



Midpeninsula Regional
Open Space District

R-20-13
Meeting 20-02
January 22, 2020

AGENDA ITEM 7

AGENDA ITEM

Proposed purchase of the Tabachnik Trust Property as an addition to Tunitas Creek Open Space Preserve in unincorporated San Mateo County (Assessor's Parcel Numbers 066-300-010 (portion) and 066-300-020)

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 staff report.
2. Adopt a Resolution authorizing the purchase of the Tabachnik Trust Property and amending the Fiscal Year 2019-20 budget accordingly.
3. Adopt a Preliminary Use and Management Plan, as set out in the staff report.
4. Withhold dedication of the property as public open space at this time.

SUMMARY

The General Manager recommends purchase of the 151-acre Tabachnik Trust Property (Property) at a price of \$1,562,000 as an addition to Tunitas Creek Open Space Preserve. The following report provides a description of the Property, a Preliminary Use and Management Plan, findings of the environmental review, the purchase terms and conditions, and financial considerations. A budget adjustment/increase of \$1,562,000 to the Fiscal Year (FY) 2019-20 budget would be required to proceed with the acquisition.

DISCUSSION

The Midpeninsula Regional Open Space District (District) proposes to purchase 151-acres of two mostly undeveloped parcels that form a part of the larger Tabachnik Trust land holdings. The larger 211.81-acre Tabachnik parcel (APN: 066-300-010) zoned Planned Agricultural District/Coastal Development (PAD/CD) is to be divided into a 149.27-acre open space property that the District proposes to purchase, with Tabachnik retaining a 62.55-acre property that is improved with a single-family home, shop, and several one-room cabins. The second smaller parcel, an undeveloped 1.85-acre property zoned Resource Management/Coastal Zone (RM/CZ), is also proposed for purchase by the District. A paved road provides direct access from Lobitos Creek Road to the interior of the larger parcel. Access to the 1.85-acre parcel is via an unpaved road that also connects to Lobitos Creek Road.

This purchase advances land conservation opportunities in Measure AA Portfolio #15 for Salmon Fisheries Conservation, and Vision Plan Portfolio #32 for additional Watershed Preservation. The Tabachnik property includes 1,600 feet of Tunitas Creek, a perennial stream, that supports federally threatened Steelhead trout. The property forms a connection between the Tunitas Creek and Lobitos Creek watershed, two watersheds supporting Steelhead trout.

Property Description (see Attachment 2 - Location Map)

The proposed 151-acre Property is located between Lobitos Creek Road and Tunitas Creek Road, approximately 1 mile east of Highway 1. The District's Purisima Creek Redwoods Open Space Preserve is located immediately to the north, and the District's Tunitas Creek Open Space Preserve is located immediately to the south of the Property. Private properties are located along the northern and southern boundaries of the property. The Property would provide a direct connection between the two District preserves. The Property is visible from both Purisima Creek Redwoods and Tunitas Creek Open Space Preserves.

Land Division and Zoning Amendment

The Property purchase would be contingent upon a land division (lot-split) and a zoning amendment with San Mateo County. As discussed above, the potential purchase includes conducting a lot-split on the larger 211.81-acre parcel in order to create a new 149.27-acre open space parcel and a 62.55-acre residential parcel to be retained by Tabachnik. The lot-split is contingent on an amendment to the existing zoning that would make the PAD zoning consistent with an exemption to the Coastal Act for land divisions in connection with the purchase of lands by a public agency for public recreational use. The zoning amendment is anticipated to occur in the summer of 2020, and the application review for the lot-split would run concurrently with the zoning amendment timeline.

Land Use and Improvements

The larger 211.81-acre parcel to be split is improved with a single-family residence, garage, shed and access roads. The proposed lot split is configured so that Tabachnik will retain the improvements. The smaller 1.85-acre parcel is improved with a ranch road. The Property's terrain is moderately steep with the main improvements built on a level area near the center of the property. The high point on the property rises to 1,000 feet, and the low point near Tunitas Creek sits at 300 feet. Over 25 years ago, the property was grazed and farmed, but most of the property is now covered with mature brush and no longer used for agriculture. No evidence of hazardous materials has been detected.

Future Public Access

The Property purchase would provide a direct connection between the District's Purisima Creek Redwoods Open Space Preserve and its Tunitas Creek Open Space Preserve. Although there are no current plans for a public trail in this area, it is physically possible to create a public trail through the Property to connect the two preserves.

