APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____C.M.S.

AN ORDINANCE (1) AUTHORIZING THE CITY ADMINISTRATOR TO (A) EXECUTE A LICENSE AGREEMENT BETWEEN THE ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT AS LICENSOR AND THE CITY OF OAKLAND AS LICENSEE TO PROVIDE TRAIL MAINTENANCE AND STEWARDSHIP OF A 0.7 MILE PORTION OF THE SAN LEANDRO CREEK TRAIL FOR A LICENSE FEE OF ZERO DOLLARS ($0.00) FOR A TERM OF TWENTY-FIVE (25) YEARS AND (B) NEGOTIATE AND EXECUTE A SUB-LICENSE AGREEMENT WITH THE NONPROFIT OAKLAND PARKS & RECREATION FOUNDATION (OPRF) TO PROVIDE SUCH TRAIL MAINTENANCE AND STEWARDSHIP FOR AN INITIAL TERM OF FIVE (5) YEARS WITH FOUR 5-YEAR OPTIONS FOR A TOTAL TERM NOT TO EXCEED TWENTY-FIVE (25) YEARS; (2) MAKING FINDINGS THAT THE BELOW MARKET LICENSE FEE IS IN THE CITY'S BEST INTEREST; AND (3) MAKING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

WHEREAS, the 0.7-mile portion of the San Leandro Creek Trail extending from the San Francisco Bay to Columbia Gardens Park (Trail Segment) is owned by the Alameda County Flood Control and Water Conservation District (District) and is located entirely within the boundaries of the City of Oakland; and

WHEREAS, in 2015, the City Council, by Resolution No. 85669 C.M.S., designated the San Leandro Creek corridor as a Priority Conservation Area; and

WHEREAS, in March 2017, the City Council received an informational report on a feasibility study and master plan for the corridor, funded by the California Department of Transportation (Caltrans); and

WHEREAS, in May 2017, then-City Council President Larry Reid wrote to the California Natural Resources Agency (CNRA) in support of a grant application to construct Phase I of the San Leandro Creek Trail (Creek Trail), pledging to work with City staff, the East Bay Regional

Park District (EBRPD), and the District to develop a twenty-five (25) year maintenance, operation, and policing cooperative agreement utilizing community partners where feasible; and

WHEREAS, on October 29, 2018, CNRA provided a $4.1 million construction grant to the District to construct the San Leandro Creek Urban Greenway, Phase 1 Project; and

WHEREAS, in 2019, the City, the District, EBRPD, and other partners began developing an application for the City's Transformative Climate Communities (TCC) program's Better Neighborhoods, Same Neighbors (BNSN) Program, which initially included funding for Creek Trail maintenance and community activation in partnership with EBRPD and community-based organizations; and

WHEREAS, on January 17, 2020, EBRPD staff indicated EBRPD's commitment to providing operations, maintenance, and public safety patrols of the Creek Trail between Hegenberger Road and 98th Avenue; and

WHEREAS, the City was awarded TCC/BNSN funding in 2020; the Creek Trail was subsequently removed from the TCC/BNSN project because (i) Union Pacific Railroad was unable to support reconstruction of the trail where it crosses the railroad's right-of-way, which was to be included in a later project phase, and (ii) construction of the Creek Trail was delayed past the original TCC/BNSN grant end date; City project managers, community partners, and the project funder, the California Strategic Growth Council, subsequently replaced the Creek Trail project component with the renovation and stewardship of Tyrone Carney Park; and

WHEREAS, on January 29, 2024, by Resolution No. 89993 C.M.S., the City Council authorized a Cooperative Agreement with the District for construction of a bicycle and pedestrian crossing at Hegenberger Road as part of the Creek Trail, pursuant to which the City reimbursed the District Seventy-Five Thousand Dollars ($75,000) for traffic signals and civil plans for crossings at Hegenberger Road, 98th Avenue, and Empire Road; and

WHEREAS, the City owns and will maintain the traffic signal systems at Hegenberger Road and 98th Avenue; and

WHEREAS, in April 2024, the City and the District began developing a 25-year Cooperative Maintenance Agreement (License Agreement) covering the Trail Segment, pursuant to which the City will hold license rights to the Trail Segment and proposes to enter into a sub-license agreement with the Foundation (Sub-License Agreement); and

WHEREAS, re-opening the San Leandro Creek to public access has been a priority for the deep East Oakland community for at least two decades; and

WHEREAS, as of June 1, 2026, the traffic signals at the Hegenberger Road and 98th Avenue crossings have been installed and Pacific Gas and Electric Company (PG&E) is ready to energize the traffic signals, and related concrete work and striping were completed the summer of 2026; and

WHEREAS, the District entered into a Grant Agreement No. U29101-0 with the State of California Natural Resources Agency dated October 29, 2018 (State Grant), which requires the Trail Segment be maintained, repaired, and improved for a term of twenty-five years; and

WHEREAS, the License Agreement with the District states the City may terminate its maintenance responsibilities once a substitute maintenance agreement has been secured; and

WHEREAS, the City desires to coordinate with local organizations to keep Trail Segment in good condition and for the benefit of the public; and

WHEREAS, the Oakland Parks Recreation & Foundation (Foundation) is a California nonprofit organization dedicated to providing financial and volunteer resources and advocacy for recreation programs and parks in Oakland and improving the quality of life for all Oakland residents and other users of these facilities; and

WHEREAS, the Foundation is a trusted community partner with a proven track record of stewarding community spaces, such as with the Lakeside Park Garden Center at 666 Bellevue Avenue, and serving as fiscal sponsor to more than thirty (30) community-based organizations supporting Oakland's parks system; and

