



Midpeninsula Regional
Open Space District

R-20-120
Meeting 20-25
October 28, 2020

AGENDA ITEM 6

AGENDA ITEM

Consideration of an exchange of interests in real property between County of San Mateo (portion of San Mateo County APN 050-470-050) and the Midpeninsula Regional Open Space District (portion of San Mateo County APN 050-470-090) at Pulgas Ridge Open Space Preserve and acceptance of County of San Mateo mitigation funding to enhance California red-legged frog habitat

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. By a unanimous vote of the Board of Directors, adopt a resolution authorizing the agreement to exchange interests in real property at no cost between the Midpeninsula Regional Open Space District (receiving an easement for 10 public parking spaces) and County of San Mateo (receiving an 11,874 square-foot water outfall easement and 11,472 square-foot subsurface easement).
3. Amend the Use and Management Plan to include the exchanged interests in real property.
4. Withhold dedication of the Exchange Property as public open space at this time.
5. Authorize the General Manager to enter into a mitigation funding agreement with the County of San Mateo for \$380,000 to enhance California red-legged frog habitat and to select the best, most effective project to fulfill the agreement.

SUMMARY

The General Manager recommends entering into an agreement with the County of San Mateo (County) to exchange easement rights that provide net benefits to both parties and accepting mitigation funding from the County to enhance California red-legged frog habitat. The exchange will add much-needed public parking to Pulgas Ridge Open Space Preserve with the County receiving a storm water outflow easement to repair and maintain existing drainage infrastructure and a subsurface (underground) easement to rebuild and improve its Cordilleras Mental Health Center (Attachment 2). This exchange of easement rights will be at no cost to the Midpeninsula Regional Open Space District (District). In addition, the County is required to mitigate for impacts to potential California red-legged frog (CRLF) habitat associated with its project, and the District can fulfill the County's mitigation needs through pond restoration and habitat management on behalf of the County with the County providing \$380,000 of funding. The

following report presents a description of the proposed exchange in real property interests, an amendment to the Use and Management Plan, the environmental review findings, terms, and mitigation funding.

DISCUSSION

Background

The County's Cordilleras Mental Health Center (Cordilleras Center) is located at the end of Edmonds Road and surrounded by the District's Pulgas Ridge Open Space Preserve (Preserve). The Preserve parking area is located 500 feet to the east along Edmonds Road. The current Cordilleras Center is 70 years old and has an occupancy of 117 beds. In March 2020, the County certified an Environmental Impact Report (EIR) and approved a project to reconstruct the mental health facility, transforming the Cordilleras Center into a 137-bed occupancy facility.

In order to complete the construction, the County needs certain easement rights from the District to repair existing outfall drainage infrastructure within Cordilleras Creek (an ephemeral creek) and to reinforce the retaining walls of one new building. The drainage repairs include replacement of an existing culvert that runs beneath the site, modification of the culvert outlet to better align water flow with the natural creek channel, hardening of streambanks and installation of a dissipator at the outfall to prevent scouring and erosion, and clearing of the drainage channel to improve flow. Much of the drainage work is also deferred maintenance that should be completed in the short-term regardless of the Cordilleras Center Project to ensure proper long-term drainage of water that collects from and drains through the existing facility. To accomplish this in-channel repair work, the County is required to obtain permits from the Army Corps of Engineers, who must consult with U.S. Fish and Wildlife Service (USFWS). USFWS determined the potential for CRLF habitat on site, even though the nearest documented sighting is 1 mile west of the project, across Highway 280. CRLF is federally listed under the Endangered Species Act as a threatened species throughout its range in California. The USFWS determined that 3.2 acres of CRLF habitat (riparian corridors and upland foraging habitat) would be impacted by the project from the expanded footprint of the facility. While no frogs have been documented on the site, USFWS is requiring compensatory mitigation at a three to one ratio (3:1), for a total of 10 acres.

