



CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

ORDINANCE (1) GRANTING A CULTURAL CONSERVATION EASEMENT OVER AN APPROXIMATELY 5-ACRE PORTION OF JOAQUIN MILLER PARK KNOWN AS SEQUOIA POINT TO THE SOGOREA TE' LAND TRUST (GRANTEE), AT NO COST, TO PRESERVE AND ENHANCE THE CULTURAL, HISTORIC, EDUCATIONAL, NATURAL RESOURCE, SCENIC, AND OPEN SPACE VALUES OF THE EASEMENT PROPERTY IN PERPETUITY; AND

(2) AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND ENTER INTO A MEMORANDUM OF AGREEMENT FOR THE IMPLEMENTATION OF THE CITY OF OAKLAND'S RESERVED RIGHTS AND THE GRANTEE'S RIGHTS AND OBLIGATIONS UNDER THE CONSERVATION EASEMENT, AND TO AMEND SAID MEMORANDUM OF AGREEMENT WITHOUT RETURNING TO COUNCIL; AND

(3) AMENDING THE OAKLAND MUNICIPAL CODE TO ADD SECTION 12.64.420 TO AUTHORIZE THE USE OF PARKS BY RECIPIENTS OF CONSERVATION EASEMENTS WITHOUT OBTAINING PARK PERMITS; AND

(4) MAKING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

WHEREAS, the City of Oakland is the owner of certain real property currently known as Joaquin Miller Park in the County of Alameda, State of California, consisting of approximately 500 acres; and

WHEREAS, the City recognizes that San Joaquin Miller Park is located within the unceded territory of the Chochenyo-speaking Ohlone people who have occupied and continue to occupy this region since time immemorial and the City desires to return an approximately 5-acre portion of the park commonly known as Sequoia Point, as depicted in the map attached hereto as Exhibit A (Easement Property), to Indigenous stewardship; and

WHEREAS, California Civil Code Sections 815 through 816 allows the City to grant a conservation easement to a qualified nonprofit organization in order to preserve and enhance the cultural, historic, educational, natural resource, scenic, and open space values (Conservation Values) of the Easement Property in perpetuity; and

WHEREAS, Sogorea Te' Land Trust (Grantee) is an Indigenous women-led nonprofit land trust based in Oakland that facilitates the return of Indigenous land to Indigenous people, and is qualified to hold conservation easements under California Civil Code Section 815.3; and

WHEREAS, Oakland Municipal Code (OMC) Section 2.42.080 authorizes the City to grant a perpetual conservation easement for less than fair market value if the City Council has made a finding and determination that the grant of easement for less than fair market value is in the best interests of the City; and

WHEREAS, the City and Grantee share a strong interest in working collaboratively on the Easement Property to identify, conserve, and restore open space and natural resources; reestablish Native American traditions, cultural practices, and resource stewardship; and to educate and share these values and resources through public education partnerships; and

WHEREAS, Grantee brings a unique and valuable perspective to, and knowledge of, the Easement Property, and it is in the City's and the public's interest to establish a long-term partnership with Grantee; and

WHEREAS, Grantee's rights, interests and obligations under the conservation easement would be consistent with and enhance the natural resource value and public enjoyment of Joaquin Miller Park; and

WHEREAS, the City desires to grant, and Grantee desires to accept, a conservation easement in perpetuity over the Easement Property (Conservation Easement) in order to preserve and enhance the Conservation Values; and

WHEREAS, Grantee refers to the Easement Property as Rinihmu Pulte'irekne, meaning "above the red ochre" in the Chochenyo language;

WHEREAS, the City and Grantee also desire to enter into a memorandum of agreement that may be amended by the City Administrator from time to time, without returning to City Council, to further define the processes and requirements for implementing the easement (Memorandum of Agreement); and

WHEREAS, OMC Chapter 12.64 requires a park permit for private events within City parks of 25 or more people; and