Habitat and Natural Resources Value

Along the creek tributaries on the Property are stands of sensitive Red Alder series and Arroyo Willow series vegetation communities. The remaining Property consists of coastal scrub over hillsides and one large stand of eucalyptus trees. The Property provides habitat for a number of larger animal species, including deer, coyotes, bobcats, and mountain lions. A wide variety of small mammals, birds, and other species occupy or migrate through the general area.

Water Resources and Rights

A majority of the Property drains to Tunitas Creek, and a half mile of Tunitas Creek traverses the southeast boundary of the Property. The Tunitas Creek watershed supports spawning habitat for the threatened steelhead trout. There are also several developed springs located near the northeast corner of the Property, and the spring water does not flow off the Property.

COASTAL ANNEXATION AREA SERVICE PLAN COMPLIANCE

The Property is within the boundaries of the District's Service Plan for the San Mateo County Coastal Annexation Area (Service Plan), adopted in June 2003. The Service Plan and subsequent conditions approved by San Mateo Local Agency Formation Commission (LAFCo) established policies and procedures for conducting the District's Coastside Protection Program (Program). The Program guides the District's coastal purchases, as well as the use and management of open space land within the Service Plan Area.

The Service Plan requires solicitation of public input prior to the Board of Directors' (Board) consideration of an acquisition. On November 6, 2019, the District notified nearby property owners in writing of the intent to acquire the Property and opportunities to provide comment. On November 12, 2019, the District's Real Property Committee held a publicly-noticed meeting on the Property to review the proposed purchase (refer to section on Board Committee Review).

The District's coastal land purchases are subject to a Memorandum of Understanding between the San Mateo County Farm Bureau and the District. In accordance with the memorandum, District staff presented information and solicited comments on the proposed property purchase at a regularly scheduled Farm Bureau meeting on November 4, 2019 (a site visit with the executive committee of the Farm Bureau also occurred on October 28, 2019). The Farm Bureau had comments regarding the ability of Tabachnik to graze on the property purchased by the District in the future, constructing a perimeter fence around the 62.55-acres retained by Tabachnik, the exceptions to the First Right of Offer and Refusal for the retained 62.55-acres, and questions regarding the density credits for the Property. District Staff responded that the Preliminary Use and Management Plan would allow for the Tabachniks to graze the property purchased by the District, that a perimeter fence may not be cost effective, that exceptions to the First Right of Offer and Refusal included their children and other family members and provided the density credits calculated by District staff.

USE AND MANAGEMENT**Planning Considerations**

The Property consists of two parcels located in an unincorporated area of San Mateo County. The larger parcel has a General Plan designation of Agricultural Rural, with a zoning designation of Planned Agricultural Development/Coastal Development (PAD/CD). The smaller parcel has a General Plan designation of Agricultural Rural, with a zoning designation of Resource Management/Coastal Zone (RM/CZ). Natural resource management, habitat preservation, and low intensity recreation are allowable uses within both of these land use designations. On December 11, 2019, the San Mateo County Planning Commission confirmed that the acquisition of the Property for open space complies with the County's General Plan.

If purchased, the Property will be incorporated into the Tunitas Creek Open Space Preserve, and a Preliminary Use and Management Plan will be implemented. When undertaken, a future

planning process would analyze opportunities for compatible public use. Further environmental review would be prepared as needed. Subsequent planning would be in accordance with the District's Service Plan, including consultation with appropriate agencies and organizations.

Preliminary Use and Management Plan

The Preliminary Use and Management Plan (PUMP) establishes a status quo land management approach in the interim between the purchase and the completion of a future long-term plan. The PUMP includes site security and maintenance of the Property in its natural condition, as described below. The PUMP takes effect at the close of escrow and remains effective until changes warrant an amendment or development of a Preserve Master Plan to include this Property. If changes to land use or the physical environment were proposed in the future, the plan would be subject to further environmental review and public input.

