



AGENDA REPORT


TO: Jestin D. Johnson
City Administrator

FROM: Sofia Navarro
Interim Director, Economic
and Workforce
Development Department

SUBJECT: Amendment to Memorandum with
Sogorea Te' Land Trust

DATE: November 2, 2023

City Administrator Approval


Jestin Johnson (Nov 29, 2023 21:52 PST)

Date: Nov 29, 2023

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution (1) Authorizing The City Administrator To Amend The Memorandum Of Agreement Between The City Of Oakland And The Sogorea Te' Land Trust, Which Implements The Recorded Cultural Conservation Easement At Rinihmu Pulte'irekne In Joaquin Miller Park, To Allow Certain Permitted Activities And Facilities Consistent With The Conservation Values And Planning Code Section 17.11.060; And (2) Making California Environmental Quality Act Exemption Findings.

EXECUTIVE SUMMARY

In December 2022, the City of Oakland (City) returned approximately four acres of land in Joaquin Miller Park known as Rinihmu Pulte'irekne (Property) to Indigenous stewardship by conveying a cultural conservation easement (Easement) over the Property to the Sogorea Te' Land Trust (Land Trust), a local, Indigenous- and women-led nonprofit organization. As part of the action approving the Easement, the City Council also authorized a Memorandum of Agreement (MOA) between the City and the Land Trust, which outlines the respective roles of the City and Land Trust in implementing the Easement, including the allowable uses and facilities on the Property.

The proposed resolution would authorize an amendment to the existing MOA between the City and the Land Trust. The amendment would expand the allowable uses of the Property and permit the development of certain facilities, consistent with the conservation values set forth in the Easement. These changes would allow the Land Trust to improve its management of the Property and fully restore Indigenous ceremonial and cultural practices on the land.

BACKGROUND / LEGISLATIVE HISTORY

2022 Cultural Conservation Easement

In December 2022, pursuant to [Ordinance 13712 C.M.S.](#), the City conveyed at no cost a perpetual cultural conservation easement to the Sogorea Te' Land Trust, a local, Indigenous- and women-led nonprofit organization, over an approximately four acre portion of land in Joaquin Miller Park then known as Sequoia Point and now known as Rinihmu Pulte'irekne. Concurrently, the City and Land Trust entered into an MOA which set forth in greater detail how the City and Land Trust are to implement or exercise their rights on the Property. Together, these actions returned the Property to Indigenous stewardship.

The Easement prohibits any use of the Property that harms its conservation values, which include the Property's cultural and historic value, natural resources (e.g., plants and wildlife), open space and scenic characteristics, and educational value.

The Property remains subject to all government regulations, including its zoning designation of Open Space-Resource Conservation Area. That zoning designation is very restrictive and the Land Trust's allowable use of the Property was accordingly very limited. Structures such as signs, fences and cultural facilities were either subject to conditional use permitting or prohibited altogether.

Recent Oakland Planning Code Updates

However, a recent change to the Oakland Planning Code opened the door to more expansive use of the Property, consistent with the Easement. On October 3, 2023, City Council passed [Ordinance 13763 C.M.S.](#), which amended Chapter 17.11.060 of the Oakland Planning Code such that the allowable uses of conservation easement properties within Open Space zones, including Open Space-Resource Conservation Area zones, is to be set forth in the conservation easement rather than in the Planning Code. A number of limitations apply, including that the permitted uses under the conservation easement must be reserved for the exclusive purpose of conserving the culture present in Oakland prior to European colonization or culture descended from said time and place. The conservation easement must also have been approved by City Council and be held by a qualified entity pursuant to California Civil Code section 815.3, which includes conservation-oriented nonprofit organizations, Native American tribes, and local governments. The Easement at Rinihmu Pulte'irekne satisfies these conditions. Other approvals under the Oakland Municipal Code would still apply, including but not limited to the Creek Protection Ordinance, Building Code, and Fire Code. The allowable uses on the Property will remain restricted unless the City amends the MOA as recommended.

ANALYSIS AND POLICY ALTERNATIVES

The recommendation action is to amend the MOA so as to expand the Land Trusts' allowable uses as contemplated by the revision to Planning Code Chapter 17.11.060 discussed above. The MOA would be amended to include **Exhibit A**, which is a list of activities that would be permitted on the Property and **Exhibit B**, which depicts certain facilities that would be deemed approved. The permitted facilities would include a ceremonial structure, one caretaker's quarters, kitchen, camping area, limited general storage, one water well, water storage, signage, fencing, vehicle gate, retaining wall, stairs, deck, accessible parking spaces and an

emergency vehicle turn-around. The resolution would allow the Land Trust to immediately place small signs and a vehicle access gate to deter illegal dumping, which has been an issue on the Property. The purpose and use of the caretaker's quarters would be limited to facilitating on-site property management and must comply with restrictions including prohibitions on subletting to a non-caretaker as well as size and design limits to minimize impacts on the natural landscape of the Property. The permitted facilities would be subject to building permits and in some cases review by regulatory agencies.

