

**RESOLUTION NO. 20-01-798**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF MOJAVE AIR AND SPACE PORT DECLARING A NECESSITY TO CONDEMN REAL PROPERTY**

WHEREAS, Public Utility Code §§ 22553 and 22554 authorize acquisition of property rights for public use purposes by eminent domain procedures; and

WHEREAS, the real property described more precisely in Exhibit A, attached hereto and incorporated herein by reference, is required for the improvement of the Mojave Air and Space Port's ("MASP") Airport Safety Expansion project (the "Project"); and

WHEREAS, this Board of Directors of Mojave Air and Space Port finds and determines that notice of its intention to adopt this resolution of necessity, attached hereto as Exhibit B, was duly given as required by law, and on the date and at the time and place fixed for hearing, this Board did hear and consider all of the evidence presented;

NOW, THEREFORE, BE IT RESOLVED, by at least a two-thirds vote of this Board of Directors of Mojave Air and Space Port under Code of Civil Procedure §§ 1240.030 and 1245.230, that this Board of Directors of Mojave Air and Space Port finds and determines each of the following:

1. The public interest and necessity require the proposed project.
2. 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.
3. The property sought to be acquired is necessary for the project.
4. The offer required by Government Code § 7267.2 has been made to the property owner or owners of record.

AND BE IT FURTHER RESOLVED, that Doug Gosling, Esq. of BRAUN GOSLING, A Law Corporation is authorized and directed to commence and maintain a proceeding in the Superior Court of the County of Kern, California to acquire for the Mojave Air and Space Port the fee simple interest in that certain real property, more particularly designated and described as:

**SEE EXHIBIT A ATTACHED**

BE IT FURTHER RESOLVED, that Doug Gosling, Esq. of BRAUN GOSLING, A Law Corporation is hereby authorized and directed to make application to the Court for an Order for Possession Before Judgment in these proceedings; and

BE IT FURTHER RESOLVED, that the CEO of Mojave Air and Space Port is hereby authorized and directed to draw its warrant on the district's account in the amount of \$15,000, the warrant to be made payable to California State Treasurer, Condemnation Deposits Fund, and delivered to Doug Gosling, Esq. of BRAUN GOSLING, A Law Corporation, to be deposited with the payee as security for the Order for Possession Before Judgment authorized; and

BE IT FURTHER RESOLVED, this Board of Directors believes that the California Environmental Quality Act (CEQA) is not applicable to this action and proceeding because, consistent with the Public Resources Code § 21065 a “project” means an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment and the property subject to this resolution has existed for decades as unimproved open space with no site or building improvements in its natural undeveloped desert condition under private ownership and the contemplated transfer of ownership per this subject resolution seeks to preserve the existing natural conditions—thus a “project” review is not applicable. Moreover, the proposed acquisition and transfer of ownership of the subject property is in connection with the airport’s Safety Expansion Project to increase its current safety buffer zone as part of the airport’s ongoing operations of existing facilities—no direct physical change to the environment or indirect change is evident. Out of an abundance of caution and to further review its activities per governing regulations, the Board of Directors has made a preliminary examination of the actions subject to this resolution and has concluded that the project falls within categorical exemptions. Per § 15325(a) of the State CEQA Guidelines, the transfer of ownership, thus the acquisition, sale, or other transfer of property to preserve the existing natural conditions provides that this action is categorically exempt. In addition, per § 15061(b)(3) of the State CEQA Guidelines, the activity is covered by the common sense exemption in that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA and upon review the transfer of ownership to preserve open space and the natural conditions and no construction or other physical action contemplated warrants the common sense exemption be applied here. Furthermore, per § 15301 of the State CEQA Guidelines, the activity is covered by the airport’s ongoing operations of its existing runway facilities providing an additional layer of its existing buffer zone around the airport and its operations within its district boundary. Staff is directed to complete the necessary filings with the county and Office of Planning and Research. Any yet to be specified project would be subject to a prior separate review and approval under CEQA and other applicable laws at a future date.

THE FOREGOING was PASSED and ADOPTED by the vote of the Mojave Air and Space Port on January 7, 2020.


AYES: 5

NOES: 0

ABSENT: 0

  
David Evans, President

ATTEST:

  
Jimmy R. Balentine, Secretary  
(SEAL)

*[Exhibit A attached]*