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| Public Access: | Designate the property as closed to public use at this time. Issue hiking permit to the former owner. |
| Signs and Site Security: | Install Preserve boundary and closed area signs where appropriate. |
| Fences and Gates: | Install gates and fencing as necessary to prevent unauthorized entry. |
| Roads and Trails: | Implement maintenance and minor erosion and sediment control measures for access roads in accordance with District standards. |
| Patrol: | Routinely patrol property using the access easement granted by the seller and further described in the Terms and Conditions of the proposed purchase. |
| Resource Management: | Maintain the property in its natural condition. Conduct plant and animal management activities consistent with the District's adopted Resource Management Policies and Integrated Pest Management Policies as needed. |
| Water Resources: | Protect creeks, springs and seeps on the property as needed (the two springs on the Property were developed to wildlife friendly standards). |
| Wildfire Fuel Management: | Implement standard District-wide fuel management and defensible space practices. |
| Coastal Service Plan: | Operate and manage the property in conformity with the District's Service Plan for the Coastal Annexation Area and the mitigation measures adopted pursuant to the Service Plan's Environmental Impact Report. |
| San Mateo County Local Coastal Program Name: | The Property is within the San Mateo County Coastal Zone. Consult with County Planning on all subsequent actions to ensure compliance with the Local Coastal Plan (LCP) and Coastal Development (CD) permitting requirements. Name the property as an addition to Tunitas Creek Open Space Preserve. |
| Dedication: | Withhold dedication of the subject property as open space at this time. Because private properties are located along the northern and southern |

boundaries, there may be future opportunities to further protect adjacent watershed and open space lands.

CEQA COMPLIANCE

Project Description

The project consists of the purchase of the 151-acre Property as an addition to the District's open space preserve system and concurrent adoption of a PUMP. Minor erosion and sediment control measures in accordance with District standards will be conducted along existing access routes to prevent water quality degradation. Minor resource management activities may be conducted to control invasive plants. The land will be preserved as open space and maintained in a natural condition.

The Property is within the boundaries of the District's Service Plan for the San Mateo County Coastal Annexation Area. The Service Plan and Final Environmental Impact Report (FEIR) incorporated policies, guidelines, and mitigations to ensure compatibility with the County General Plan and Local Coastal Plan. Actions proposed to purchase the Property and implement the PUMP comply with the Service Plan and the Service Plan FEIR.

CEQA Determination

The District concludes that this project is categorically exempt from the California Environmental Quality Act (CEQA) under Article 19, Sections 15301, 15316, and 15325 of the CEQA Guidelines:

Section 15301 exempts the repair, maintenance, or minor alteration of existing public or private structures, facilities, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The PUMP for the Property includes minor erosion control work as necessary along existing roads and minor restoration activities to maintain the Property in a natural condition.

Section 15316 exempts the acquisition of land in order to create parks if the land is in a natural condition, and the management plan proposes to keep the area in a natural condition. The PUMP for the Property specifies that the land will remain in a natural condition.

Section 15325 exempts transfers of ownership of interests in land to preserve open space. This acquisition will transfer fee ownership of the Property to the District to ensure that the open space will be preserved and incorporated into Tunitas Creek Open Space Preserve.

TERMS AND CONDITIONS

The purchase price of the 151-acre Tabachnik Trust Property is \$1,562,000, and it is contingent on San Mateo County approving a zoning amendment to the PAD zoning and a lot-split of the larger 211.81-acre parcel (creating a 149.27-acre open space parcel and a 62.55-acre retained residential parcel). The Property would be purchased "as-is" and on an all-cash basis.

In addition to the fee property purchase, the District would execute reciprocal access easements over the lower dirt access road (future public trail), secure a Right of First Offer and Refusal over the 62.55-acres retained by Tabachnik, and grant spring water easements to Tabachnis for two

springs located on the fee property purchased by the District (springs were developed to wildlife friendly standards).

FISCAL IMPACT

Land acquisitions brought before the Board for approval include a budget adjustment/increase to the adopted budget. If approved, an increase of \$1,562,000 to the FY2019-20 budget is required.

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| Tabachnik Trust Property Purchase Amount (including \$40,000 Option Deposit) | \$1,562,000 |
| Total Land purchases approved to date for FY2019-20 | \$55,000 |
| Total FY2019-20 Land Purchases (if approved) | \$1,617,000 |

The following table outlines the Measure AA Portfolio 15 (Regional: Redwoods Protection and Salmon Fishery Conservation) allocation, costs to date, and the fiscal impact related to the Property.

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| MAA 15 – Regional: Redwood Protection and Salmon Fishery Conservation | \$50,728,000 |
| Life-to-Date Spent (as of 12/04/2019): | (\$3,073,050) |
| Encumbrances: | \$0 |
| Tabachnik Property Land Acquisition: | (\$1,562,000) |
| Projected Title, Escrow, Survey, and Misc. Expenses: | (\$50,000) |
| Portfolio Remaining (Proposed): | \$46,042,950 |

Coastside Protection Area Fiscal Considerations

The Tabachnik Property is located within the service area of San Mateo County Fire. Under the terms of the District and County Fire Agreement, the District would pay \$1,692.90, which would increase annually by 2%.

