



Midpeninsula Regional
Open Space District

R-23-73
Meeting 23-17
June 28, 2023

AGENDA ITEM 5

AGENDA ITEM

Contract Amendment for Lehigh Quarry Easement Monitoring

GENERAL MANAGER'S RECOMMENDATIONS

1. Authorize the General Manager to amend a professional services contract with Cotton, Shires and Associates, Inc., to provide additional monitoring and reporting related to Easements protecting Rancho San Antonio Open Space Preserve and County Park from activities at the neighboring Lehigh Cement Plant and Quarry for Years 2 and 3 in the amount of \$15,800.
2. Authorize an allowance of \$8,640 for additional data processing and graphics in Years 2 and 3 if significant changes in topography are noted during monitoring (allowance would only be spent if the topographic changes indicate a potential breach of one of the easements), bringing the total not-to-exceed contract amount to \$72,940.

SUMMARY

In March 2022, under the General Manager's signing authority, the Midpeninsula Regional Open Space District (District) hired Cotton, Shires and Associates, Inc., (CSA) to monitor the 1972 Santa Clara County Ridgeline Easement (Ridgeline Easement) separating the Lehigh Cement Plant and Quarry (Lehigh) from Rancho San Antonio Open Space Preserve and County Park for a base contract amount of \$48,500. The Agreement was amended in December 2022 to add analyses and maps to the Year 1 deliverables that also enabled monitoring of a 2009 District Conservation Easement (Conservation Easement) on Lehigh property.

This second amendment, if authorized, would allow CSA to continue these same tasks and to perform additional surveys during the Years 2 and 3 of the three-year monitoring term to better address the status of and Lehigh's compliance with the Ridgeline Easement and Conservation Easement. It also provides an allowance for work to be authorized if CSA identifies new concerning topographic changes along the ridgeline. The General Manager recommends amending the contract with CSA in the amount of \$15,800 and authorizing an allowance of \$8,640, bringing the total not-to-exceed contract amount to \$72,940. The Fiscal Year 2023-24 (FY24) Budget includes sufficient funding to cover the recommended action and expenditures through the end of the fiscal year. Funding for FY25 would be requested as part of the annual Budget and Action Plan process.

DISCUSSION

The Ridgeline Easement separates Lehigh operations from Rancho San Antonio Open Space Preserve and County Park. On August 16, 2021, the Board of Directors (Board) adopted a

Resolution approving a Memorandum of Agreement (MOU) with Santa Clara County regarding the inspection and enforcement of the Ridgeline Easement held by the County on Lehigh lands and authorizing the General Manager to execute the Agreement ([R-21-28](#)). On August 17, 2021, Santa Clara County Board of Supervisors approved the MOU, assigning the District rights to inspect and enforce Ridgeline Easement violations if the County chooses not to do so.

In 2009, Lehigh granted the District a Conservation Easement over 20 acres in the quarry's northeast corner, east of the Ridgeline Easement and extending to the District property boundary. Like the Ridgeline Easement, the Conservation Easement buffers quarry operations to protect in perpetuity the open space condition of adjacent lands. A series of steel pole monuments delineate the Conservation Easement; breach of the easement is defined as movement of a monument from its original location.

In March 2022, the District hired CSA to perform aerial and ground-based surveying to monitor the impacts of Lehigh operations on the Ridgeline Easement beginning in 2022. The Year 1 Report indicated no recent movement of the quarry's ridgetop; however, staff identified the opportunity for additional analyses that would quantify the magnitude of past changes in the quarry's ridgetop relative to both the Ridgeline Easement and Conservation Easement. A December 2022 amendment to the Agreement added these analyses and graphics to the Year 1 Report.

This second amendment, if authorized, would allow CSA to 1) perform these same tasks in Years 2 and 3, 2) capture more detailed aerial survey control points that enable detailed comparison of topographic changes should they occur, and 3) survey the physical benchmarks used to delineate the Conservation Easement. If CSA detects topographic changes due to movement of the quarry's ridgetop, this amendment provides an allowance to perform the data analysis necessary to quantify the observed topographic changes relative to the 2022 baseline.

FISCAL IMPACT

The FY24 budget includes \$75,000 for the Oversight of Lehigh Quarry Activities, project #80073. There are sufficient funds in the project budget to cover the recommended action and expenditures through the end of the fiscal year. Funding for FY25 would be requested as part of the annual Budget and Action Plan process.

Oversight of Lehigh Quarry Activities #80073	Prior Year Actuals	FY23 Amended	FY24 Projected	FY25 Projected	FY26 Projected	Estimated Future Years	TOTAL
Total Budget:	\$13,494	\$54,000	\$75,000	\$18,000	\$18,000	\$0	\$178,494
Spent-to-Date (as of 05/22/2023):	(\$13,494)	(\$10,223)	\$0	\$0	\$0	\$0	(\$23,717)
Encumbrances:	\$0	(\$13,113)	\$0	\$0	\$0	\$0	(\$13,113)
Cotton, Shires and Associates, Inc Contract Amendment:	\$0	\$0	(\$13,870)	(\$1,930)	\$0	\$0	(\$15,800)
Allowance:	\$0	\$0	(\$4,320)	(\$4,320)	\$0	\$0	(\$8,640)
Budget Remaining (Proposed):	\$0	\$30,665	\$56,810	\$11,750	\$18,000	\$0	\$117,225

This recommended action is not funded by Measure AA.

