



Midpeninsula Regional
Open Space District

R-10-29
Meeting 10-06
February 24, 2010

AGENDA ITEM 5

AGENDA ITEM

Adoption of a Comprehensive Use and Management Plan Amendment for Ravenswood Open Space Preserve to Designate the Cooley Landing Area, Adoption of a Resolution Authorizing Execution of the Partnership Agreement with the City of East Palo Alto, and Determination that the Recommended Actions are Categorically Exempt from the California Environmental Quality Act.

GENERAL MANAGER'S RECOMMENDATIONS

1. Determine that the recommended actions are categorically exempt from the California Environmental Quality Act as set out in this report.
2. Adopt the Comprehensive Use and Management Plan Amendment contained in this report, which designates the Cooley Landing Area of Ravenswood Open Space Preserve.
3. Adopt the attached Resolution authorizing execution of the Partnership Agreement with the City of East Palo Alto (City) for the Cooley Landing Area.

SUMMARY

To better position the City of East Palo Alto (City) for grant funding opportunities, including Proposition 84 monies (*Statewide Park Development and Community Revitalization Program of 2008* through the California Department of Parks and Recreation), District and City staffs have crafted a Partnership Agreement that describes the various roles and responsibilities and the anticipated timeframes for Project development. The Agreement accommodates the long-term development of the Cooley Landing Area of Ravenswood Open Space Preserve (Preserve) by use of a methodical, phased approach. Phase I tasks consist only of further planning, design, and environmental review of the Project. Phase II is construction of the final design following review under the CEQA and the letting of construction contracts by the City. Phase III contemplates official opening and subsequent management and operation of the park. To facilitate the planning process, the General Manager recommends that the Board adopt the Comprehensive Use and Management Plan Amendment and authorize execution of the Partnership Agreement with the City for the Cooley Landing Area.

DISCUSSION

The City provided an informational report on the Cooley Landing project to the District Board of Directors (Board) on September 23, 2009, that discussed the project's current status and recent activities. See R-09-104 for a more detailed discussion on the background of the project. To date, staff has worked with the Cooley Landing Ad Hoc Board Committee and the City's staff through the initial planning phase, which has included tours of the site as well as several meetings to discuss the Board's goals for the site, uses that might be considered, and design alternatives prepared by the City's consultant. East Palo Alto held a Community Workshop on February 6, 2010 to collect public feedback on the design.

USE AND MANAGEMENT

A Comprehensive Use and Management Plan for Ravenswood Open Space Preserve was adopted on April 5, 1990 (see R-90-53). The property was dedicated as public open space on January 22, 1986.

Comprehensive Use and Management Plan Amendment

This Amendment supersedes prior use and management plans for the Cooley Landing area of Ravenswood Open Space Preserve.

- Name: Name the designated portion of the Ravenswood Open Space Preserve the "Cooley Landing Area" (see attached map).
- Subsequent Planning: Under the leadership of the City of East Palo Alto, work in partnership to develop a master plan for the Cooley Landing Area, with the overall goal of developing a public park featuring environmentally compatible recreational amenities for the benefit of the community, such as nature study, historic interpretation, outdoor education, and low-intensity outdoor recreation. The master plan will be subject to further environmental assessment under CEQA as part of the District Board's future decision making process.
- Working with City staff, monitor East Palo Alto's public input process to remain informed about community preferences for the Cooley Landing Area and further consult with government agency officials during the regulatory permitting process.
- After plan development and environmental review, return to the Board for another Comprehensive Use and Management Plan Amendment that specifies the selected park plan in detail, incorporating mitigation measures if necessary, a City / District operation and management arrangement, and a construction schedule.
- Public Access: Lease the Cooley Landing Area to the City of East Palo Alto consistent with the attached agreement, which allows the City to use and access the area for purposes of master plan development, environmental review and permitting for a 30-year term. The eastern portion (Area A) shall remain closed to the public and the western portion (Area B) shall remain open to the public, as is the current condition.

Patrol and Site Security: The City of East Palo Alto will patrol and secure Area A, and the District will continue to patrol, maintain and secure Area B. If necessary, the City may install security fencing to prevent unauthorized access. Work collaboratively with the City staff to open the existing Preserve gate on most weekday mornings.

