



Midpeninsula Regional
Open Space District

R-19-109
Meeting 19-21
August 28, 2019

AGENDA ITEM 5

AGENDA ITEM

Proposed Agreement to exchange interests in real property between Pacific Gas and Electric Company (PG&E) and Midpeninsula Regional Open Space District (District). District to receive a public roadway easement for a portion of Mt. Umunhum Road and a public trail easement for a portion of Woods Trail in Sierra Azul Open Space Preserve (portion of Santa Clara APN 583-24-004) in exchange for an easement for an existing gas line to be conveyed to PG&E at Pulgas Ridge Open Space Preserve (portion of San Mateo County APN 050-470-090). Pursuant to Public Resources Code section 5540.5, a unanimous vote of all seven Board members is required.

GENERAL MANAGER'S RECOMMENDATIONS

1. Determine that the recommended actions are categorically exempt from the California Environmental Quality Act (CEQA), as set out in the report.
2. By a unanimous vote of the Board of Directors, adopt a resolution authorizing the agreement to exchange interest in real property between the District and PG&E.
3. Amend the Use and Management Plan to include the exchanged interest in real property.
4. Withhold dedication of the Exchange Property as public open space at this time.

SUMMARY

The General Manager recommends entering into an exchange agreement with PG&E, for an exchange of easement rights that provides net benefits to both agencies. The exchange will perfect PG&E's property rights in the Pulgas Ridge Open Space Preserve for their existing underground gas pipeline. Concurrently, the District will secure expanded easement rights over Mt. Umunhum Road and Woods Trail in Sierra Azul Open Space Preserve. This exchange of easement rights will be at no cost to the District or PG&E. The following report presents a description of the proposed exchange in real property interests, an amendment to the Mount Umunhum Area of the Sierra Azul Open Space Preserve's Interim Use and Management Plan, the environmental review findings, and terms.

DISCUSSION

Background

The District acquired 293 acres from the City and County of San Francisco in 1983 and that acquisition is currently part of the Pulgas Ridge Open Space Preserve (R-83-16). The District dedicated the property as park or open space in 1986. Prior to the District's acquisition, the City and County of San Francisco granted a Revocable Permit to PG&E in 1948 to construct and operate a gas line through the property. PG&E constructed and currently operates a high-pressure 24-inch gas line (Gas Line) through the southern portion of the Pulgas Ridge Open Space Preserve. Although PG&E built and operates the Gas Line, they do not possess a formal recorded easement for the Gas Line. PG&E desires to perfect legal easement rights for the Gas Line.

PG&E owns a narrow 21-acre parcel of land for high-tension power lines that cross through the District's Sierra Azul Open Space Preserve (PG&E Parcel). The PG&E Parcel bisects Mt. Umunhum Road in one location and Woods Trail in two locations. The District possesses a 20-foot wide access easement over Mt. Umunhum Road that was appurtenant to the former Almaden Air Force Station property purchased by the District in 1986 (R-86-20). There is no record of the District having a formal public trail easement for Woods Trail as it crosses the PG&E Parcel. Both Mt. Umunhum Road and Woods Trail are currently open to the public for recreational uses.

While the Pulgas Ridge Open Space Preserve property is dedicated, California Public Resources Code section 5540.5 ("Section 5540.5") empowers the Board, by unanimous vote of all seven members, to approve an exchange of dedicated real property when the Board determines the exchange to be of equal or greater value and necessary for park or open-space purposes. Such exchanges are limited to 40 acres per calendar year. This transaction is such an exchange, as the value of securing and protecting current public access over Mt. Umunhum Road and Woods Trail is significant. The easements to be conveyed to the District by PG&E will be used for park purposes.

Descriptions of Exchange Properties

PG&E to District: Under the Agreement, PG&E would convey a 60-foot wide (current easement is 20-foot wide) public roadway easement to the District where Mt. Umunhum Road crosses the PG&E Parcel (approximately 305 linear feet and 18,320 square feet). PG&E would also convey a 100-foot wide public trail easement to the District where Woods Trail crosses the PG&E Parcel (approximately 764 linear feet and 54,449 square feet).