The permitted facilities would enhance the Property's cultural, historic and educational values. As **Exhibit B** shows, the facilities would be concentrated on an existing paved area and are expected to have minimal to no impact on the Property's natural resource or scenic and open space values. **Exhibit C** provides an enlarged view of this area.

The original authorizing Ordinance 13712 C.M.S. delegated to the City Administrator the ability to amend the MOA. However, City Council approval is requested for this MOA amendment given the land use changes that it would enable. Staff do not expect subsequent amendments to the MOA to be as significant.

The City became part of a growing "land back" movement by returning the Property to Indigenous stewardship in December 2022. The 2022 action was a major, symbolic milestone in addressing a historic injustice in Oakland. However, the Property remains subject to restrictive zoning controls that limits its utility to the Land Trust. The recommended action would effectively complete the City's return of the land to Indigenous stewardship by allowing the Land Trust to use the land more freely and realize its vision for the land, consistent with the Easement's conservation purpose and values and the amended Planning Code.

Approval of the recommended actions would advance the Citywide priority of **housing, economic, and cultural security** by returning land with deep cultural significance to Oakland's Indigenous community.

FISCAL IMPACT

The proposed resolution has no fiscal impact to the City.

PUBLIC OUTREACH / INTEREST

The original conveyance of the Easement and the Land Trust's vision for improvements to the Property, including the ceremonial structure, involved substantial outreach, as described in the [original agenda report](#) and the project was met with significant public support. The Land Trust has presented their site plans to the Friends of Joaquin Miller Park and continues to meet with this group on a monthly basis. The Land Trust hosts volunteer trash collection and clean up days at the Property and in the surrounding areas of Joaquin Miller Park. City staff and the Land Trust have been meeting bi-weekly to discuss the Land Trust's vision for the property on behalf of Oakland's Indigenous community and develop the proposed MOA amendment.

COORDINATION

The Economic & Workforce Development Department coordinated on this agenda item with the Planning & Building Department, Fire Department, Public Works, Parks Recreation & Youth Development Department, Office of the City Attorney, and the Budget Bureau.

SUSTAINABLE OPPORTUNITIES

Economic: The proposed action would allow the Land Trust to significantly improve its management and activation of Rinihmu Pulte'irekne. Given its location, this will further the role of Joaquin Miller Park as a major quality-of-life resource, which in turn attracts people, businesses and tourists to Oakland. Furthermore, it would provide a land base to support the cohesion, resilience and growth of Oakland's Indigenous community.

Environmental: The proposed action would allow the Land Trust to significantly improve its monitoring and management of the land and actively steward the Property's natural resources.

Race & Equity: The proposed action seeks to redress grievous historic injustices in which the Mission system and Western settlers stole land from, enslaved, and terrorized Indigenous people in areas that later became the City.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Planning Code changes that allowed the uses authorized by this Resolution were reviewed pursuant to an Environmental Impact Review certified as of October 3, 2023, and none of the conditions under CEQA Guidelines Sections 15162 or 15163 requiring further environmental review exist. The transfer of the Easement and further amendments to the MOA are exempt from further review under CEQA pursuant to Section 21080.28. Further, the following CEQA Guidelines Sections apply: Section 15183 (projects consistent with a community plan, general plan, or zoning), Section 15301 (existing facilities), Section 15302 (replacement or reconstruction), Section 15303 (small structures), Section 15307 (protection of natural resources), Section 15308 (protection of the environment) and California Public Resources Code Section 21080.28 (conservation easements), each of which provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A Resolution (1) Authorizing The City Administrator To Amend The Memorandum Of Agreement Between The City Of Oakland And The Sogorea Te' Land Trust, Which Implements The Recorded Cultural Conservation Easement At Rinihmu Pulte'irekne In Joaquin Miller Park, To Allow Certain Permitted Activities And Facilities Consistent With The Conservation Values And Planning Code Section 17.11.060; And (2) Making California Environmental Quality Act Exemption Findings.

For questions regarding this report, please contact Brendan Moriarty, Real Property Asset Manager, at 510-238-6354.