TERMS AND CONDITIONS

The Cooley Landing project appears to be well suited for funding under the Proposition 84 Statewide Park Development and Community Revitalization Program. To successfully leverage their current project-related grant funding, the City has determined that the best strategy is to submit an application for the initial funding round, which is due on March 1, 2010. The grant requires the recipient to have obtained sufficient long-term rights in the land to permit park development and operation. Staff therefore recommends execution of the attached Partnership Agreement, which meets the grant application requirements for land tenure rights.

The phased approach was determined to be appropriate since all project parameters are not fully developed and environmental review has not begun. Phase I would consist of master plan development and environmental review, with no permanent changes to the land. Phase II will allow for project construction after completion of environmental review, permitting, and contract award. Phase III will be implemented when the park is ready for public use. Under this approach, the District and City will amend the Partnership Agreement so that the project may continue from one phase to the next. Amendments to the Partnership Agreement, authorizing Phases II and III, will be brought back to the Board for consideration and approval.

The proposed Partnership Agreement permits the City to access and use the Cooley Landing Area only for those purposes necessary to accomplish Phase I. The term of the Agreement is 30 years, with the possibility of extension for an additional period, both requirements of the State Parks grant. Under the terms of the Partnership Agreement, the City assumes responsibility for securing and patrolling the closed eastern portion of the Cooley Landing Area, and for opening the Preserve gate at the end of Bay Road each weekday morning (excluding City holidays).

CEQA COMPLIANCE

Project Description

The project consists of a Comprehensive Use and Management Plan Amendment naming a portion of the Ravenswood Open Space Preserve as the "Cooley Landing Area" and entering into a Partnership Agreement with the City of East Palo Alto for a 30-year term. The Agreement permits the City to access and use the Cooley Landing Area of the Preserve for all purposes in furtherance of master plan development, environmental review and permitting (Phase I). The City assumes responsibility for securing and patrolling a closed portion of the Preserve. Minor physical changes to the site may occur, such as the installation of security fencing and periodic site maintenance activities.

CEQA Determination

The District concludes that this project will not have a significant effect on the environment. It is categorically exempt from the California Environmental Quality Act (CEQA) under Article 19 Sections 15262, 15301, 15304, 15306, 15316, and 15325 of the CEQA Guidelines:

Section 15262 exempts a project involving only feasibility or planning studies for possible future actions which the agency has not approved, adopted, or funded. The Comprehensive Use and Management Plan Amendment and Partnership Agreement do not commit the District to a future course of action relative to later project phases.

Section 15301 exempts operation, repair, maintenance, permitting, leasing, licensing or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The Comprehensive Use and Management Plan Amendment specifies that property will be secured and maintained in a closed condition and there will be no expansion of use beyond the current condition. The City will conduct design, planning, environmental review and permitting activities involving only minor physical changes to the project area's facilities.

Section 15304 exempts minor alterations of land, water and vegetation within defined parameters and is consistent with the uses permitted under the Partnership Agreement.

Section 15306 exempts basic data collection, research, and resource evaluation which do not result in a serious or major disturbance to an environmental resource and is consistent with the uses permitted under the Partnership Agreement.

Section 15316 exempts the transfer of land in order to establish a park when the land is in a natural condition or contains historical or archaeological resources and is consistent with the uses permitted under the Partnership Agreement.

Section 15325 exempts the transfer of land to preserve existing natural conditions including open space, habitat and historical resources and is consistent with the uses permitted under the Partnership Agreement.

FISCAL IMPACT

The Execution of the Partnership Agreement will not result in any incremental budgeted increase and will relieve the District of the responsibility for opening the Bay Road gate on most weekday mornings, allowing a commensurate redeployment of District staff normally involved in that activity.

PUBLIC NOTICE

Public notice was provided as required by the Brown Act. No additional notice is required.

NEXT STEPS

The Board Ad Hoc Committee and District staff will continue to represent the District and collaborate with the City during the conceptual design and planning process.