District to PG&E: Under the Agreement, the District would convey a 50-foot wide underground gas line easement to PG&E where the gas line currently crosses the Pulgas Ridge Open Space Preserve (approximately 3,336 linear feet and 167,375 square feet).

USE AND MANAGEMENT

Amended Use and Management Plan

The Board of Directors (Board) adopted an Interim Use and Management Plan for the Mount Umunhum area of the Sierra Azul Open Space Preserve in 1983 (R-83-19). It was amended in 1986 to include the Almaden Air Force Station property purchase (R-86-20). In subsequent

years, minor amendments to the Use and Management Plan were approved in response to additional purchases, cleanup efforts, etc. The District amended the Use and Management Plan on September 12, 2012 and October 17, 2012 to include project elements of the *Mount Umunhum Project* and again in December 2017 to include the Cultural Conservation Easement with the Amah Mutsun Tribal. Amendment of the Interim Use and Management Plan to incorporate the easements from PG&E would take effect at the close of escrow and remain effective until further amended. The amendment to the Interim Use and Management Plan includes the following elements:

Name:	Designate the easements acquired from PG&E as an addition to Sierra Azul Open Space Preserve.
Public Access:	Maintain existing public access on the easements.
Easement Monitoring:	Conduct regular inspections of the easement area to ensure compliance with the terms of the exchange.
Site Safety Inspection:	No known safety hazards exist within the easement area.
Dedication:	Withhold Board dedication of the easement area at this time.

CEQA COMPLIANCE

Project Description

The project consists of an Agreement to exchange interests in real property between PG&E and District in compliance with Section 5540.5. Per the terms and conditions of the Agreement, the District will convey a gas line easement for an existing 24-inch high-pressure gas line totaling approximately 167,375 square feet on dedicated lands in Pulgas Ridge Open Space Preserve to PG&E to perfect easement rights for a permit granted by the prior landowner in 1948. In exchange, PG&E will convey to the District a public roadway easement over Mt. Umunhum Road totaling approximately 18,320 square feet over a portion of the PG&E Parcel. In addition, PG&E will also convey a public trail easement over Woods Trail totaling approximately 54,449 square feet over a portion of the PG&E Parcel. The easement to be conveyed to the District is of equal or greater value and will be used for park purposes.

CEQA Determination

The District concludes that the project will not have a significant impact on the environment. The project is categorically exempt from the California Environmental Quality Act (CEQA) under Article 19, Section 15325 (f): acquisition, sale, or other transfer to preserve open space or lands for park purposes. The Exchange Agreement with PG&E is a transfer that serves park purposes and preserves existing public uses, and is not anticipated to result in an impact on the environment. Previously, the Mount Umunhum Summit Access Project Environmental Impact Report was adopted by the Board on October 17, 2012 (R-12-104) in which potential impacts related to reconstruction of Mount Umunhum Road and associated public access improvements, including those identified within the PG&E Parcel, were evaluated and mitigations were identified.

TERMS AND CONDITIONS

As part of the proposed Agreement, the District and PG&E agree to convey the easements to each other at no cost to either party. The easement exchange is of equal or greater value to the District and the public it serves as it perfects and secures the current public access over Mt. Umunhum Road and Woods Trail in the Preserve. Therefore, the exchange is determined to be in accordance with the District’s enabling legislation set out in Section 5540.5, pending unanimous vote by the Board.

FISCAL IMPACT

This reciprocal no-cost exchange of easements has no immediate fiscal impact.

BOARD COMMITTEE REVIEW

This item was not previously reviewed by a Board Committee.

PUBLIC NOTICE

Property owners of land located adjacent to or surrounding the project site have been mailed a copy of the agenda for this meeting. Accordingly, all notice required by the Brown Act and District policy has been provided.

NEXT STEPS

Upon approval by the Board of Directors, the General Manager will direct staff to execute the terms of Agreement and take the next steps identified in the Interim Use and Management Plan. The District’s Foothills Field Office will continue to patrol and manage Mt. Umunhum Road and Woods Trail.

