

ORDINANCE NO. 2018-16-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TULELAKE, CALIFORNIA, AUTHORIZING THE SALE OF THE LAND UNDERLYING TULELAKE MUNICIPAL AIRPORT TO THE MODOC TRIBE OF OKLAHOMA

WHEREAS, the City of Tulelake, California owns real property underlying what is commonly known as the Tulelake Municipal Airport, in Modoc County, California APNs 005-210-009 and 005-220-020; and,

WHEREAS, that Property was conveyed to the City of Tulelake in 1951 by the United States pursuant to United States Patent No. 1133552, which requires that the Property to be used as a public airport and provides that title in the Property shall revert to the United States should airport use cease; and

WHEREAS, the City has received an offer from the Modoc Tribe of Oklahoma, a federally-recognized tribe, of \$17,500, to purchase the Property for use as a public airport; and

WHEREAS, California Government Code sections 37440 through 37444, inclusive, authorize the City, by ordinance adopted by four affirmative votes of its City Council, to sell the Property to a successor who will continue to use, or allow the continued use of, the Property as a public airport; and

WHEREAS, the City of Tulelake and the Modoc Tribe of Oklahoma (the "Parties") have negotiated the terms and conditions of the sale of the Property as set forth in the "Standard Offer and Agreement for Purchase of Real Estate (Non-Residential) (the "P&SA"), including that Buyer accepts title to the Property subject to the existing lease by and between the City of Tulelake and the County of Modoc dated October 1, 1974, as amended on February 11, 2016, and the Airport Operation and Maintenance Agreement by and between the County of Modoc and Nick S. Macy dated June 17, 1987, as amended ("Lease and Operating Agreements"), which agreements provide for the continued use and operation of the Property as a public airport; and

WHEREAS, the Buyer is obliged to obtain the consent of the Federal Aviation Administration to the transfer of the Property to Buyer, or to demonstrate to the reasonable satisfaction of the City Attorney that such consent is not legally required, as a condition to close of escrow; and

WHEREAS, the sale of the Property will not result in any significant changes to the character and use of the Property and therefore it is not a project with potential for causing either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment that requires analysis under California Environmental Quality Act (CEQA).

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TULELAKE THAT:

SECTION 1. Based upon the foregoing, the City Council finds:

1. The foregoing recitals are true and correct, and are incorporated herein by reference.
2. Notice of the July 31, 2018 City Council public meeting at which this Ordinance was considered for adoption was published in the **Herald and News** once a week for two successive weeks with at least five (5) days between publications.
3. The sale and transfer of the land underlying the Tulelake Municipal Airport to the Modoc Tribe of Oklahoma achieves the City's purpose of continued operation of the property as a public airport. Moreover, the P&SA provides the City fair consideration for title encumbered by the federal patent and lease and operating agreements.

4. The sale of the property underlying the Tulalake Municipal Airport under the terms and conditions of the P&SA and as contemplated herein complies with California Government Code sections 37440 to 37444, inclusive, as the property will continue to be used as a public airport.

5. The sale of the Property is not a "project" within the meaning of Section 15378 of the State CEQA Guidelines, as it has no potential to result in a direct or reasonably foreseeable indirect physical change in the environment because only title to property will transfer. The property will continued to be used and maintained as it now is — as a public airport under the lease and operative agreements identified above.

SECTION 2. The sale of the land underlying the Tulalake Municipal Airport as set forth in the attached P&SA is hereby approved, and the Mayor is hereby authorized to execute all necessary documents and to take all actions necessary to complete that sale and transfer of the property.

SECTION 3. Should any section, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole, or parts thereof, other than the part so declared to be invalid.

SECTION 4. This Ordinance shall take effect 30 days after its adoption pursuant to California Government Code Section 36937 and shall supersede any conflicting provision of any ordinance of the City.

SECTION 5. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

PASSED, APPROVED AND ADOPTED this 31th day of July, 2018.

Henry A. Ebinger, Mayor

ATTEST:

Iva Rogers, City Clerk

APPROVED AS TO FORM:

Megan B. Annand
City Attorney