Attachments

1. Resolution
2. Map
3. Agreement

Prepared by:

Sandy Sommer, Senior Real Property Planner

Tina Hugg, Planner II

Contact person:

Tina Hugg, Planner II

Graphics prepared by:

Galli Basson, Planner I

RESOLUTION NO. 10-__

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
MIDPENINSULA REGIONAL OPEN SPACE DISTRICT APPROVING
THE PARTNERSHIP AGREEMENT WITH THE CITY OF EAST PALO ALTO.
FOR THE COOLEY LANDING AREA OF RAVENSWOOD OPEN SPACE PRESERVE**

The Board of Directors of the Midpeninsula Regional Open Space District (District) does resolve as follows:

Section One. The District may, under the provisions of Section 5540 and 5563.5 of the Public Resources Code, lease property owned by the District for a period of up to fifty (50) years. The Board of Directors finds that the Cooley Landing Area of Ravenswood Open Space Preserve is currently underutilized as a park resource, and considers a furtherance of City of East Palo Alto efforts related to public park improvements on such premises to be in the public interest, on the terms proposed. Moreover, by affirmative votes of at least two-thirds of the members of the board, the Board finds that the purpose of the lease is for park or open-space purposes, or for an historic preservation, recreation, or agricultural purpose which is compatible with public use and enjoyment of the real property.

Section Two. The Board of Directors of the Midpeninsula Regional Open Space District does hereby approve the Partnership Agreement (Agreement) between Midpeninsula Regional Open Space District and the City of East Palo Alto, a copy of which is attached hereto and by reference made a part hereof, and hereby authorizes the President or other appropriate officers to execute said Agreement on behalf of the District.

Section Three. The General Manager and General Counsel are further authorized to approve minor revisions to the Agreement which do not substantially change any material terms of the Agreement. The General Manager or the General Manager's designee is further authorized to execute any and all other documents necessary or appropriate to entering into agreement.

* * * * *

SFPUC

Ravenswood Open Space Preserve

San Francisco Bay

Area A (Closed to Public)

Area B (Open to Public)

City of East Palo Alto







Palo Alto Baylands

File: G:\Projects\Ravenswood\Cooley_Landing\AreaMap_2_10.mxd

Exhibit A: Cooley Landing Area, Ravenswood Open Space Preserve

Midpeninsula Regional Open Space District

February 2010

-  Cooley Landing
-  MROSD Land
-  Viewing Platform
-  Preserve Boundary
-  East Palo Alto Property
-  Parking Lot

0 125 250 500 Feet



**PARTNERSHIP AGREEMENT BETWEEN THE CITY OF EAST PALO ALTO AND
THE MIDPENINSULA REGIONAL OPEN SPACE DISTRICT FOR THE
COOLEY LANDING PROJECT**

THIS AGREEMENT is entered into by and between the CITY OF EAST PALO ALTO, a municipal corporation, ("CITY") and the MIDPENINSULA REGIONAL OPEN SPACE DISTRICT, a public DISTRICT under the laws of California, ("DISTRICT"), dated _____.

RECITALS

WHEREAS, DISTRICT's Mission is to acquire, restore, preserve and protect, in perpetuity, open space land as part of the regional greenbelt, and to provide opportunities for ecologically sensitive public enjoyment and education; and

WHEREAS, District owns those certain lands more specifically identified as San Mateo County Assessor's Parcel Numbers 063-590-040, 063-590-060, 096-230-150 and 096-230-130, comprising a portion of Ravenswood Open Space Preserve ("Preserve") and which have been legislatively dedicated for purposes of public open space pursuant to the California Public Resources Code; and

WHEREAS, CITY owns that certain parcel of land more specifically identified as San Mateo County Assessor's Parcel Number 063-590-030 which it has zoned for Resource Management purposes; and

WHEREAS, the CITY parcel and portions of the DISTRICT parcels make up that certain promontory of land into the San Francisco Bay generally known as Cooley Landing; and

WHEREAS, CITY and DISTRICT desire to further their common goal of providing accessible public open spaces to further the recreational and educational opportunities of their constituents, and

WHEREAS, CITY has undertaken a planning and development process (the "Project") to enhance such public open space and the associated recreational and educational values at Cooley Landing; and

WHEREAS, City intends to apply for grant funding for the Project under the Statewide Park Development and Community Revitalization Program of 2008; and

WHEREAS, DISTRICT desires that the Project include the Cooley Landing Area of Ravenswood Open Space Preserve owned by DISTRICT;

NOW, therefore, in consideration of the mutual promises, covenants and obligations contained herein, CITY and DISTRICT agree:

1. Project Site. DISTRICT owns the real property within the City of Menlo Park, State of California, as shown on Exhibit A, attached hereto and incorporated herein (“Project Site”), which consists of Area A, the upland portions of APNs 096-230-130 and 096-230-150 which are closed to the public, and Area B, within the Cities of East Palo Alto and Menlo Park, State of California, the Preserve public parking lot (portions of APN 063-590-040 and 063-590-060) which is open to the public.
2. Term. The term of this Agreement shall commence upon execution hereof by the duly authorized representatives of the CITY and the DISTRICT and shall consist of:
 - a. Phase I - Plan development, environmental review and permitting
 - b. Phase II - Project construction from completion of Phase I design
 - c. Phase III – Project operation upon completion of Phase II construction