The 10 acres required for habitat improvements are not available on the Cordilleras Center site. Therefore, the County is seeking offsite compensatory mitigation. A mitigation bank in the East Bay can provide the 10 acres of mitigation for a cost of \$380,000. The San Mateo Resource Conservation District, as a consultant to the County, contacted District Natural Resources staff to discuss the potential of applying those funds within San Mateo County to a District restoration project as an alternative solution to ensure the funds and mitigation work benefit the natural resources within the County.

Natural Resources staff identified two potential projects that would benefit from funding to improve CRLF habitat and fulfill the mitigation requirements: Mindogo Ranch pond restoration and invasive plant management in Russian Ridge Open Space Preserve, and Toto Ranch pond restoration, invasive plant management, and brush management in Tunitas Creek Open Space Preserve. Staff is evaluating which of these two sites would provide the most benefit to the species with the addition of \$380,000 in funding within the time constraints of the mitigation requirements. The application of mitigation funds to Mindogo Ranch is subject to a deed restriction from the Coastal Conservancy, which requires their Executive Officer to review

mitigation projects for approval to determine if they provide public benefit. The Executive Officer has approved the project for this purpose should the funds be allocated to Mindego Ranch.

The District purchased the 298-acre property that surrounds the Cordilleras Center on three sides in 1983 (R-83-12). That purchase ultimately became the Pulgas Ridge Open Space Preserve (Preserve). The District dedicated this property as public open space in January 1986 (R-86-10). Upon dedication as public open space, the property effectively becomes permanently protected, and the District is restricted in its ability to sell or otherwise convey dedicated properties. However, the Board of Directors (Board) may, by unanimous vote, permit the exchange of property interests under the District's enabling legislation set out in Section 5540.5 if the property interests are determined to be of equal or greater value to the District and the public it serves.

In May 2019, the County contacted the District to first raise the possible need for easements to rebuild the Cordilleras Center. Relevant details needed to engage in concrete discussions on the easement exchange emerged in December 2019 and then again in September 2020. The concept of possible compensatory mitigation funding was first discussed in late August 2020. Given the complexity of the negotiations, final elements for both agreements were defined by early October to prepare this item for Board consideration.

The Preserve currently has one on-site parking area that contains approximately 25 spaces. The demand for this parking area exceeds available parking particularly on Fridays, weekends, and holidays, with Preserve parking frequently overflowing to roadside pull-outs along Edmonds Road. Additional visitor parking for the Preserve would be beneficial, and staff has successfully negotiated with the County to provide additional parking as part of the Cordilleras Center improvements.

Descriptions of Exchange Properties

County to District: Under the Agreement, the County would convey a public parking easement to the District over the portion of their property approximately 500 feet from the District's existing parking area. Preserve users would walk on an existing path along the shoulder of Edmonds Road to access the Preserve. The parking would be constructed and maintained by the County, and shared with the Cordilleras Center. The parking would be signed as available to District Preserve users on a first come, first serve basis. The easement would be for 10 public parking spaces.

District to County: Under the Agreement, the District would convey a water outfall easement within Cordilleras Creek and an upslope subsurface easement to the County. The outfall easement is for the repair and improvement of an existing outfall, and the subsurface easement is for hillside reinforcement. The outfall easement contains approximately 11,874 square feet, and the subsurface easement contains approximately 11,472 square feet.

Under the proposed exchange, the County easements are larger in size than the public parking easement. However, the value of the parking easement is equal to or greater than the County easements, as the County outfall easement is for an existing outfall, and the subsurface easement is completely underground.

Compensatory Mitigation Projects

The basic terms of the mitigation funding agreement are to: improve 10 acres of CRLF habitat and to monitor and report on those improvements for a 30-year period (starting annually and becoming every two years at year five, then every fifth year starting at year 15) for a payment of \$380,000. Staff has estimated the cost of consultant monitoring and reporting for 30 years at \$45,000. Therefore, \$335,000 of funds can be used for projects to improve CRLF habitat at either of the two proposed areas described below.