The Property is not located within the service area of the La Honda-Pescadero Unified School District; therefore, no fees are incurred under the School District Agreement as a result of the proposed purchase.

BOARD COMMITTEE RECOMMENDATIONS

The District's Real Property Committee held a meeting onsite on November 12, 2019 to review information about the Property and receive public input on the proposed purchase. The District distributed a notice of the Real Property Committee meeting on November 6, 2019 to property owners located adjacent to or surrounding the subject property. Staff provided a presentation of the Property, reviewed the purchase terms, and described how the Property would remain closed and managed as an extension of the surrounding Preserve. Two members of the Real Property Committee attended the meeting. One member was absent. No members of the public attended. The Real Property Committee recommended forwarding the proposed purchase to the District Board of Directors in a vote of 2-0.

PUBLIC NOTICE

Public notice was provided as required by the Brown Act, and a copy of this agenda was mailed to property owners of land located adjacent to or surrounding the Property, as well as the Coastside Protection Area mailing list.

NEXT STEPS

Upon approval, staff will continue to work towards the required PAD zoning amendment and approval of the lot split with San Mateo County. Upon approval of the zoning amendment and lot-split, the General Manager will direct staff to proceed with the close of escrow for the purchase of the Property and implement the PUMP. The District's Skyline Field Office will manage the Property as an addition to Tunitas Creek Open Space Preserve.

Attachments:

1. Resolution Authorizing Acceptance of Purchase and Sale Agreement, Authorizing the General Manager or Other Officer to Execute Certificate of Acceptance of Grant to District, and Authorizing General Manager to Execute any and all Other Documents Necessary or Appropriate to Closing of the Transaction (Tunitas Creek Open Space Preserve - Lands of Tabachnik Trust)
2. Tabachnik Trust Property Location Map

Responsible Department Head:

Michael Williams, Real Property Manager

Prepared by:

Allen Ishibashi, Sr. Real Property Agent

Graphics prepared by:

Nathan Greig, Data Analyst II

RESOLUTION 20-__

RESOLUTION OF THE BOARD OF DIRECTORS OF MIDPENINSULA REGIONAL OPEN SPACE DISTRICT ACCEPTING THE PURCHASE AND SALE AGREEMENT, AMENDING THE FISCAL YEAR 2019-20 GENERAL FUND CAPITAL BUDGET, AUTHORIZING GENERAL MANAGER OR OTHER APPROPRIATE OFFICER TO EXECUTE CERTIFICATE OF ACCEPTANCE AND GRANT TO DISTRICT, AUTHORIZING GENERAL MANAGER TO EXECUTE ANY AND ALL OTHER DOCUMENTS NECESSARY OR APPROPRIATE TO CLOSING OF THE TRANSACTION (TUNITAS CREEK OPEN SPACE PRESERVE - LANDS OF TABACHNIK TRUST

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

SECTION ONE. The Board of Directors of Midpeninsula Regional Open Space District (District) does hereby accept the offer contained in that certain Purchase and Sale Agreement between Mateo Tabachnik and Alessandra Centrone Tabachnik Living Trust, U/A date September 15, 2011, and the Midpeninsula Regional Open Space District, a copy of which purchase 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 the real property described therein (“the Tabachnik Trust Property”).

SECTION TWO. The Board authorizes the expenditure of \$1,562,000.00 covering the purchase of the Tabachnik Trust Property, including a deposit of \$40,000.00.

SECTION THREE. The Board approves an amendment to the Budget and Action Plan for Fiscal Year 2019-20 by increasing the Measure AA Fund Capital budget in the amount of \$1,562,000.00. Except as herein modified, the FY 2019-20 Budget and Action Plan, Resolution No. 19-15 as amended, shall remain in full force and effect.

SECTION FOUR. The General Manager, President of the Board of Directors, or other appropriate officer is authorized to execute a Certificate of Acceptance and the Grant Deed on behalf of the District.

SECTION FIVE. The General Manager or the General Manager’s designee is authorized to provide notice of acceptance to the seller and to extend escrow if necessary.

SECTION SIX. The General Manager or the General Manager’s designee is authorized to expend up to \$50,000.00 to cover the cost of title insurance, escrow fees, survey and miscellaneous costs related to this transaction.

