

RESOLUTION NO. 2018-236

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE FINDING THE ACQUISITION OF A SWAINSON'S HAWK HABITAT AND AGRICULTURAL CONSERVATION EASEMENT (PROJECT) EXEMPT FROM FURTHER REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AND APPROVING THE PROJECT; AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR ACQUISITION OF SWAINSON'S HAWK HABITAT AND AGRICULTURAL CONSERVATION EASEMENT FOR A PORTION OF PROPERTY LOCATED AT 10171 GRANT LINE ROAD [APN: 134-0190-003] (PROPERTY); AND AUTHORIZING THE CITY MANAGER TO EXECUTE AND RECORD A QUITCLAIM DEED FOR THE RELEASE OF INTEREST IN AN EXISTING SWAINSON'S HAWK EASEMENT ON THE PROPERTY, ALTOGETHER ASSOCIATED WITH THE SWAINSON'S HAWK MITIGATION PROGRAM

WHEREAS, in 2003, the City established and adopted Chapter 16.130 of the Elk Grove Municipal Code which sets forth mitigation policies tailored for projects in Elk Grove that have been determined through the California Environmental Quality Act ("CEQA") process to result in a "potential significant impact" on Swainson's Hawk foraging habitat; and

WHEREAS, the City's Swainson's Hawk mitigation bank currently has a total of 137.53 credits, of which 75.19 credits are reserved for Public Works projects, with the remaining 62.34 credits available for sale to select private development applicants; and

WHEREAS, the property located in Sacramento County at 10171 Grant Line Road (Assessor's Parcel Number 134-0190-003) ("Property"), owned by the Mahon Family Partnership ("Owner"), is currently encumbered with an existing Swainson's Hawk Habitat Conservation Easement ("Existing Conservation Easement"), for which the City is responsible for monitoring and reporting activities; and

WHEREAS, the Owner conveyed the Existing Conservation Easement to the City in 2009, pursuant to an option agreement between Owner and then-private development applicant, CT Waterman Park ("Applicant"); and

WHEREAS, Owner represents that he has not been compensated by anyone for the Existing Conservation Easement and Applicant has since defaulted on the option agreement; the Owner further warrants no new options have been entered into for the Property, and the City has not received any mitigation credits from the Property; and

WHEREAS, to date, the maintenance and monitoring of the Existing Conservation Easement is insured by the collection of a required monitoring and reporting fee totaling \$56,115 ("Monitoring and Reporting Fee"), whereby Owner is required to make seven biennial payments to City ("Monitoring and Reporting Payment"); and

WHEREAS, the City has received two Monitoring and Reporting Payments to date totaling \$16,836 and five remain outstanding in the amount of \$39,279 ("Remaining Monitoring and Reporting Payment"); and

WHEREAS, staff proposes to relinquish the Existing Conservation Easement via Quitclaim Deed, in order to replace the Existing Conservation Easement with a Swainson's Hawk Habitat and Agricultural Conservation Easement ("Modified Conservation Easement"); and

WHEREAS, staff has negotiated a proposed sales price of \$561,150, as established by an independent Fair Market Appraisal, for the Modified Conservation Easement across a portion of the Property, whereby the City will be the beneficiary of the mitigation credits and increase its mitigation bank and protect and preserve, in perpetuity, the existing features and values of 62.35 acres of the Property; and

WHEREAS, as part of the proposed purchase, the Outstanding Monitoring and Reporting Payment of \$39,279 will be deducted from the proposed purchase price in order to fully fund the Monitoring and Reporting Fee; and

WHEREAS, the purchase of the Modified Conservation Easement will be funded through uncommitted cash balances in the Swainson's Hawk Fund; and

WHEREAS, CEQA Guidelines section 15325 (Class 25: Transfers of Ownership Interest in Land to Preserve Existing Natural Conditions and Historical Resources) of the State CEQA Guidelines (Chapter 3 of Division 6 of Title 14 of the California Code of Regulations) provides an exemption from CEQA for projects involving the transfers of ownership interest in land in order to preserve open space, habitat, or historical resources; and

WHEREAS, the proposed action involves the acquisition of Swainson's Hawk Habitat and Agricultural Conservation Easement.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Elk Grove hereby finds the acquisition of the Modified Conservation Easement exempt from further review under CEQA pursuant to CEQA Guidelines section 15325 (Class 25: Transfers of Ownership Interest in Land to Preserve Existing Natural Conditions and Historical Resources) and approves the Project based upon the following finding:

Finding: No further environmental review is required pursuant to CEQA Guidelines section 15325.

Evidence: CEQA Guidelines section 15325 (Class 25: Transfers of Ownership Interest in Land to Preserve Existing Natural Conditions and Historical Resources) exempts the transfers of ownership interest in land in order to preserve open space, habitat, or historical resources. The proposed purchase will preserve the site as agricultural, open space, and habitat lands because the site will be encumbered with a conservation easement in perpetuity, which ensures the site will retain these characteristics. Therefore, the proposed action qualifies for the exemption under CEQA Guidelines section 15325.

AND, BE IT FURTHER RESOLVED, that the City Council of the City of Elk Grove approves the Agreement for Acquisition of a Swainson's Hawk Habitat and Agricultural Conservation Easement in substantially the form presented and authorizes the City Manager to execute this and any and all documents necessary to quitclaim the Existing Conservation Easement to complete and close the purchase of the 62.35-acre Modified Conservation Easement across a portion of the property located at 10171 Grant Line Road, Sacramento County Assessor Parcel Number 134-0190-003, from the Mahon Family Partnership, in the amount of \$561,150, together with closing costs, not to exceed \$4,000, all in a total amount not to exceed \$565,150.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 24th day of October 2018.




STEVE LY, MAYOR of the
CITY OF ELK GROVE

ATTEST:


JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:


JONATHAN P. HOBBS,
CITY ATTORNEY

CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2018-236

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) ss
CITY OF ELK GROVE)

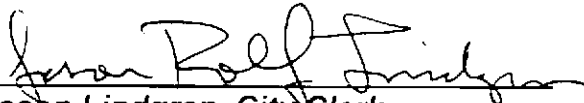
I, Jason Lindgren, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on October 24, 2018 by the following vote:

AYES: **COUNCILMEMBERS:** *Ly, Suen, Hume, Nguyen*

NOES: **COUNCILMEMBERS:** *None*

ABSTAIN: **COUNCILMEMBERS:** *None*

ABSENT: **COUNCILMEMBERS:** *Detrick*



Jason Lindgren, City Clerk
City of Elk Grove, California