The **Mindego Ranch pond restoration project** is nearly complete at a cost of approximately \$425,000 (pending final invoicing). The District received \$200,000 in grant funding from the State Habitat Conservation Fund in support of this project. An additional \$225,000 from Measure AA (MAA) funded the remainder. Should the mitigation funding be received, the corresponding amount would return to the MAA bond fund for use on other MAA eligible projects. Approximately 8 acres of invasive plants at Mindego Ranch require ongoing maintenance. Staff estimates 4.5 years of invasive plant management can be performed for \$110,000. The Mindego Ranch project is currently the preferred project.

The **Toto Ranch pond project** is scheduled for Fiscal Year 2021-22. The project includes restoration of two stock ponds, invasive plant removal, and coyote brush management. The pond work is considered of high value for wetland restoration and CRLF habitat. The total cost of pond restoration is estimated at \$500,000 (including contingency). Short-term invasive plant and brush encroachment can be funded for \$20,000 (and would be necessary to meet the mitigation acreages requirements). An additional \$45,000 would be needed for ongoing monitoring, per the mitigation requirements. The total project cost would be \$565,000 and would, by receipt of \$380,000 funds, require an additional \$185,000 from the General Fund. To meet the mitigation requirements, restoration work would need to be completed by 2023.

USE AND MANAGEMENT

Use and Management Plan Amendment

An amendment to the Use and Management Plan is necessary to incorporate the easement exchange as follows:

Name:	Designate the parking area easement as an addition to Pulgas Ridge Open Space Preserve.
Public Access:	No public access is allowed in the easement area granted to the County of San Mateo.
Signs and Site Security:	Install signs in the parking area easement to notify the public that parking is available for preserve visitor use.
Patrol:	Patrol the parking area easement on the Cordilleras Center that is available for preserve visitor use.
Easement Monitoring:	Conduct regular inspections of the parking area easement to ensure compliance with the terms of the exchange.
Dedication:	Withhold Board dedication of the parking area easement at this time.

CEQA COMPLIANCE

Project Description

The project consists of an Agreement to exchange interests in real property between the County of San Mateo and the District as permitted under Public Resources Section 5540.5. Per the terms and conditions of the Agreement, the District will convey a permanent outfall easement totaling approximately 11,874 square feet and a subsurface easement totaling approximately 11,472 square feet of dedicated land at the Preserve to the County to support reconstruction of the Cordilleras Center, for which the County Board of Supervisors certified a Final EIR and approved as a project on March 10, 2020. In exchange, the County will convey to the District a public parking area easement containing 10 first come, first serve parking spaces, over a portion of County property to be used by visitors to the adjacent Preserve. The easement to be conveyed to the District is of equal or greater value to the District and will be used for park purposes. A determination of impacts to the environment as a result of the construction of the culvert outfall and the 10 parking spaces was previously made by the County as part of the certification of the Final EIR for the Cordilleras Center.

A funding agreement between the County and the District discussed in this report is not subject to CEQA. The District previously completed CEQA certification for projects that may receive compensatory funding (refer to the Toto Ranch/Tunitas Creek Open Space Preserve Rangeland Management Initial Study/Mitigated Negative Declaration (IS/MND) and the Mindego Ranch Use and Management Plan IS/MND). Moreover, invasive plant work that may receive funding is covered by the Integrated Pest Management Program EIR.

CEQA Determination

The District concludes that the property exchange 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 easement exchange is a transfer that serves park purposes and preserves existing use and is not anticipated to result in an impact on the environment.

TERMS AND CONDITIONS

As part of the proposed Agreement, the District and County agree to convey the easements to each other at no cost to either party. The parking easement offered to the District in the easement exchange is of equal or greater value to the District and the public it serves as the County outfall easement is for an existing outfall, and the subsurface easement is completely underground. 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; however, if the District enters into a mitigation funding agreement with the County, the District will receive \$380,000 to be applied towards either the Mindego Ranch project or the Toto Ranch project. The payment schedule for the funding is to be determined and subject to negotiation with the County.

Depending on which project is pursued for mitigation, projected expenditures will be considered as part of the FY21 quarterly review and FY22 Budget and Action Plan process. The Mindego Ranch project is the preferred project, pending US Fish and Wildlife Service Approval.