WHEREAS, on May 5, 2026, by Ordinance No. 13879 C.M.S., the City Council authorized a Site License Agreement with the Foundation for community-led stewardship of Tyrone Carney Park, pursuant to which two community groups, East Oakland Neighborhoods Initiative (EONI) and Sobrante Park Resident Action Council (SPRAC), lead workforce training and community activities to maintain that park; and

WHEREAS, the Foundation proposes to provide trail maintenance and stewardship services for the Trail Segment, including routine maintenance and repairs, vegetation management, litter and debris removal, trail surface upkeep, and at least one annual public meeting; and

WHEREAS, the Sub-License Agreement will be non-exclusive, and the Trail Segment will remain available for public use; and

WHEREAS, pursuant to OMC Section 2.42.110, City-owned real property must be licensed, leased, or sub-licensed for a rent or fee, payable in cash or other consideration, equal to or exceeding the property's fair market value, unless the City Council determines that the license, lease, or sub-license of the property for less than its fair market value is in the best interest of the City; and

WHEREAS, the Foundation's proposed community stewardship of the Trail Segment, including trail maintenance, repair, and vegetation management, provides valuable environmental, recreational, and public access benefits to the surrounding community; and

WHEREAS, the Foundation's collaboration with community volunteers and local stewardship groups empowers and benefits the community through on-site stewardship and maintenance of the Trail Segment; and

WHEREAS, the proposed temporary use of the Trail Segment for trail maintenance and stewardship activities is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15301 (existing facilities), 15304 (minor alterations of land; temporary uses), 15308 (protection of the environment), and 15183 (projects consistent with General Plan and Zoning); and

WHEREAS, the District holds fee title to the Trail Segment, and the non-exclusive and temporary use of the Trail Segment by the Foundation for community benefitting uses does not authorize development, and thus the Sub-License Agreement is not a disposition of surplus property under Government Code section 54220 et seq.; and

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

SECTION 1. The City Administrator is hereby authorized to (a) execute a License Agreement with the Alameda County Flood Control and Water Conservation District for use of a 0.7 mile portion of the San Leandro Creek Trail for a term of twenty-five (25) years for a license fee of Zero Dollars ($0.00), which states that the City may terminate its maintenance responsibilities once a substitute maintenance agreement has been secured; and (b) negotiate and execute a Sub-License agreement with the Oakland Parks & Recreation Foundation for the same Trail Segment for a term of five (5) years with four 5-year options to extend for a total term not to exceed twenty-five (25) years for a sub-license fee of Zero Dollars ($0.00) to provide trail maintenance and stewardship.

SECTION 2. The City Council finds and determines that the sub-license of the Trail Segment for less than its fair market rental value is in the best interests of the City pursuant to OMC Section 2.42.110, because the Foundation will provide ongoing community stewardship of the Trail Segment, thereby alleviating the maintenance, repair, and security expenses that the City would otherwise incur under the license agreement with the District.

SECTION 3. The City Council has independently reviewed and considered this environmental determination, and the City Council finds and determines that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15301 (operation, licensing, and minor alteration of existing public facility), 15304 (minor alterations of land; temporary uses), 15308 (protection of the environment), and 15183 (projects consistent with General Plan and Zoning). The City Administrator or designee is hereby directed to file a Notice of Exemption with the appropriate agencies.

SECTION 4. That the license agreement and sub-license agreement are subject to City Attorney review and approval for form and legality and a copy of this ordinance shall be filed with the City Clerk without returning to Council.

SECTION 5. The recitals contained in this Ordinance are true and correct and are an integral part of the Council's decision.

SECTION 6. 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 Ordinance. 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 7. 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 - BROWN, FIFE, GALLO, HOUSTON, RAMACHANDRAN, UNGER, WANG, AND PRESIDENT JENKINS

NOES –

ABSENT –

ABSTENTION –

ATTEST:_____

ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

3482818 / NC

NOTICE AND DIGEST

AN ORDINANCE (1) AUTHORIZING THE CITY ADMINISTRATOR TO (A) EXECUTE A LICENSE AGREEMENT BETWEEN THE ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT AS LICENSOR AND THE CITY OF OAKLAND AS LICENSEE TO PROVIDE TRAIL MAINTENANCE AND STEWARDSHIP OF A 0.7 MILE PORTION OF THE SAN LEANDRO CREEK TRAIL FOR A LICENSE FEE OF ZERO DOLLARS ($0.00) FOR A TERM OF TWENTY-FIVE (25) YEARS AND (B) NEGOTIATE AND EXECUTE A SUB-LICENSE AGREEMENT WITH THE NONPROFIT OAKLAND PARKS & RECREATION FOUNDATION (OPRF) TO PROVIDE SUCH TRAIL MAINTENANCE AND STEWARDSHIP FOR AN INITIAL TERM OF FIVE (5) YEARS WITH FOUR 5-YEAR OPTIONS FOR A TOTAL TERM NOT TO EXCEED TWENTY-FIVE (25) YEARS; (2) MAKING FINDINGS THAT THE BELOW MARKET LICENSE FEE IS IN THE CITY'S BEST INTEREST; AND (3) MAKING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

This Ordinance authorizes the City Administrator to negotiate and execute (a) a license agreement with the Alameda County Flood Control and Water Conservation District as licensor and the City as licensee to provide trail maintenance and stewardship of a 0.7 mile portion of the San Leandro Creek Trail in Oakland for a license fee of Zero Dollars ($0.00) and (b) a sub-license agreement with the nonprofit Oakland Parks & Recreation Foundation to provide such trail maintenance and stewardship for a term of five (5) years with four 5-year options to extend, for a total term not to exceed twenty-five (25) years; makes findings that the below market license fee is in the City's best interest; and makes appropriate California Environmental Quality Act (CEQA) findings.