WHEREAS, the grant of a conservation easement to a qualified easement holder is a property right that allows the easement holder to use property consistent with the terms of the easement, and the City Council desires to add OMC Section 12.64.420 to clarify that a park permit is not necessary for conservation easement holders, to the extent the conservation easement allows such events and includes health and safety provisions similar to those required for events normally requiring park permits; and

WHEREAS, the grant of a conservation easement is exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.28; and

WHEREAS, on September 14, 2022, the Parks and Recreation Advisory Commission conducted a meeting to consider the grant of the Conservation Easement, and recommended approval of such to the City Council; and

WHEREAS, on November 1, 2022, the City Council conducted a meeting to consider the grant of the Conservation Easement and the Memorandum of Agreement; and

WHEREAS, all interested parties were given the opportunity to participate in the meeting by submittal of oral and written comments; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Ordinance.

SECTION 2. Grant of Conservation Easement. The City Council, having independently heard, considered and weighed all the evidence in the record, hereby grants a Conservation Easement of approximately 5-acres to Grantee, and authorizes the City Administrator to negotiate and execute the Conservation Easement, in substantial conformity with Attachment C to the Agenda Report, and any and all necessary and related documents, without returning to the City Council.

SECTION 3. Findings. The City Council finds and declares that pursuant to OMC Section 2.42.080, the grant of the Cultural Easement at no cost for a perpetual duration is in the City's best interest, for the reasons stated in the Agenda Report, attachments thereto, any Agenda-Related Materials and elsewhere in the record (which are hereby incorporated by reference as if fully set forth herein).

SECTION 4. Memorandum of Agreement. The City Council hereby authorizes the City Administrator to negotiate and execute the Memorandum of Agreement, in substantial conformity with Attachment D to the Agenda Report, and to amend said Memorandum of Agreement, without returning to Council, consistent with the Conservation Easement, the Conservation Values, and this Ordinance.

SECTION 5. Oakland Municipal Code Amendment. The City Council hereby adds Section 12.64.420 to the Oakland Municipal Code as follows:

12.64.420 – Park Permits Not Needed For Conservation Easement Holders

Any individual or entity that has been granted a valid conservation easement within a City park pursuant to Section 2.42.080 of this Code shall not be separately required to obtain a park permit under this Chapter for events that are permitted by the conservation easement.

SECTION 6. Name of Easement Property. The Easement Property shall hereafter be known as Rinihmu Pulte'irekne, meaning "above the red ochre" in the Chochochenyo language.

SECTION 7. Costs. All closing costs estimated at \$5,000 and property survey services estimated at \$57,000 shall be paid from the General Purpose Fund (1010), Surplus Properties Project (1000235), Real Estate Organization (85231).

SECTION 8. California Environmental Quality Act. The City Council hereby finds and determines on the basis of substantial evidence in the record, that the actions authorized by this Ordinance are exempt from CEQA pursuant to California Public Resources Section 21080.28. 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.

SECTION 9. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 10. Effective Date. This Ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND
PRESIDENT FORTUNATO BAS

NOES –
ABSENT –
ABSTENTION –

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

Date of Attestation: _____

NOTICE AND DIGEST

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(4) MAKING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

This Ordinance would grant a perpetual conservation easement over an approximately 5-acre portion of Joaquin Miller Park to the Sogorea Te' Land Trust. The conservation easement would be conveyed at no-cost in order to preserve specific conservation values of the property. The Ordinance would also authorize the City Administrator to enter into a Memorandum of Agreement with the Sogorea Te' Land Trust, and to amend said agreement without returning to Council, in order to implement the rights and obligations under the conservation easement. The Ordinance would amend Oakland Municipal Code to add Section 12.64.420 to authorize the use of parks by conservation easement holders without obtaining park permits, if the conservation easement allows such events. Finally, the Ordinance makes appropriate findings under the California Environmental Quality Act (CEQA).