If the Mindego Ranch project is selected, there will be no fiscal implications in FY21. The ponds portion of the project is nearly complete at a cost of approximately \$425,000. The Habitat Conservation Fund granted the District \$200,000, and approximately \$225,000 was funded from Measure AA (MAA). Should the mitigation funding be received, the remainder would be used to reimburse the MAA bond fund. Projected MAA reimbursement and subsequent expenditures related to invasive plant management and monitoring and reporting will be considered as part of the FY22 Budget and Action Plan.

If the Toto Ranch project is selected, a budget adjustment of \$32,000 would be executed at the end of Quarter 2 to complete a Pond Management Plan in FY21 which would be offset by \$32,000 of the \$380,000 in mitigation funding received. The total projected cost for the Project would be \$565,000 (including monitoring) and would, by receipt of \$380,000 funds, require an additional \$185,000 commitment of non-MAA capital funds in FY22 and FY23.

BOARD COMMITTEE REVIEW

This item was not previously reviewed by a Board Committee due to time constraints to meet the County's project schedule. Natural Resources Staff was informed of available mitigation funding on August 27, 2020, and that a District decision on receiving the funding needed to occur in October as the County intended to start demolition of the existing site in November 2020. The general terms of the mitigation agreement and the suitable restoration projects were not sufficiently developed until early October, precluding the ability for a prior Committee review.

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, the General Manager will fully execute and record the documents associated with the property exchange, and take the next steps identified in the Use and Management Plan. The District's Foothills Field Office will patrol the additional parking. The General Manager will execute the mitigation funding agreement and staff will undertake the implementation and monitoring steps to fulfill the mitigation funding agreement terms.

Attachments:

1. Resolution Authorizing Acceptance of Easement Exchange Agreement, Authorizing General Manager or Other Officer to Execute Easement Deeds to County, Authorizing General Manager or Officer to execute Certificate of Acceptance of Grant to District, Authorizing General Manager to enter into Mitigation Funding Agreement, and Authorizing General Manager and General Counsel to Execute any and all other

documents necessary or appropriate to closing of the transaction (Pulgas Ridge Open Space Preserve)

2. Overall Project Location Map

Responsible Department Manager:
Michael Williams, Real Property Manager

Prepared by:
Allen Ishibashi, Sr. Real Property Agent
Aaron Hébert, Sr. Resource Management Specialist

Graphics prepared by:
Francisco Lopez Tapia, GIS Technician

RESOLUTION NO. 20-__

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 TO COUNTY, AUTHORIZING GENERAL MANAGER OR OTHER OFFICER TO EXECUTE CERTIFICATE OF ACCEPTANCE OF GRANT TO DISTRICT, AUTHORIZING GENERAL MANAGER TO ENTER INTO MITIGATION FUNDING AGREEMENT AND AUTHORIZING GENERAL MANAGER AND GENERAL COUNSEL TO EXECUTE ANY AND ALL OTHER DOCUMENTS NECESSARY OR APPROPRIATE TO CLOSING OF THE TRANSACTION (PULGAS RIDGE OPEN SPACE PRESERVE).

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) finds and determines that, pursuant to Section 5540.5 of the California Public Resources Code, the exchange of easement interests with the County of San Mateo (County) is 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 County, and are necessary to be acquired for open space purposes.

SECTION TWO. The Board of Directors does hereby accept the offer contained in that certain Easement Exchange Agreement (Agreement) between the County 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 THREE. The General Manager, President of the Board of Directors, or other appropriate officer is authorized to execute the easement deeds between the District and County.

SECTION FOUR. 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 FIVE. The General Manager or the General Manager's designee (Real Property Manager or Sr. Real Property Agent) is authorized to provide notice of acceptance to the County, execute all title and escrow documents, and to extend escrow if necessary.

SECTION SIX. The General Manager is authorized to negotiate and execute a mitigation funding agreement with the County for California red-legged frog Habitat.

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.