Attachments:

1. Resolution Authorizing Acceptance of Exchange Agreement, Authorizing General Manager or Other Officer to Execute Certificate of Acceptance of Grant to District, District Grant of Gas Line Easement, Authorizing General Manager or General Manager’s designee to Execute any and all Other Documents Necessary or Appropriate to Closing of the Transaction (Sierra Azul and Pulgas Ridge Open Space Preserves)
2. Overall Project Location Map

Responsible Department Manager:
Michael Williams, Real Property Manager

Prepared by:
Allen Ishibashi, Sr. Real Property Agent

Graphics prepared by:
Nathan Greig, Data Analyst I

RESOLUTION NO. 19-__

RESOLUTION OF THE BOARD OF DIRECTORS OF THE MIDPENINSULA REGIONAL OPEN SPACE DISTRICT AUTHORIZING ACCEPTANCE OF EASEMENT EXCHANGE AGREEMENT, AUTHORIZING GENERAL MANAGER OR OTHER OFFICER TO EXECUTE EASEMENT DEEDS, AUTHORIZING GENERAL MANAGER OR OTHER OFFICER TO EXECUTE CERTIFICATE OF ACCEPTANCE OF GRANT TO DISTRICT, AND AUTHORIZING GENERAL MANAGER AND GENERAL COUNSEL TO EXECUTE ANY AND ALL OTHER DOCUMENTS NECESSARY OR APPROPRIATE TO CLOSING OF THE TRANSACTION (SIERRA AZUL AND PULGAS OPEN SPACE PRESERVES).

The Board of Directors of Midpeninsula Regional Open Space District does hereby resolve as follows:

SECTION ONE. The Board of Directors of the Midpeninsula Regional Open Space District (District) does hereby accept the offer contained in that certain Easement Exchange Agreement (Agreement) between Pacific Gas and Electric Company (PG&E) and the District, a copy of which Agreement is attached hereto and by reference made a part hereof, and authorizes the President of the Board of Directors, General Manager, or other appropriate officer to execute the Agreement and all related transactional documents on behalf of the District to acquire and exchange the real property described therein.

SECTION TWO. The General Manager, President of the Board of Directors, or other appropriate officer is authorized to execute the easement deeds to the District and PG&E.

SECTION THREE. The General Manager, President of the Board of Directors, or other appropriate officer is authorized to execute a Certificate of Acceptance for the easement to the District.

SECTION FOUR. The General Manager or the General Manager’s designee is authorized to provide notice of acceptance to PG&E, execute all title and escrow documents, and to extend escrow if necessary.

SECTION FIVE. The Board of Directors finds and determines that, pursuant to Section 5540.5 of the California Public Resources Code, the granting and acceptance of the easement interests are consistent with Public Resources Code 5540.5, and that the real properties being acquired by the District are of equal or greater value than the real property being transferred to PG&E, and are necessary to be acquired for open space purposes.

SECTION SIX. The General Manager and General Counsel are further authorized to approve any technical revisions to the attached Agreement and documents, which do not involve any material change to any term of the Agreement or documents, which are necessary or appropriate to the closing or implementation of this transaction.

* * * * *

PASSED AND ADOPTED by the Board of Directors of the Midpeninsula Regional Open Space District on _____, 2019, at a regular meeting thereof, by the following vote:

- AYES:**
- NOES:**
- ABSTAIN:**
- ABSENT:**

ATTEST:

APPROVED:

Secretary
Board of Directors

President
Board of Directors

APPROVED AS TO FORM:

