

RESOLUTION NO. _____

WHEREAS, the City of Austin was founded in 1839, and in the same year the City also established a 40-acre plot as City Cemetery, a municipally owned burial ground; and

WHEREAS, City Cemetery, renamed Oakwood Cemetery in 1907, is the final resting place for many of the early and prominent families of Austin; and

WHEREAS, due to the racist custom of cemetery segregation prevailing at the time, Oakwood had "colored grounds" which were in a separate and undivided area, and Mexicans and paupers were buried along the fence line, usually in unmarked graves; and

WHEREAS, Oakwood cemetery filled quickly, and in 1914 the Oakwood Annex was established with an additional 18 acres of burial sites, but did not include a "colored" section, and burials were denied to African Americans; and

WHEREAS, in 1893, in response to the need for a dignified burial ground, members of the East Austin community, including John M. Holland, William M. Tears, Henderson Rollins and Allen Bradley, formed the Bethany Cemetery Company and established Austin's first Black cemetery on 6.18 acres on the 1300 block of Springdale Road; and

WHEREAS, in 1933, the last of the officers of the original Bethany Cemetery Company passed away, and the entity ceased to function; and

WHEREAS, in 1971, the Bethany Cemetery Association was formed, and in 1976, Eva Ross, Carl Wilson and Willie R. Conley, representatives of Bethany Cemetery Association, filed a lawsuit in the Travis County District Court for possession of Bethany Cemetery; and

26 **WHEREAS**, on April 27, 1976, the court ruled in favor of the plaintiffs,
27 Eva Ross, Carl Wilson, and Willie R. Conley, and the 6.18 acres known as
28 Bethany Cemetery were legally transferred to the Bethany Cemetery Association;
29 and

30 **WHEREAS**, in 2003, Bethany Cemetery was designated a Texas Historic
31 Landmark for its significance in the development of Austin's African American
32 community; and

33 **WHEREAS**, all members of the Bethany Cemetery Association, including
34 its founder, Eva Ross, passed away, and the land entered into neglect; and

35 **WHEREAS**, the Bethany Cemetery Association was involuntarily dissolved
36 by the Secretary of State in 1994; and

37 **WHEREAS**, residents in proximity to the cemetery have called on the City
38 to address the deteriorating conditions of Bethany Cemetery; and

39 **WHEREAS**, State law does not authorize municipalities to use public funds
40 on abandoned or unkept cemeteries within a city's jurisdiction; and

41 **WHEREAS**, the ability for private entities to contribute to improvements is
42 hindered by the abandoned status of Bethany Cemetery; and

43 **WHEREAS**, Texas Health and Safety Code (Code) § 713.009 provides that
44 a municipality may take possession and control of a cemetery on behalf of the
45 public if the cemetery threatens or endangers public health, safety, comfort or
46 welfare; and

47 **WHEREAS**, Council finds that the neglected and deteriorated condition of
48 Bethany Cemetery threatens public health and safety; and

49 **WHEREAS**, Resolution No. 20140612-075 directed the City Manager to
50 explore a transition of maintenance responsibility and ownership of Bethany
51 Cemetery to the City of Austin; and

52 **WHEREAS**, a July 11, 2014 memorandum prepared in response to
53 Resolution No. 20140612-075 identified expenditures of \$82,924 in one-time
54 capital expenses, \$35,137 in ongoing annual maintenance expenses to bring
55 Bethany Cemetery up to City maintenance standards, and a one-time expense of
56 \$28,324 to include Bethany Cemetery in the City's Historic Cemeteries Master
57 Plan; and

58 **WHEREAS**, consistent maintenance and the preservation of Bethany
59 Cemetery honor its significance as a piece of Austin's African American
60 community and history and ensure the public health, safety, comfort, and welfare
61 of the community; and

62 **WHEREAS**, the proximity of Bethany Cemetery to City-owned cemeteries
63 and parks presents opportunities to create additional connectivity among East
64 Austin's open spaces; and

65 **WHEREAS**, the City of Austin reaffirms that circumstances of Bethany
66 Cemetery are unique and represent a historical divide in the community that seeks
67 to be mended; **NOW THEREFORE**,

68 **BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

69 Council directs the City Manager to initiate transfer of ownership of Bethany
70 Cemetery to the City of Austin in accordance with Texas Health and Safety Code §
71 713.009 and upon completion of the transfer of ownership, to update the City's
72 Historic Cemeteries Master Plan to include Bethany Cemetery.

74 **BE IT FURTHER RESOLVED:**

75 Council directs the City Manager to provide notice of the City's intent to
76 take possession and control of Bethany Cemetery in accordance with the notice
77 requirements of Code § 713.009(e).

78 **BE IT FURTHER RESOLVED:**

79 The Council directs the City Manager to, no later than 60 days after
80 providing notice of the City's intent to take possession and control of Bethany
81 Cemetery, present a plan to Council to:

- 82 (1) remove or repair any fences, walls, or other improvements;
- 83 (2) straighten and reset any memorial stones or embellishments that are a
84 threat or danger to public health, safety, comfort, or welfare; and
- 85 (3) take proper steps to restore and maintain the premises in an orderly and
86 decent condition.

87 **BE IT FURTHER RESOLVED:**

88 Council directs the City Manager to identify funding in the FY2021-22
89 budget for the transition of maintenance responsibility and ownership of Bethany
90 Cemetery to the City of Austin and for the inclusion of Bethany Cemetery in the
91 City's Historic Cemeteries Master Plan.

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94 **BE IT FURTHER RESOLVED:**

95 Council directs the City Manager to engage Travis County, Save Our
96 Cemeteries, and other volunteer-based organizations to provide additional support
97 for the ongoing maintenance of Bethany Cemetery.

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99 **ADOPTED:** _____, 2021

ATTEST: _____

Jannette S. Goodall
City Clerk

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