 of Maps, at Pages 32-34; and

**WHEREAS**, Lupine is the owner of certain real property, consisting of approximately three and forty-two one hundredths (3.42) acres of land, located in the City of Morgan Hill, County of Santa Clara, State of California and more particularly identified as Parcel F (“Parcel F”) on subdivision map entitled “Tract No. 10094 Alicante Phase 4” filed for record on December 16, 2011 in Santa Clara County, Book 849 of Maps, at Pages 32-34; and

**WHEREAS**, Lupine is the owner of certain real property, consisting of approximately three and thirty-six hundredths (3.66) acres of land, located in the City of Morgan Hill, County of Santa Clara, State of California and more particularly identified as Parcel G (“Parcel G”) on subdivision map entitled “Tract No. 10094 Alicante Phase 4” filed for record on December 16, 2011 in Santa Clara County, Book 849 of Maps, at Pages 32-34; and

**WHEREAS**, On February 24, 2003, the Morgan Hill Board of Education adopted a Resolution Bd.Ed. 2002-03 Reso 040 accepting the Offer of Dedication Regarding Real Property for Educational Purposes; and

**WHEREAS**, on October 6, 2015, the Board approved Settlement Agreement and Release of Claims and Donation Agreements for the Property; and

**WHEREAS**, the Settlement Agreement and Release of Claims requires that the District commit to use the Property for public purposes, including public education; and

**WHEREAS**, prior to approving a project involving the acquisition of a proposed school site, Education Code section 17213 requires that the Board make specified findings; and

**WHEREAS**, on January 15, 2013, the Governing Board adopted a resolution to approve a Mitigated Negative Declaration pursuant to California Environmental Quality Act (“CEQA”), Public Resources Code, section 21000 et seq., and CEQA Guidelines, section 21082.1 for the Property, as reflected in its adopted Resolution Bd.Ed. 201213 Reso 03; and

**WHEREAS**, pursuant to Education Code section 17211, on September 6, 2016, the Governing Board held a public hearing to evaluate the Property using site selection standards set forth in the Education Code and its implementing regulations, and in the California Department of Education’s (“CDE”) School Site Selection and Approval Guide (“Site Selection Standards”).

**NOW, THEREFORE, LET IT BE RESOLVED**, that the Governing Board of the Morgan Hill Unified School District hereby finds, determines, declares, orders, and resolves as follows:

1. That all of the recitals set forth above are true and correct.
2. That it is in the best interest of the District to close escrow on the Property as soon as possible based upon the information, tests, inspections, reports, and approvals obtained, to date, concerning the Property, and that pursuant to Section 17213, subdivisions (a), (b), and (c) of the Education Code:
  - a. The Property is not the site of a current or former hazardous waste disposal site or solid waste disposal site;
  - b. The Property is not a hazardous substance release site identified by the Department of Toxic Substances Control (“DTSC”) in a current list;
  - c. The Property is not a site that contains one or more pipelines, situated underground or above ground, that carries hazardous substances, extremely hazardous substances, or hazardous wastes; and
  - d. The Property is not within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor and after considering any potential mitigation measures, that the air quality at the proposed site is such that neither short-term nor long-term exposure poses significant health risks to pupils; and
  - e. That in consultation with the administering agency and the air quality management district having jurisdiction in the area, no permitted and nonpermitted facilities exist within one-fourth of a mile of the Property that might reasonably be anticipated to emit hazardous air emissions, or to handle hazardous or extremely hazardous materials, substances, or waste.
3. That DTSC has submitted final comments to the draft Preliminary Environmental Assessment (“PEA”) in anticipation of approving the PEA, and District staff is authorized to enter into an agreement with DTSC for remediation and cleanup of the Property to implement the Removal Action Workplan (“RAW”) or Remedial Action Plan (“RAP”) which will occur before commencement of construction.

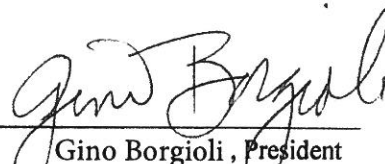
4. That the District is in the process of obtaining CDE's approval for the Property for use as a school site, but will not be able to obtain full site approval until completion of the RAW or RAP activities, and that, as such, District staff is hereby authorized to waive the CDE approval closing contingency pursuant to the Settlement Agreement and Release of Claims.
5. That the District hereby commits to use of the Property for public purposes, including for public education.
6. That the Board hereby accepts the conveyance of the Property upon the terms and conditions set forth in the Settlement Agreement and Release of Claims; and the District Superintendent and his designees are authorized and directed to execute a Certificate of Acceptance and any and all other documents to effectuate the transfer of title to the Property to the District, and at the close of escrow for the Property, to accept and consent to the conveyance of the Property to the District pursuant to Section 27281 of the Government Code. Any other conditions to close escrow set forth Settlement Agreement and Release of Claims which have not been, or cannot be, met on or before the close of escrow may be waived in writing at the District's option.
7. That the District's Superintendent and his designees are hereby authorized and directed to do any and all things and to execute and deliver any and all documents which he may deem necessary or advisable in order to consummate the donation of the Property and facilitate the close of escrow pursuant to the Settlement Agreement and Release of Claims, and otherwise to carry out, give effect to, and comply with the terms and intent of this Resolution.

PASSED AND ADOPTED by the Board of Education of the MORGAN HILL UNIFIED SCHOOL DISTRICT at a regular meeting held on September 6, 2016 by the following vote:

AYES: Arnett, Badillo, Benevento, Borgioli, Gerard, Ruebusch, Woolf  
NOES: None  
ABSENT: None  
ABSTAIN: None

DATED September 6, 2016

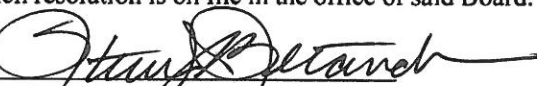
SIGNED: \_\_\_\_\_

  
Gino Borgioli, President  
Board of Education

I, Steve Betando, 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 September 6, 2016 which resolution is on file in the office of said Board.

DATED: September 6, 2016

SIGNED: \_\_\_\_\_

  
Steve Betando, Secretary  
Board of Education