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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

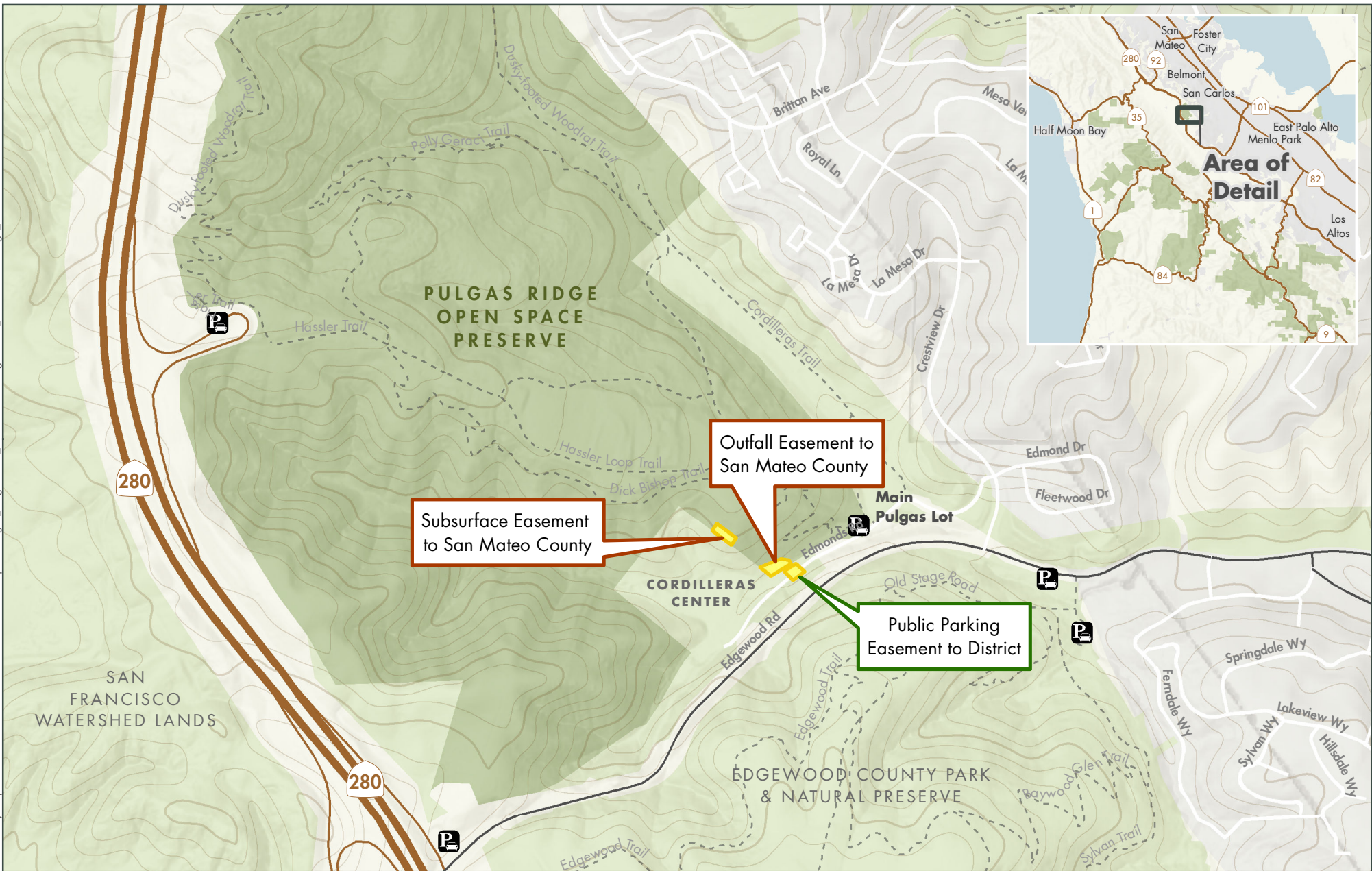
APPROVED AS TO FORM:

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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San Mateo County Easement Exchange

-  MROSD Preserves
-  Other Protected Lands
-  Private Property
-  Proposed Easement Exchange

Midpeninsula Regional
Open Space District
(Midpen)
10/12/2020



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.