



Midpeninsula Regional
Open Space District

R-25-116
Meeting 25-25
September 10, 2025

AGENDA ITEM 3

AGENDA ITEM

Purchase of the Cunningham-Walsh Property located in unincorporated Santa Clara County as an addition to Sierra Azul Open Space Preserve (Assessor's Parcel Number 562-06-022)

GENERAL MANAGER'S RECOMMENDATIONS

1. Determine that the recommended actions are categorically exempt under the California Environmental Quality Act (CEQA), as set out in this report.
2. Adopt a resolution authorizing execution of the Agreement and amending the FY2025-26 Budget to increase the Measure AA Fund Capital budget in the amount of \$1,560,000 and transfer \$40,000 from the General Fund Capital to the Measure AA Fund Capital budget.
3. Adopt a Preliminary Use and Management Plan for the Property, as set out in this report.
4. Adopt the attached Resolution authorizing the General Manager to file a notice of Williamson Act nonrenewal with Santa Clara County for Assessor's Parcel Number 562-06-022 (if it is determined that the Cunningham-Walsh Property is still encumbered with a Williamson Act Contract).
5. Withhold dedication of the Cunningham-Walsh Property as public open space at this time.

SUMMARY

The General Manager recommends purchasing the 38.88-acre Cunningham-Walsh Property (Property) at a purchase price of \$1,550,000 (\$39,866 per acre) as an addition to Sierra Azul Open Space Preserve (Preserve) and authorizing an additional adjustment of \$10,000 for miscellaneous costs related to this transaction. An overall increase of \$1,560,000 to the Fiscal Year 2025-26 (FY26) budget would be required to proceed with the acquisition. A net-zero budget transfer of \$40,000 from General Fund Capital to Measure AA Capital is also required for appraisals, legal services, site condition studies, title insurance, and surveyor work related to this transaction. The following report provides a description of the Property, a Preliminary Use and Management Plan, the purchase terms and conditions, and financial considerations.

DISCUSSION

The Midpeninsula Regional Open Space District (District) proposes to purchase the 38.88-acre Property consisting of one legal parcel that is zoned Hillside (HS). The Property is located approximately 3 miles south of Mount Umunhum summit and is surrounded by the 19,546-acre Sierra Azul Open Space Preserve on three sides. Purchase of the Property would fill a critical

inholding to permanently protect forested lands and wildlife habitat within the Upper Los Gatos Creek and Upper Guadalupe River watersheds and further the connection of protected open space and wildlife corridors. This purchase advances Measure AA Portfolio #25: *Sierra Azul — Loma Prieta Area Public Access, Regional Trails and Habitat Projects* as it would protect additional land and habitats between the Mount Umunhum area and Loma Prieta area.

Property Description and Regional Context (see Attachment 3 – Location Map)

Situated just off of Loma Prieta Ridge north of Loma Prieta Peak, the square-shaped, southwest-facing Property is visible from District lands and is a natural addition to the Preserve, connecting Mount Umunhum and Loma Prieta peaks. The Property rises to approximately 3,100 feet in elevation and drains into the Upper Los Gatos Creek watershed. The Property's elevation provides views of Monterey Bay, the Pacific Ocean, Upper Los Gatos Creek Watershed, as well as Mount Umunhum and Loma Prieta. The Property is accessed via the unpaved Loma Prieta Road.

Land Use and Improvements

The Property is currently littered with miscellaneous debris, building materials, and abandoned vehicles and trailers, which will require clean up and removal. A Phase I Environmental Site Assessment will be prepared to identify any potential environmental hazards that may exist on the Property (a Phase II study will be conducted only if needed). Site improvements include an unpaved dirt roadway system, graded pad areas and several wood shed type structures. The Property contains no public utilities. The remainder of the property is dense chaparral and evergreen hardwood.

Habitat and Natural Resources Value

The Property contains a mixture of chaparral, pine woodland, mature oak, and mixed evergreen forest plant communities, as well as native vegetation types such as the fire-dependent mixed manzanita and canyon live oak. The Property is within the Santa Clara County Wildfire Influence Zone, which contains wildfire susceptible vegetation up to 1.5 miles from a Wildland Urban Interface or Wildland Urban Intermix. Near the Property there have been multiple observations of Purple Martins and Santa Cruz Kangaroo Rats, the latter a critically imperiled subspecies. In addition, the Property provides habitat for several large animal species, including deer, coyotes, foxes, bobcats, and mountain lions, and a wide variety of small mammals, including woodrats, birds, and other species. The Property is part of a landscape-level terrestrial linkage between the Santa Cruz Mountains and the Diablo and Gabilan ranges. These linkages are critical for maintaining genetic diversity, facilitating migration and dispersion, and supporting large home ranges.

Water Resources and Rights

The Property falls within the Upper Los Gatos Creek watershed feeding into Lake Elsman to the west. There are several developed springs on the Property.

USE AND MANAGEMENT

Planning Considerations

The Property is located in unincorporated Santa Clara County (County) and outside of the urban service area or sphere of influence of any incorporated municipality. The Property has a County General Plan designation of Hillside. The zoning designation is Hillside (HS). In 1999, the Santa Clara County Planning Department found that all open space acquisitions by the District in

unincorporated areas that are classified as a Resource Conservation Area in the County's General Plan comply with the General Plan. Per the County's Zoning Ordinance Section 1.20.070, low-intensity outdoor recreation and open space preserves are allowable uses in HS zoning designation and shall be exempt from the Zoning Ordinance.

