

Approved as to Form and Legality


City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

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

WHEREAS, Sogorea Te Land Trust (“STLT”) is a tax-exempt nonprofit organization qualified under Section 501(c)(3) of the Internal Revenue Code and is qualified to hold conservation easements under California Civil Code Section 815.3; and

WHEREAS, on December 6, 2022, the City Council approved Ordinance No. 13712, which authorized the City Administrator to grant a Cultural Conservation Easement (“Easement”) to STLT in perpetuity over an approximately 3.8-acre portion of Joaquin Miller Park now known as Rinihmu Pulte’irekne (previously, Sequoia Point) (the “Easement Property”); and

WHEREAS, the City of Oakland (“City”) executed the Easement on December 13, 2022, which was recorded on January 12, 2023, and concurrently entered into a Memorandum of Agreement (“MOA”) with STLT to set forth in greater detail how the Easement will be managed, how activities on the Easement Property shall be implemented and the relationship between the parties with respect to the Easement Property; and

WHEREAS, the original MOA allowed only limited activities on the Easement Property based on the Resource Conservation Area zoning designation of Joaquin Miller Park; and

WHEREAS, on October 3, 2023, the City Council passed Ordinance No. 13763 C.M.S., which revised Chapter 17.11.060 of the Oakland Planning Code such that the allowable activities and facilities on the Easement Property are now dictated by the terms of a conservation easement intended to preserve “the culture present in Oakland prior to European colonization or culture descended from said time and place”; and

WHEREAS, the Easement is expressly intended to preserve such pre-European culture, in addition to preserving the cultural, historic, educational, natural resource, and scenic values of the Easement Property (the “Conservation Values”); and

WHEREAS, the Easement granted STLT all rights to use the Easement Property subject to the rights and interests expressly reserved to the City, the Conservation Values of the Easement, the terms and conditions of the MOA, and any applicable laws and necessary permits; and

WHEREAS, the City Council acknowledged that the MOA should be a living document that the parties can amend from time to time by mutual agreement as circumstances warrant, for example in the event of changes to the zoning designation or applicable land use regulations; and

WHEREAS, accordingly, the City and STLT now desire to amend the MOA to expand the permitted activities, consistent with the Conservation Values, the purpose of the Easement, and the education, enjoyment and benefit of the public; and

WHEREAS, the MOA may permit activities consistent with the Conservation Values and Easement, including but not limited to:

- Essential service civic activities such as trails, utilities, and limited solar generation;
- Community assembly civic activities such as ceremonial gatherings and events;
- Recreational assembly civic activities such as food preparation, outdoor dining and general recreation;
- Community education civic activities such as educational signage and demonstrations;
- Certain extensive impact civic activities such as improved campsites, rainwater harvesting and greywater recycling;
- Limited agricultural activities such as native plant cultivation, cultural harvesting, invasive species removal, habitat restoration, and composting;
- One small caretaker’s quarters to accommodate an employee of STLT maintaining the Easement Property;
- Limited storage of non-hazardous materials associated with permitted activities; and
- Accessory activities such as restrooms, fences, vehicle access gates, scenic overlook, and parking; and

WHEREAS, facilities associated with the above activities may be permitted on the Easement Property subject to all approvals and conditions necessary to comply with law and protect the environment and mitigate fire risk, including but not limited to the City’s uniformly applied development standards, City building and fire permits and/or regulatory agency review by the County of Alameda, State Water Resources Control Board, California Department of Fish and Wildlife, and/or United States Fish and Wildlife Service; and

WHEREAS, all additional, future activities and facilities established on the Easement Property must be reviewed and approved by the City Administrator, or their designee, for consistency with Ordinance No. 13712, this Resolution, the Conservation Values, the Easement and applicable laws; and

WHEREAS, the actions authorized by this Resolution are exempt from the California Environmental Quality Act (CEQA) pursuant to the following CEQA Guidelines Sections: Section 15162 and 15163 (no further environmental review required), 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; and now be it

RESOLVED: That the City Council hereby authorizes the City Administrator to negotiate and enter into an amended and restated Memorandum of Agreement with STLT to authorize and further implement (1) the activities described in this Resolution and the accompanying staff report and (2) such facilities necessary to support the permitted activities and/or to maintain the Conservation Values; and be it

FURTHER RESOLVED: That immediately following adoption of this Resolution, STLT may place small educational signs (no more than 11 x 17 inches) and one vehicle access gate to prevent illegal dumping on the Easement Property without further City review; and be it

FURTHER RESOLVED: That the City Administrator is authorized to negotiate and enter into further amendments to the MOA and take whatever actions are necessary with respect to the MOA and the Easement Property consistent with Ordinance No. 13712, this Resolution, the Easement, and its basic purposes; and be it

FURTHER RESOLVED: That the MOA and all further amendments shall be reviewed and approved by the Office of the City Attorney for form and legality; and be it

FURTHER RESOLVED: That the City Council hereby finds and determines on the basis of substantial evidence in the record, that the actions authorized by this Resolution are exempt from CEQA, and the City Administrator is hereby directed to file a notice of exemption with the Office of the Alameda County Recorder and the State Office of Planning and Research.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk of the Council and City of
Oakland, California