PRIOR BOARD AND COMMITTEE REVIEW

The Lehigh Quarry Review Ad Hoc Committee met 15 times to review the 2019 Reclamation Plan, resulting in the District becoming a working partner with the County to protect the Ridgeline Easement.

Memorandum of Agreement with Santa Clara County, August 16, 2021

- [R-21-110](#)
- [Minutes](#)

PUBLIC NOTICE

Public notice was provided as required by the Brown Act.

CEQA COMPLIANCE

This item is not a project subject to the California Environmental Quality Act.

NEXT STEPS

Upon Board authorization, the General Manager will amend the contract with Cotton, Shires & Associates, Inc., for additional data collection and reporting. The monitoring term is anticipated to end in calendar year 2024.

Lehigh Permanente has formally withdrawn their 2019 Reclamation Plan Amendment application and submitted a revised Reclamation Plan Amendment application on June 16, 2023. The District formed an Ad Hoc committee to specifically guide the District's response to the prior Reclamation Plan (R-20-61). Staff will be reviewing this revised Reclamation Plan Amendment to determine the scope of the quarry operations and proposed reclamation activities for the quarry and will return a recommendation to the Board regarding the need and timing for forming a new Ad Hoc committee.

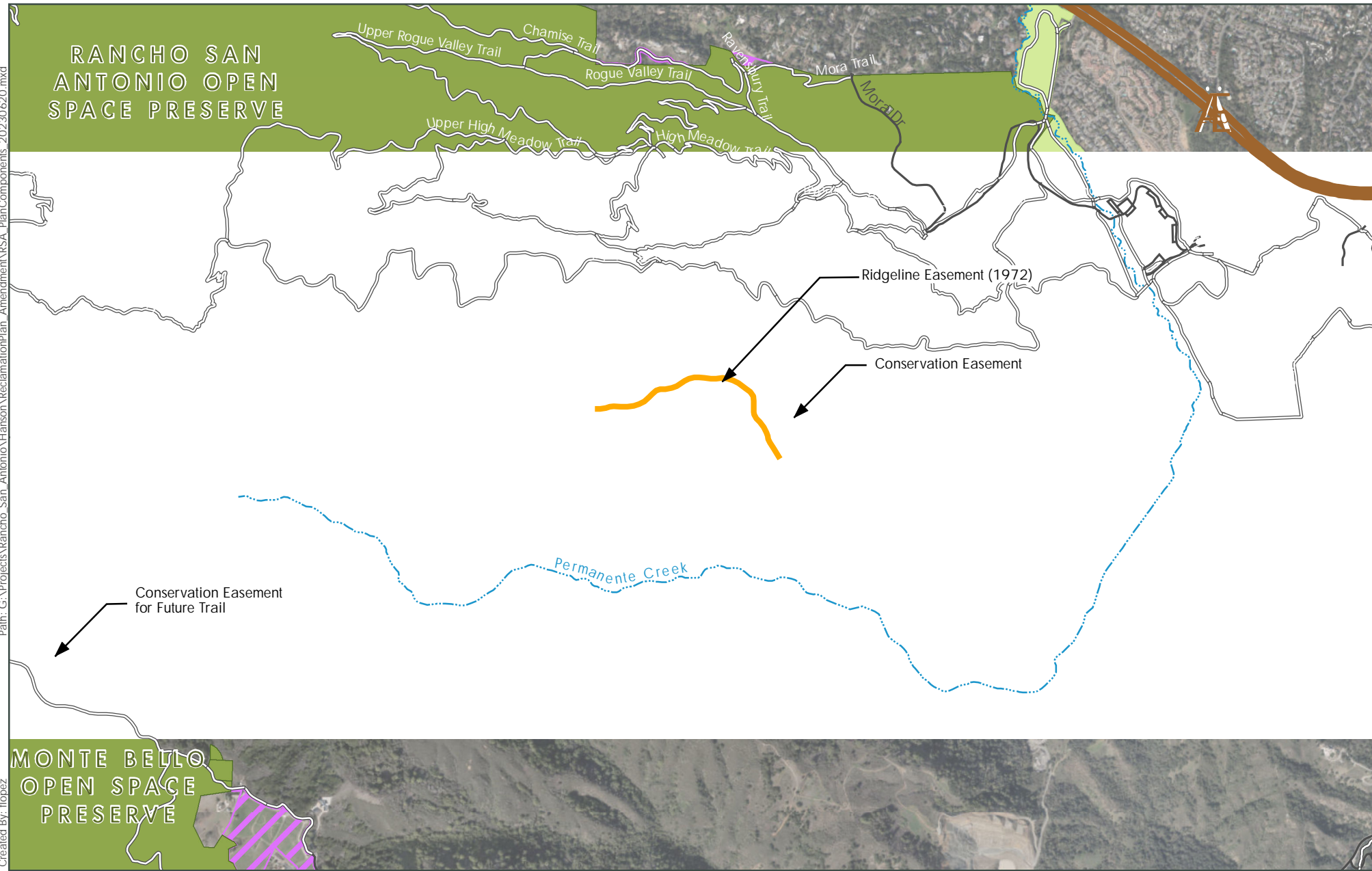
Attachment

1. Santa Clara County Ridgeline Easement and District Conservation Easement Map

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RANCHO SAN ANTONIO OPEN SPACE PRESERVE



MONTE BELLO OPEN SPACE PRESERVE

- Midpen Preserve
- Other open space
- Midpen Easement Over Private Land

Permanente Ridgeline

Midpeninsula Regional
Open Space District
(Midpen)
6/20/2023