SECTION SEVEN. 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 _____, 2020, at a regular meeting thereof, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

Secretary
Board of Directors

President
Board of Directors

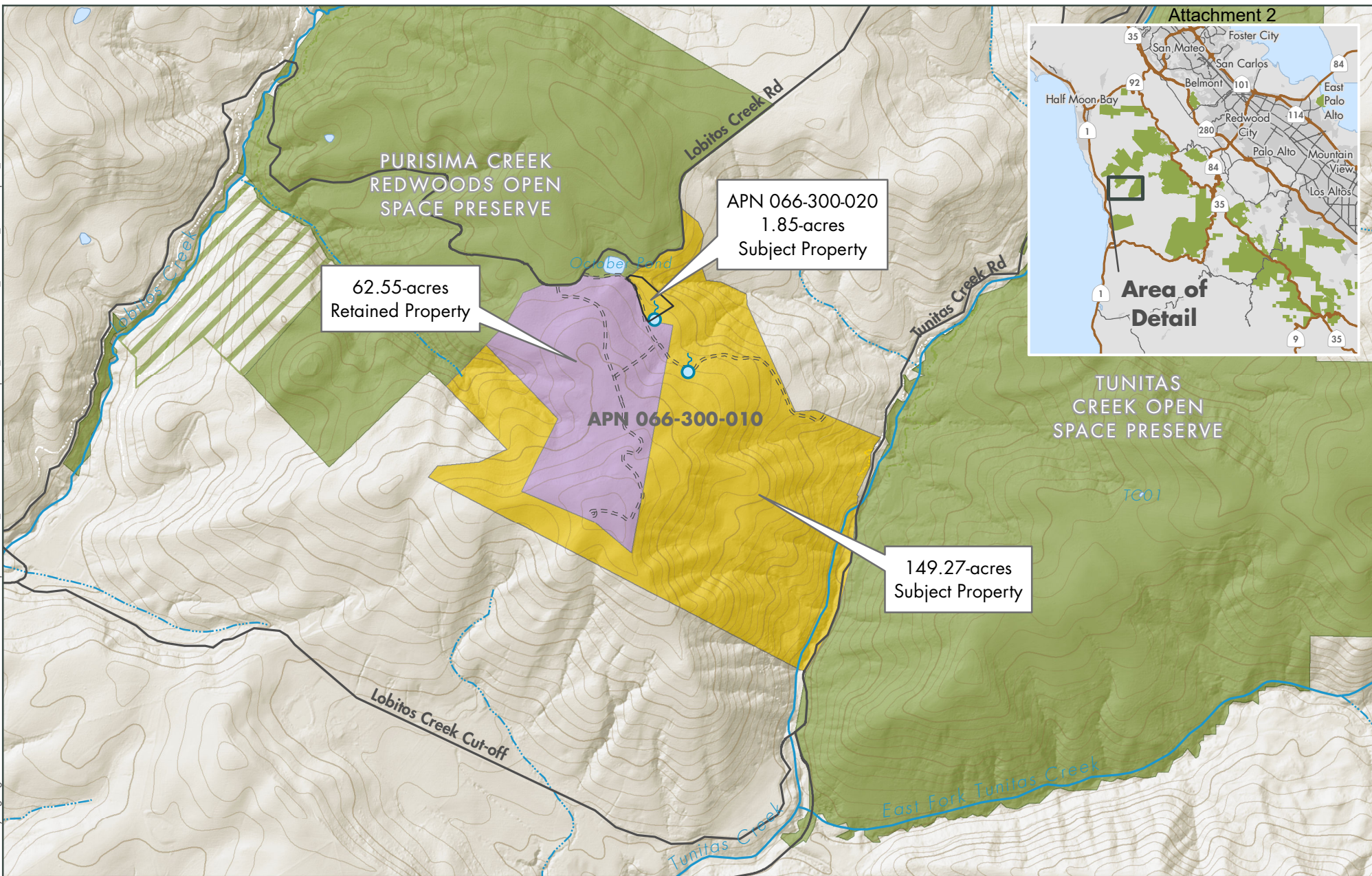
APPROVED AS TO FORM:

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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Tabachnik Trust Property

-  MROSD Preserves
-  Tabachnik Subject Property
-  Private Property
-  Tabachnik Retained Property
-  Internal Road
-  Spring

Midpeninsula Regional
Open Space District
(Midpen)
1/13/2020



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.