Respectfully submitted,



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Attachments (2):
Exhibit A: Permitted Activities
Exhibit B: Permitted Facilities
Exhibit C: Permitted Facilities, Enlarged

Exhibit A – Permitted Activities

Essential Service Community Activities

- Trails and paths
- Water Collection, Storage, and Drainage
- Sewer Connection
- Solar Electricity Generation / Storage

Community Assembly Civic Activities

- Ceremonial Events
- Ceremonial Fire
- Meeting Hall
- Temporary Uses (Events)

Recreational Assembly Civic Activities

- Picnic Areas
- Food Preparation
- Outdoor Dining
- General Recreation

Community Education Civic Activities

- Cooking Demonstrations
- Educational Activities
- Educational Signage

Extensive Impact Civic Activities

- Caretaker's Quarters (one)
- Campsites (improved)
- Campsites (unimproved)
- Fog Harvesting
- Rainwater Harvesting
- Greywater Recycling
- Water well (one)

Limited Agricultural Activities

- Native Plant Cultivation
- Habitat Restoration (including trail removal)
- Invasive Species Removal
- Cultural Harvesting
- Composting

Accessory Activities and Facilities

- Benches, Street Furniture, Stairs
- Fences, Retaining Walls, Vehicle Access Gates
- Irrigation Systems

Exhibit A – Permitted Activities

- Landscaping, including hedges
- Lighting (General)
- Parking for use within park
- Pullouts, Scenic Overlooks, Decks
- Restrooms
- Maintenance Sheds
- Storage supporting Permitted Activities
- Public Art