Time is of the essence to this Agreement. City shall diligently pursue completion of Phases I and II consistent with its contractual obligations for grant funding and with all otherwise applicable laws and regulations. The maximum term of this Agreement shall not exceed 30 years without a written renewal or extension entered into by the parties acting on the authority of their appropriate legislative body. Before each subsequent phase, CITY and the DISTRICT shall amend this Agreement, as necessary to accommodate evolving conditions, including development of supplemental operations and maintenance agreements. The Parties agree to timely meet, and to negotiate in good faith, toward an extension of this Agreement, as it may be amended from time to time, at such time(s) as appropriate.

3. Site Use, Access, Control and Security.
 - a. CITY is permitted to access and use to the Project site for all purposes reasonably in furtherance of the Project plan development to be completed during such Phase I hereof.
 - b. CITY shall maintain control and security of the Project Site – Area A, including but not limited to restricting public access, securing the site by fencing or other appropriate means and regular law enforcement patrols. DISTRICT shall continue to maintain and secure Area B, except as otherwise noted in this Agreement.
 - c. CITY is responsible for opening the Preserve gate at the end of Bay Road by 9 a.m., each weekday morning (Monday through Friday), excluding CITY holidays. If CITY is unable to fulfill this obligation, City shall immediately notify DISTRICT at DISTRICT’s 24-hour Emergency Dispatch telephone number at (650) 903-6395. The District is responsible for opening and closing the gate at all other times, i.e. all evenings, all weekends, and on all CITY holidays and any time the City notifies the DISTRICT it is unable to fulfill this obligation.
 - d. CITY, its employees, agents, contractors and consultants shall be helpful and courteous in all contacts with visitors, neighbors, agents, officials, tenants, lessees and employees of the DISTRICT. DISTRICT, its employees, agents, contractors and consultants shall be helpful and courteous in all contacts with visitors, neighbors, agents, officials,

- e. CITY shall promptly notify DISTRICT's 24-hour Emergency Dispatch telephone number at (650) 903-6395 to report any observed or known fires, trespassing, hunting, or illegal activities on the Project Site or on adjoining District lands. DISTRICT shall promptly notify the Menlo Park Fire Department at (650) 688-8400 to report any observed or known fires and shall promptly notify the CITY's Police Department at (650) 321-1112 to report any observed trespassing, hunting, or illegal activities on the Project Site.
 - f. Except as otherwise provide herein or by express written permission granted by DISTRICT, CITY shall not during Phase I of this Agreement cause or allow any physical changes on the Project site (Area A). Such changes shall include but not be limited to grading, paving, excavating or other earthmoving activities, cutting or removing trees, native shrubs, brush or other vegetation, and damaging or demolition of improvements or structures on the Premises.
 - g. Any use of the Project Site not specifically granted to CITY herein must be approved in writing by DISTRICT prior to such use commencing.
4. Amendment. CITY will diligently pursue development of the Project consistent with this Agreement. CITY and DISTRICT agree to meet and discuss in good faith all necessary amendments that may be needed at the completion of Phase I plan (development, review and permitting) and again at the completion of Phase II (construction) to allow the Project to continue to the next Phase. These shall include operation and maintenance plans for Phases II and III. Should the Proposition 84 Statewide Park Program grant be awarded, and a grant contract is issued, any proposed amendments by City and District shall be submitted to the State Department of Parks and Recreation, Office of Grants and Local Services for approval.
5. Insurance. At all times during the term of this Agreement CITY shall carry general liability insurance, or a policy of self-insurance, including owned, non-owned and hired auto; property damage; and death and bodily injury, covering its risks arising out of the performance of any acts pursuant to this Agreement or relating to its operation of the Project. DISTRICT shall be named as additional insured on the policy. Said policy shall be in an amount not less than Two Million Dollars (\$2,000,000) for bodily injury and property damage liability in aggregate per occurrence combined single limit and One Million Dollars (\$1,000,000) combined single limit for auto liability. CITY shall furnish DISTRICT with a Certificate of Insurance evidencing such insurance coverage. At all times during the term of this Agreement DISTRICT shall carry general liability insurance, or a policy of self-insurance, including owned, non-owned and hired auto; property damage; and death and

