

RESOLUTION NO. 2026-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS DECLARING THAT THE TRANSFER OF REAL PROPERTY IDENTIFIED AS A PORTION OF COX ROAD TO THE ADJACENT PROPERTY OWNER IS EXEMPT FROM THE SURPLUS LAND ACT; AUTHORIZING THE CITY ATTORNEY TO SEEK ASSISTANCE FROM THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT WITH RESPECT TO SUCH EXEMPTION; AND AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO NEGOTIATE, FINALIZE, AND EXECUTE ALL DOCUMENTS NECESSARY FOR THE TRANSFER OF REAL PROPERTY AND TO PROCESS AND IMPLEMENT SUCH TRANSFER IN THE EVENT SAID EXEMPTION FROM THE SURPLUS LAND ACT IS CONFIRMED BY THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

WHEREAS, the City of San Marcos ("City") is the fee owner of vacant real property for public right-of-way purposes identified as a portion of Cox Road ("the Real Property"), which was dedicated by Map 806 recorded December 21, 1895 in the Office of the County Recorder of San Diego County and which is located adjacent Assessor's Parcel Number 182-131-14-00; and

WHEREAS, the portion of the Real Property proposed to be transferred ("Transfer Area") is depicted in the aerial vicinity map attached hereto as Exhibit A, incorporated herein by reference, and is no longer needed by the City for public right-of-way purposes; and

WHEREAS, the City Council has approved Resolution 2026-AAAA, ordering the summary vacation and abandonment of said Transfer Area; and

WHEREAS, the Transfer Area has been determined to be in excess to public right-of-way purposes and does not serve a public benefit; and

WHEREAS, the Transfer Area is proposed to be transferred to Mulberry 9, LLC, a California limited liability company ("Mulberry 9"), the owner of the adjacent real property located at Assessor's Parcel Number 182-131-14-00; and

WHEREAS, it is anticipated that such Transfer Area portion of the Real Property meets an exemption to requirements of the Surplus Land Act, which would permit transfer of the Transfer Area to Mulberry 9; and

WHEREAS, the entirety of the Transfer Area is approximately 3,500 gross square feet (0.08 acre) in size and is not located within the coastal zone, adjacent to a historical unit of the State Parks System, listed as a state or federal historic resource, or within the Lake Tahoe region; and

WHEREAS, California Government Code ("GC") section 54221(f)(1)(B) includes within its definition of "exempt surplus land" property that is "less than one-half acre in area and is not

contiguous to land owned by a state or local agency that is used for open-space or low- and moderate-income housing purposes,” which description is consistent with the Transfer Area; and

WHEREAS, given the above-described characteristics of the Transfer Area, the City desires to implement the transaction accordingly and transfer the entirety of the Transfer Area to adjacent property owner Mulberry 9 for the market valuation of \$14,361.00 (Fourteen Thousand Three Hundred and Sixty One Dollars and Zero Cents); and

WHEREAS, the City and Mulberry 9 have agreed in principle to the material terms and provisions necessary to complete the contemplated transaction, as described in the Agenda Report relating to this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of San Marcos that:

1. The foregoing recitals are true and correct.
2. The City Council hereby declares that the sale and transfer of the Transfer Area to Mulberry 9 is exempt from and not subject to Surplus Land Act requirements, as it is consistent with the “exempt surplus land” description contained in California Government Code section 54221(f)(1)(B), consisting of property that is “less than one-half acre in area and is not contiguous to land owned by a state or local agency that is used for open-space or low- and moderate-income housing purposes,” and is also consistent with the “exempt surplus land” description contained in section Government Code section 54221(f)(1)(E), in that the area to be vacated consists of “[s]urplus land that is a former street, right-of-way, or easement,” and is to be conveyed to an owner of an adjacent property; finally, the area to be vacated is not located within the coastal zone, adjacent to a historical unit of the State Parks System, listed as a state or federal historic resource, or within the Lake Tahoe region.
3. The City Manager and City Attorney are hereby authorized to negotiate, finalize, implement, and facilitate the proposed transfer of said Transfer Area to adjacent property owner Mulberry 9 for value as contemplated by this Resolution, provided HCD has confirmed the above-referenced declaration of exemption of such transaction from the Surplus Land Act.
4. The City’s agreement to undertake the transactions described herein is also expressly conditioned and contingent upon Mulberry 9 bearing any and all costs and expenses whatsoever associated with the contemplated transfer, HCD assistance process, and real property transfer including, but not limited to, costs of escrow, issuance of a policy of title insurance, staff time, and attorneys’ fees and costs, and is further contingent on Mulberry 9 defending, holding harmless, and indemnifying the City against any and all claims of whatever nature may arise

from any and/or all of the transactions described herein, which obligation shall survive any and all potentially applicable limitations periods.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of San Marcos this 24th day of March, 2026, by the following roll call vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

Rebecca D. Jones, Mayor
City of San Marcos

ATTEST:

Phillip Scollick, City Clerk
City of San Marcos

Exhibit(s):

Exhibit A – Aerial Vicinity Map