Exhibit B

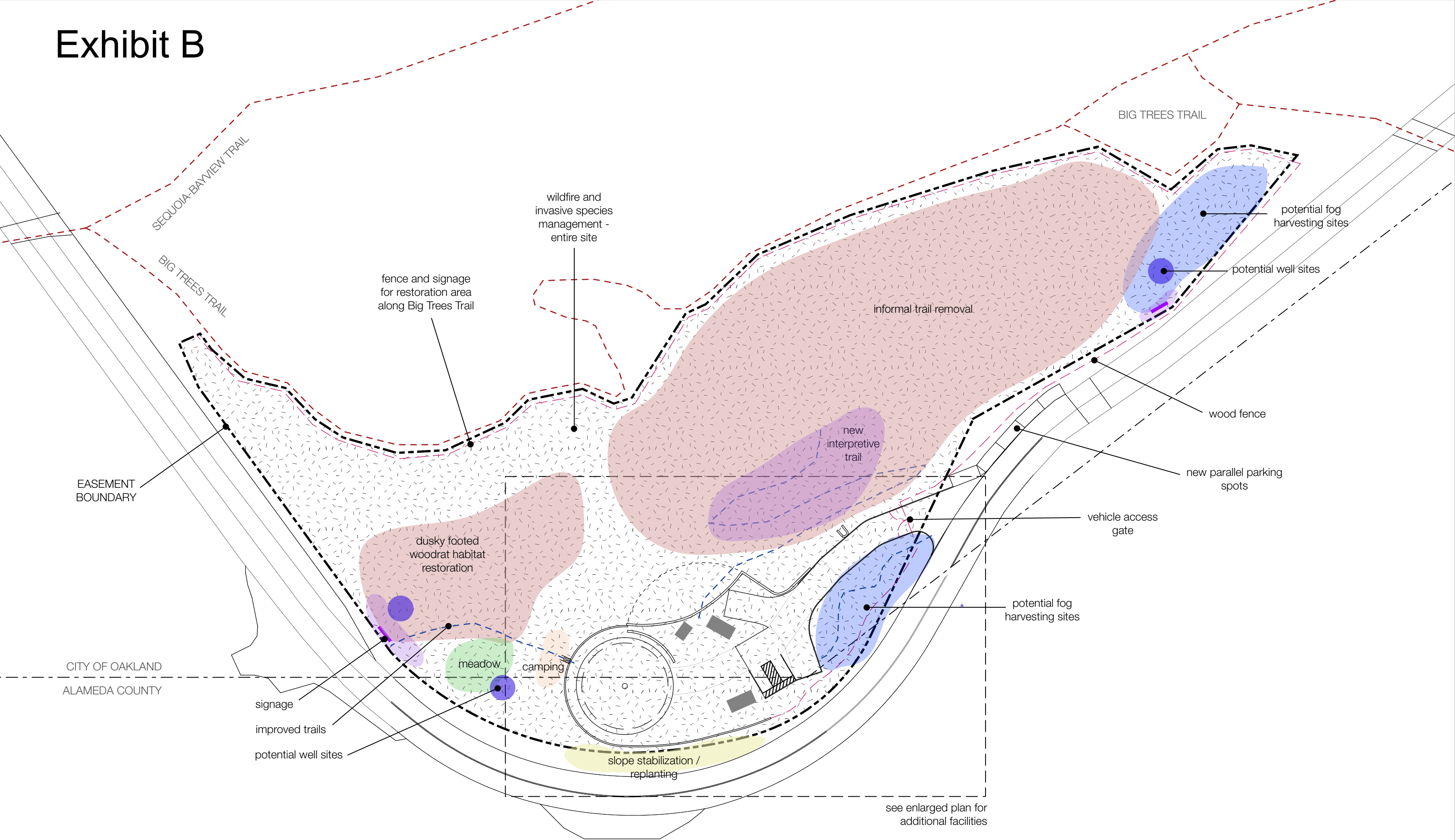
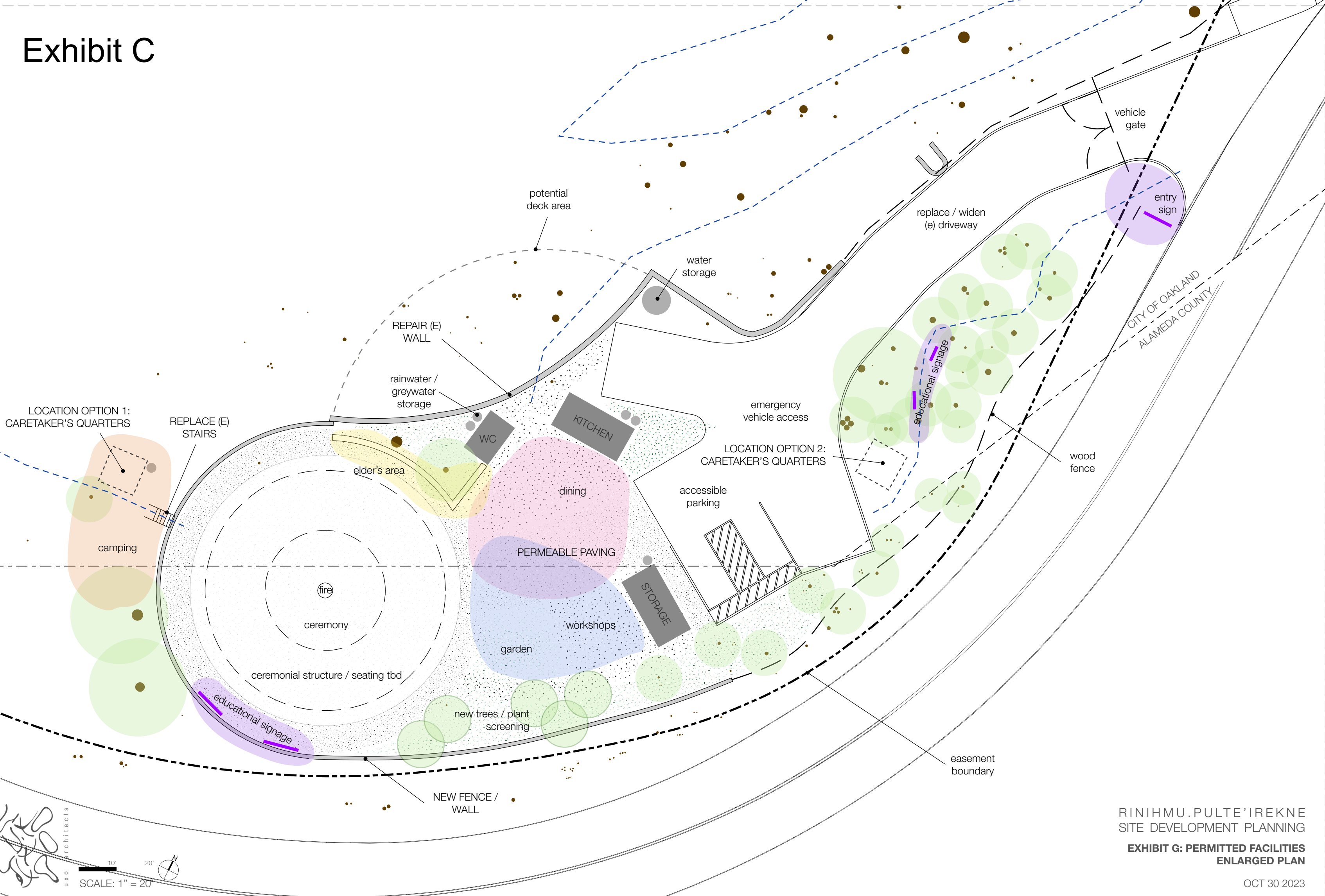


Exhibit C



LOCATION OPTION 1:
CARETAKER'S QUARTERS

REPLACE (E)
STAIRS

REPAIR (E)
WALL

rainwater /
greywater
storage

potential
deck area

water
storage

replace / widen
(e) driveway

vehicle
gate

entry
sign

CITY OF OAKLAND
ALAMEDA COUNTY

emergency
vehicle access

LOCATION OPTION 2:
CARETAKER'S QUARTERS

wood
fence

camping

elder's area

KITCHEN

dining

accessible
parking

PERMEABLE PAVING

STORAGE

fire

ceremony

workshops

garden

ceremonial structure / seating tbd

new trees / plant
screening

easement
boundary

NEW FENCE /
WALL