6. Indemnification. CITY hereby agrees to indemnify, defend and hold harmless DISTRICT from and against all liability for all claims, suits, damages, injuries, costs, losses and expenses, including reasonable attorney's fees and court costs, in any manner related to or arising out of the Project, and/or the operation and/or the use of Cooley Landing under this Agreement to the extent that the matter giving rise to the liability is directly attributable to the negligent or wrongful acts or omissions of CITY's employees or agents or otherwise arises out of matters which, by the terms of this Agreement, are the responsibility of CITY.

DISTRICT hereby agrees to indemnify, defend and hold harmless CITY from and against all liability for all claims, suits, damages, injuries, costs, losses and expenses, including reasonable attorney's fees and court costs, in any manner related to or arising out of the Project, and/or the operation and/or the use of Cooley Landing under this Agreement, to the extent that the matter giving rise to the liability is directly attributable to the negligent or wrongful acts or omissions of DISTRICT's employees or agents or otherwise arises out of matters which, by the terms of this Agreement, are the responsibility of DISTRICT.

CITY and DISTRICT agree to cooperate in the event of claims or litigation against either CITY or DISTRICT by a third party. In the event liability arises due to the alleged concurrent negligence of CITY and DISTRICT, or any combination thereof, each party shall contribute costs of any such suits, defense, damages, costs and liability in proportion to its fault as determined under the principles of comparative negligence.

7. Termination for Default. In the event there is a breach of this Agreement by CITY or DISTRICT, the parties shall meet to resolve the matter. If the parties are unable to resolve a material matter informally, they shall attempt to resolve the matter by mediation through JAMS or other mediator agreeable to the parties. If the parties remain unable to resolve the matter, DISTRICT or CITY may terminate this Agreement sixty days following the giving of notice of such as set forth herein.
8. Applicable Laws. This Agreement shall be construed and enforced pursuant to the laws of the State of California.

9. Notices:

Any notice required to be given to DISTRICT shall be deemed to be duly and properly given if mailed, postage prepaid with a receipt and signature from the receiving party, and addressed to:

Midpeninsula Regional Open Space District
General Manager
330 Distel Circle
Los Altos, CA 94022
(650) 691-1200

or personally delivered to DISTRICT at such address or at such other address as DISTRICT may designate in writing to CITY.

Any notice required to be given to CITY shall be deemed to be duly and properly given if mailed, postage prepaid with a receipt and signature from the receiving party, and addressed to:

City of East Palo Alto
City Manager
2415 University Avenue, 2nd Floor
East Palo Alto, CA 94303
(650) 853-3100

or personally delivered to CITY at such address or such other address as CITY may designate in writing to DISTRICT, with a receipt and signature from the receiving party.

10. Waiver: The failure of any party to insist upon a strict performance of any of the terms, conditions and covenants contained herein shall not be deemed a waiver of any rights or remedies that CITY or DISTRICT may have and shall not be deemed a waiver of any subsequent breach or default of the terms, conditions and covenants contained herein.
11. Severability: If any one or more of the covenants or agreements or portions thereof provided in this Agreement shall be held by a court of competent jurisdiction in a final judicial action to be void, voidable or unenforceable, such covenant or covenants, such agreement or agreements or such portions thereof shall be null and void and shall be deemed separable from the remaining covenants or agreements or portions thereof and shall in no way affect the validity or enforceability of the remaining portions of this Agreement.
12. Captions: The captions in the articles of this Agreement are inserted for convenience purposes only and shall not affect the terms of this Agreement.

IN WITNESS WHEREOF, CITY and DISTRICT execute this Agreement.

For the CITY OF EAST PALO ALTO

By: _____
Mayor

Attest: _____ Approved as to form for CITY: _____
City Clerk Vincent C. Ewing
City Attorney

For the MIDPENINSULA REGIONAL OPEN SPACE DISTRICT

By: _____
President
Board of Directors

Attest: _____
District Clerk

Approved as to form for DISTRICT: _____
Susan Schectman
General Counsel



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Exhibit A: Cooley Landing Area, Ravenswood Open Space Preserve

Produced by Midpeninsula Regional Open Space District, December 2009

Area A	MROSD Property	City Boundary
Area B	Parcel Boundary	

