

**RESOLUTION 06-22-2021A**

**A RESOLUTION OF NECESSITY OF THE BOARD OF DIRECTORS OF THE MALAGA COUNTY WATER DISTRICT FOR THE ACQUISITION OF REAL PROPERTY OWNED BY THE FRESNO UNIFIED SCHOOL DISTRICT CONSISTING OF APPROXIMATELY 14.73 ACRES OF LAND AT 3224 E. CENTRAL AVENUE, FRESNO, CALIFORNIA 93725, FRESNO COUNTY ASSESSOR PARCEL NO. 331-130-48T**

**WHEREAS**, the residents of Malaga and the surrounding area are a severely disadvantaged community who lack, among other things, access to playground, playing field, or other outdoor recreational and open-space areas. The residential areas in Malaga are nearly completely surrounded by industrial and commercial development which has severe detrimental impacts on the residents and the environment; and

**WHEREAS**, according to the California Environmental Protection Agency, the residents of the Malaga County Water District and surrounding area have an existing disproportionate environmental and social burden. Specifically, the residents of the community are severely negatively impacted by pollution, which is the worst or among the worst in the State. The social burden borne by the residents of the Malaga area is also among the highest in the State; and

**WHEREAS**, the Board of Directors of the Malaga County Water District finds that the County of Fresno General Plan identifies the Malaga area as an area where industrial development should be encouraged which will in turn cause an increase in the Environmental and Social Burden borne by the residents of Malaga area; and

**WHEREAS**, the public lands in the vicinity of the Property are inadequate to meet the existing and foreseeable needs of the Malaga and surrounding community for playground, playing field, or other recreational or other outdoor recreational and open-space purposes; and

**WHEREAS**, the Board of Directors of the Malaga County Water District (“District”) has determined a need exists for the establishment and construction of park, open space and recreational facilities for public use that include, but are not limited to, soccer fields, an office/community center, walking/exercise path, green space, and a parking lot to be operated by the Malaga County Water District Recreation Department herein referred to as the “Project”; and

**WHEREAS**, the Project will require that the District acquire property currently owned by the Fresno Unified School District (“Property Owner”) located at 3224 E. Central Avenue, Fresno, CA 93725 also described as Fresno County Assessor Parcel No. 331-130-48T (the “Property”); and

**WHEREAS**, the Property was a former school site with playgrounds, open-space and recreational facilities which will be permanently lost if the land is developed for industrial uses; and

**WHEREAS**, Property Owner ceased using the Property for the use it was appropriated, Educational Purposes, at some time before 2004, and declared the Property surplus on October 27, 2004, therefore the Property is no longer being utilized by Property Owner for a public use or the

public use proposed by the Project is a higher public use pursuant to California Code of Civil Procedure §§ 1240.610, et seq; 1240.660, and 1240.680; and

**WHEREAS**, the Property is located next to an elementary, in close proximity to a park and community center owned and operated by the District with the potential to be combined with the existing park in the future, and is particularly suited for use a park, recreation and open-space uses; and

**WHEREAS**, on June 2<sup>nd</sup>, 2021, the Property Owner, the Fresno Unified School District, was given notice that the Board of Directors of the Malaga County Water District would consider the adoption of a resolution of necessity on June 22<sup>nd</sup>, 2021, at 6:00 p.m. in the Malaga County Water District Boardroom located at 3580 S. Frank Street, Fresno, California 93725; and

**WHEREAS**, the acquisition of the Property described above is necessary and required for the completion of the Project.

**NOW, THEREFORE**, be it resolved by the board of directors of the Malaga County Water District as follows:

1. The forgoing recitals are true and correct and incorporated herein by this reference as though fully set forth at this point.

2. That based on the evidence presented and the findings set forth above, the Board of Directors of the Malaga County Water District by a two-thirds or greater vote of its members under California Code of Civil Procedure §§1240.030, 1245.230 and 1245.240, finds, determines and declares and resolves as follows:

A. That the Property is to be taken for the public use of park, recreation and open-space described above (Project) and the District is authorized to take the Property pursuant to Water Code §31132.

B. As set forth above, the Property to be taken consists of approximately 14.73 acres of land located at 3224 E. Central Avenue, Fresno, California 93725 also referred to as Fresno County Assessor Parcel No. 331-130-48T.

C. The public interest and necessity require the proposed project.

D. The proposed project is planned and located in the manner that would be most compatible with the greatest public good and the least private injury.

E. The property described in this Resolution of Necessity is necessary for the proposed Project.

F. That the offer required by Government Code §7267.2, has been made together with the accompanying statements and summaries of the basis establishing the amount of just compensation for the property interest to be acquired or made to the owner(s) of record, named above, said offer included a written statement/summary of the basis for the amount of just compensation as required by Government Code §7267.2.

3. All conditions and statutory requirements necessary to exercise the power of Eminent Domain (the right to take) to acquire the Property interest referred to in the recitals above have been complied with by the District.

4. The District's General Counsel is hereby authorized and empowered to commence and maintain a proceeding in the Superior Court of the State of California to acquire for the Malaga County Water District the Property described herein.

5. The District's General Counsel is authorized and empowered to prosecute in the name of the Malaga County Water District special proceedings in the proper court as necessary for the acquisition of the Property.

6. The District's General Counsel is authorized and empowered to deposit the amount of probable compensation based on an appraisal, and to apply to the court for an order permitting the Malaga County Water District to take immediate possession and use of Property for the public uses and purposes referred to in this resolution.

7. The District's General Counsel is authorized and empowered to make an application to the court for an order of possession before judgment in these proceedings.

8. That the General Manager of the District is hereby empowered to withdraw a check against the appropriate account in the amount of probable compensation as required by law or as the court may direct, the check may be payable to the State Treasury and delivered to the District General Counsel for a deposit with the State Treasury as security for an order of possession before a judgment.

9. The District General Manager is authorized and directed to accept a deed to the real property described above for and on behalf of the Malaga County Water District and to execute an agreement for the acquisition of said property if settlement in the proceedings can be mutually agreed to and reach with the Defendants therein.

\*\*\*\*\*

Passed and adopted by the Board of Directors of the Malaga County Water District at their meeting held on this 22<sup>ND</sup> day of June 2021 by the following vote:

AYES:

NOES:

ABSENT:

---

Charles Garabedian, Jr., President  
Malaga County Water District

ATTEST:

---

Moises Ortiz, Secretary  
Board of Directors  
Malaga County Water District