

**CITY OF CLEARLAKE CITY COUNCIL
RESOLUTION NO. 2014-19
MEMORANDUM OF AGREEMENT**

BETWEEN

THE KOI NATION OF NORTHERN CALIFORNIA

AND

THE CITY OF CLEARLAKE

WHEREAS, the Koi Nation (Nation) is a sovereign, federally recognized tribe whose members have lived in the northern California, from the Bay Area to Clearlake since time immemorial; and,

WHEREAS, the City of Clearlake is a California Municipal Corporation; and

WHEREAS, the City of Clearlake (City) recognizes that the lands in and around the City are culturally significant to the Nation; and,

WHEREAS, the City and the Nation recognize the contributions that each make to a broad cultural, economic, and historical heritage in northern California; and,

WHEREAS, the City and the Nation understand that improved communication and collaboration will promote the shared goals of establishing a regional community, respecting different cultures, linking people to their heritage, fostering a sense of place, deepening community pride, and encouraging civility; and,

WHEREAS, the Tribal Council is the governing body of the Nation, and is authorized to enter into this agreement on behalf of the Nation; and,

WHEREAS, the City and the Nation are committed to working together on a government-to-government basis on issues of mutual interest and concern; and,

WHEREAS, by entering into an MOA with the Nation, the City acknowledges that it continues to be obligated to follow applicable state and federal law; and

WHEREAS, SB 18 requires the City to consult with the Nation prior to the adoption of any amendment to the General Plan, adoption of any specific plan or prior to the designation of land as open space containing cultural places; and,

WHEREAS, the City and the Nation seek to enter into a cooperative agreement to implement SB 18, and to support the protection of the Nation's cultural resources within the City; and,

WHEREAS, the City recognizes and agrees to accommodate the Nation's need to protect its cultural resources, to the extent permitted by law, including protecting the confidentiality of the location of those resources, and exempting that information from public disclosure as permitted under applicable California and federal law; and,

WHEREAS, the City and the Nation seek to consult and work cooperatively to protect, preserve, enhance, mitigate, and manage the Nation's cultural resources identified within the jurisdiction of the City, whether those resources are located on public or private lands; and,

WHEREAS, the term "cultural resources" shall include, but not be limited to, archaeological sites, traditional cultural properties, funerary objects, human remains, burial sites, and ceremonial sites; and,

WHEREAS, the term "consult" means the meaningful and timely process to notify, discuss, and carefully consider the views of each party in a manner that is respectful of each other's cultural values, and, where feasible, to seek agreement; and,

WHEREAS, the City and the Nation are committed to protecting and preserving the Nation's cultural resources by designation, by utilizing open and vacant space, and by Tribal acquisition of conservation easements where feasible;

FOR THE FOREGOING REASONS, THE CITY AND THE NATION AGREE AS FOLLOWS:

1. The City and the Nation shall work together to establish procedures for consultation pursuant to applicable law which will provide an efficient process for that consultation with both parties committed to open, candid, respectful, timely, and effective communication.
2. The City Manager shall designate a staff member as a Tribal Technical Advisor for Native American consultation to advise the City departments on policy issues and provide appropriate technical information to the Tribe. The City and the Nation agree to each designate a single point of contact to whom any notifications must be made under this agreement, and to inform the other of any changes in the designation of a point of contact.
3. To the extent reasonably feasible, the City will work with California Native American Tribes as identified by the Native American Heritage Commission, pursuant to Government Code Section 65352.3 through collaborations with the Nation to manage and protect important cultural resources, known and unknown, for the benefit of present and future generations.
4. The City shall endeavor to provide the resources for the investigation, evaluation, monitoring, mitigation, and ongoing protection of cultural resources and for the return to

the Nation for repatriation by the Nation of any human remains and associated grave goods recovered during such work as required by law.

5. The City and the Nation shall develop a cultural resources management plan, subject to funding availability, which may include a cultural resource and historic preservation component within the General Plan, and/or update the City's Best Management Practices, or appropriate standard operating procedures, whose purposes are to specify actions to be taken to protect, preserve, enhance, mitigate, and manage, or dispose of, traditional cultural properties and resources identified or impacted under applicable law within the City.
6. The City shall work with the Nation and the Native American Heritage Commission to identify locations of the Nation's cultural resources. The City and the Nation will develop procedures to maintain the confidentiality of this information, subject to applicable laws.
7. While recognizing that the City is the lead agency, the City and the Nation agree to develop protocols for the selection of consultants and professionals to conduct archaeological, historical, and cultural activities that affect the implementation of this agreement.
8. The City and the Nation agree to work together to find appropriate ways to avoid impacts on important cultural resources. The City pledges to look for ways to avoid impacts on these resources to the extent reasonably feasible under the provisions of applicable law. When avoidance of impact is impossible or impractical given other concerns of equal importance, the City will work with the Nation for appropriate and respectful resolution of any unavoidable impacts pursuant to applicable law.

THEREFORE BE IT RESOLVED, by the signatures of the representatives on the date indicated below that the City and the Nation formally endorses and accepts this Memorandum of Agreement.

CITY OF CLEARLAKE

By: Joan L. Phillippe
Joan L. Phillippe
City Manager

Attest:

By: Melissa Swanson
Melissa Swanson
City Clerk

Approved by City Council
8/28/14

KOINATON

By: Darin Beltran
Darin Beltran
Chairman

Attest:

By: Dino Beltran
Dino Beltran
Treasurer