

RESOLUTION NO. 2026-XXXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS AUTHORIZING THE CITY MANAGER TO NEGOTIATE AN AGREEMENT WITH THE SAN ELIJO HILLS COMMUNITY ASSOCIATION FOR THE CONSTRUCTION OF PRIVATELY FUNDED IMPROVEMENTS AT SAN ELIJO HILLS PARK, AND TO FINALIZE, EXECUTE, AND IMPLEMENT SAID AGREEMENT AND ASSOCIATED DOCUMENTS AND ACTIONS

WHEREAS, the City of San Marcos ("City") is the owner of San Elijo Hills Park, Assessor's Parcel Numbers 223-041-06, 223-041-09, and 223-041-10, located in the northwesterly quadrant of the intersection of San Elijo Road and Elfin Forest Road (Park); and

WHEREAS, the Park is a City-owned and City-maintained public park facility; and

WHEREAS, the San Elijo Hills Community Association (HOA), in coordination with and by and through community representatives from the San Elijo Hills Foundation (SEHF), jointly, "Project Proponents," have proposed that the HOA will privately fund and construct enhancements to the Park, including but not limited to an improved dog park, a skatepark, and other potential future additional recreational amenities; and

WHEREAS, the construction of the proposed improvements would be funded entirely through private sources, including HOA funds, community contributions, and other sources offered through the Project Proponents and would not require City capital funding for construction; and

WHEREAS, on September 12, 2023, the City Council authorized the City Manager to permit preliminary design and exploratory work associated with the proposed Park improvements; and

WHEREAS, SEHF has identified and prioritized proposed park enhancements, conducted public outreach including a noticed community workshop on October 19, 2023, and has indicated on behalf of Project Proponents that the improvements may be constructed in phases, subject to available private funding and City approvals; and

WHEREAS, any privately constructed improvements within the Park would be subject to City review, permitting, inspection, and compliance with all applicable City standards, regulations, and construction requirements including, but not limited to, execution of appropriate right-of-entry agreements and engineering permits, and meeting all City surety and insurance requirements; and

WHEREAS, long-term maintenance of the Park is currently funded by the City through multiple sources, including Special Improvement Area F-9 and Citywide Community Facilities District No. 98-02 (Lighting, Landscaping, Open Space and Preserve Maintenance), Zone D, with no proposed increase to existing assessment rates or levies; and

WHEREAS, maintenance costs associated with the proposed improvements would be funded from these same sources in the same proportional shares, with any costs exceeding applicable levy limits to be funded by local City funds; and

WHEREAS, following construction, the City would assume responsibility for the long-term maintenance of the improvements, with currently estimated annual maintenance costs of approximately \$65,000 annually in 2026 dollars upon completion of the two current proposed amenities, recognizing that such costs would be realized incrementally as phased improvements are constructed; and

WHEREAS, City Council desires that the City enter into an agreement with the HOA and work with the Project Proponents to provide for construction access to the public park; private funding and construction of park improvements and amenities; terms governing the City's permitting of the improvements and amenities; and long-term maintenance of the completed improvements; and

WHEREAS, the permitting and performance of such work will contribute to the City's goals of good governance and planning for the future.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of San Marcos, California, as follows:

1. The City Council hereby authorizes the City Manager to negotiate, finalize, execute, and implement an agreement with the HOA, and to coordinate with Project Proponents to allow for the privately funded design and construction of improvements at San Elijo Hills Park, subject to all applicable City, state, and federal standards, permits, inspections, and conditions of approval.
2. Construction of the improvements shall be entirely privately funded; no City funding shall be used towards the construction of the amenities.
3. Upon acceptance of completed improvements, long-term maintenance shall be

funded through existing maintenance funding mechanisms, including Special Improvement Area F-9 and Citywide Community Facilities District No. 98-02, Zone D, and other local funding sources.

4. The activity performed under this action does not constitute a “project” as defined under Section 15378 of the California Environmental Quality Act Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000 – 15387), and is therefore not subject to environmental review pursuant to Guidelines Section 15060(c)(3).

5. Any agreement will provide that the private entity/entities shall defend and hold the City of San Marcos, its agents and employees harmless from liability from: (i) any and all actions, claims, damages, injuries, challenges and/or costs of liabilities arising from the design, construction, and installation of proposed Park improvements, including but not limited to any assertion or claim relating to prevailing wage rates; any damages, liability and/or claim of any kind for any injury to or death of any person, or damage or injury of any kind to property, and/or from contractors, subcontractors, agents, employees or other persons acting on behalf of the private entity/entities which relate to the proposed Park improvements, to the fullest extent permitted by law. The private entities must further agree that such indemnification and hold harmless shall include all defense related fees and costs associated with the defense of City by counsel selected by the City. This indemnification shall not terminate upon completion of the Project, but shall survive in perpetuity.

PASSED, APPROVED AND ADOPTED by the City Council of the City of San Marcos this 27th day of January 2026, by the following roll call vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ATTEST:

Rebecca D. Jones, Mayor
City of San Marcos

Phillip Scollick, City Clerk
City of San Marcos