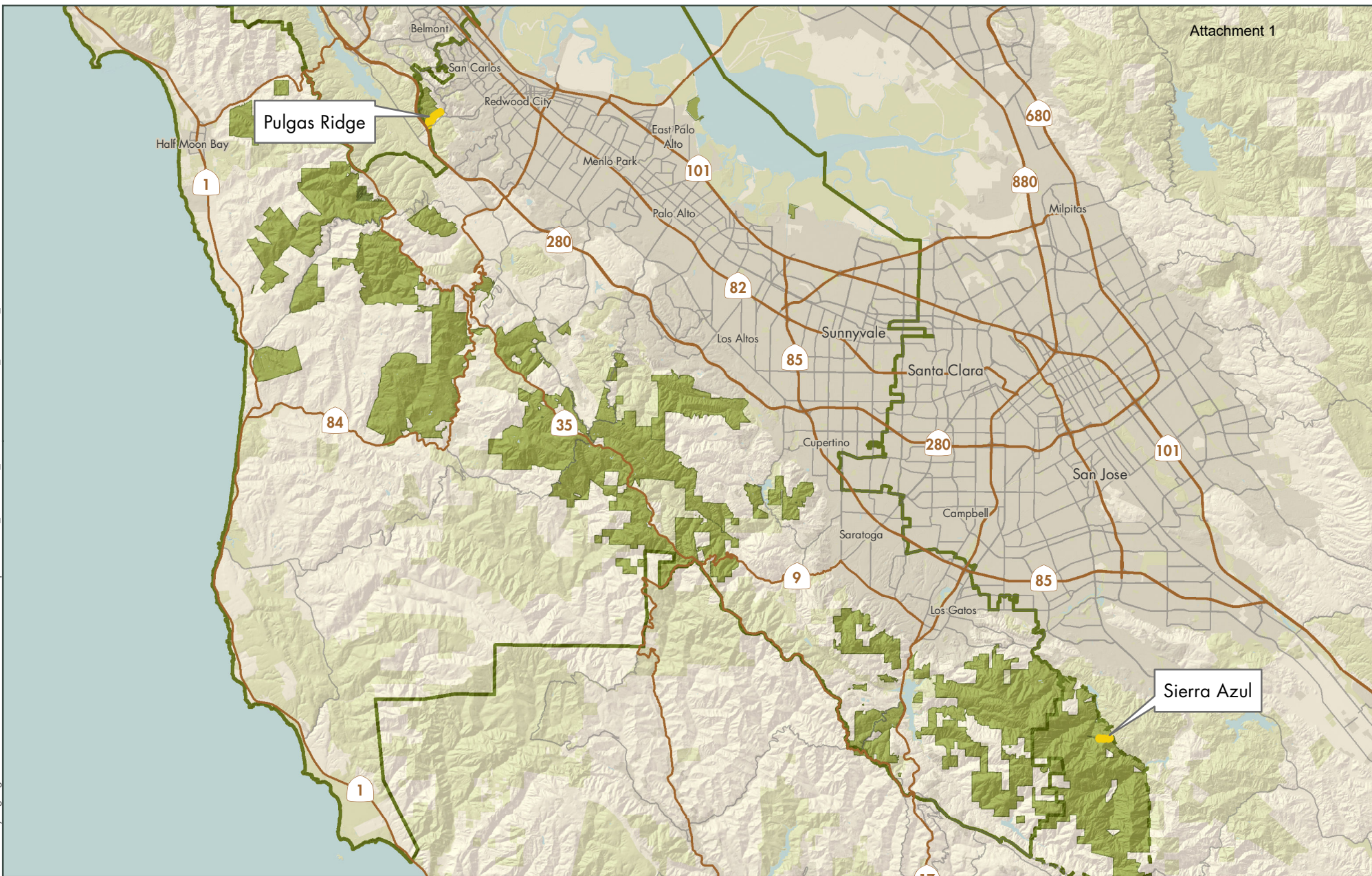
General Counsel

I, the District Clerk of the Midpeninsula Regional Open Space District, hereby certify that the above is a true and correct copy of a resolution duly adopted by the Board of Directors of the Midpeninsula Regional Open Space District by the above vote at a meeting thereof duly held and called on the above day.

District Clerk

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Created By: ngreig



PG&E Easement Proposal - Overview

-  Midpen Preserves
-  Protected Lands
-  Proposed Easements

Midpeninsula Regional
Open Space District
(Midpen)
7/1/2019



While the District strives to use the best available digital data, these data do not represent a legal survey and are merely a graphic illustration of geographic features.