If purchased, the Property will be incorporated into Sierra Azul Open Space Preserve. Subsequent planning for the Property would be coordinated with planning efforts for the Preserve and include consultation with appropriate agencies and organizations.

Williamson Act

The Property may be subject to a Land Conservation agreement between the County of Santa Clara and Timothy S. Cunningham and Mary Johanna Walsh under the California Land Conservation Act of 1965 (also known as the Williamson Act). A Williamson Act Contract (Contract) is a voluntary agreement between a landowner and the County to encourage ongoing commercial agriculture in exchange for property tax reduction. A Contract between the County and the owner of the property was recorded 1984 and another duplicated contract was recorded in 1997. It is unclear why there was a new contract in 1997. It is not typical for the County to record two contracts simultaneously on one property and therefore appears to be an inadvertent error. The County non-renewed the contract in 2007, and, pursuant to the Williamson Act, it takes 10 years for a contract to terminate after non-renewal. Therefore, the property should have been unburdened by the Williamson Act in 2017. In addition, the County of Santa Clara and State of California do not show an active Contract in their respective databases for the Property. Staff is currently working to obtain a final determination from Santa Clara County. Taking all this into account, if the County determines there is still an active contract on the Property, staff is seeking Board approval to cancel the contract. It is the District's standard practice to cancel Williamson Act contracts because the Williamson Act confers a benefit on a private landowner of reduced property taxes; however, this benefit is no longer relevant once the District has acquired the land since the District is typically exempt from property taxes. It should be noted that staff is not aware of any past or current agricultural uses occurring on the Property.

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 subsequent long-term plan. The PUMP would take effect at the close of escrow and remain effective until the PUMP is amended or a Comprehensive Use and Management Plan or Preserve Plan is approved for Sierra Azul Open Space Preserve. The PUMP includes minor restoration and preservation of the Property in its natural condition, as described more fully below. 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.

Name:	Name the Property as an addition to Sierra Azul Open Space Preserve.
Dedication:	Indicate the District's intention to withhold dedication of the subject Property as open space at this time.
Public Access:	Designate the Property as closed to public use at this time.

Signs and Site Security:	Install preserve sign boards and District signage, including boundary, entrance, operational, and regulatory signs as needed.
Fences and Gates:	Install and maintain fences and gates as needed.
Roads and Trails:	Continue to maintain the existing dirt road in a serviceable condition in accordance with the adopted Resource Management Policies standards and regulatory permits to facilitate access to the site for patrol until a subsequent demolition and clean-up is completed.
Patrol:	Routinely patrol the Property.
Structures and Improvements:	Initiate demolition of sheds, site clean-up and restoration, including seeking bids for future consideration by the Board as required.
Resource Management:	Conduct plant and animal management activities to protect natural resources, as well as minor erosion and sediment control measures to protect water resources, consistent with the adopted Resource Management Policies, Integrated Pest Management Program Guidance Manual, Open Space Maintenance and Restoration Program, and regulatory permits. Survey the Property for the presence of Santa Cruz Kangaroo rat and implement BMPs to protect habitat and food source plant species.
Water Resources and Water Rights:	Protect the watershed consistent with the adopted Resource Management Policies, Integrated Pest Management Program Guidance Manual, Best Management Practices and regulatory permits. Retain the existing spring fed water system and consider utilizing to support fire suppression activities and fire preparedness.
Wildfire Fuel Management:	Implement standard District-wide fuel management and defensible space practices consistent with the adopted Wildland Fire Resiliency Program and Environmental Impact Report.

CEQA COMPLIANCE

Project Description

The project consists of the purchase of the 38.88-acre Property as an addition to the District's Sierra Azul Open Space Preserve and concurrent adoption of a PUMP, including minor erosion control and sediment control measures that may be conducted if necessary to prevent erosion, as well as site clean-up and demolition of a small accessory shed structures. Minor resource management activities may be conducted to protect natural resources on the Property in accordance with adopted District programs and policies and their associated CEQA documents. The land would be permanently preserved as open space and maintained in a natural condition.

CEQA Determination

The District concludes that this project will not have a significant effect on the environment. It is categorically exempt under the California Environmental Quality Act (CEQA) under Article 19, Sections 15301, 15316, 15325 and 15330 of the CEQA Guidelines as follows:

Section 15301 exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, or topographical features, involving negligible or no expansion of use beyond the existing uses. Section 15301 also exempts the demolition and removal of accessory structures. The PUMP will maintain the Property as status quo with no expansion or changes to its existing uses. The PUMP includes minor site improvements, such as signage and fencing, as needed, as well as the demolition and removal of small accessory structures. The PUMP also includes minor erosion control work as necessary, wildland fuel management, and minor natural resource management activities, covered under the adopted Resource Management Policies, Integrated Pest Management Program Guidance Manual, Wildland Fire Resiliency Program, the mitigation measures adopted pursuant to Final Environmental Impact Reports of the cited plans and policies, and the Open Space Maintenance and Restoration Program and Mitigated Negative Declaration, and regulatory permits as applicable.

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 specifies that the land will remain in a natural condition and will be designated as an addition to the District's Sierra Azul Open Space Preserve.

Section 15325 exempts transfers of ownership of interests in land in order to preserve open space. This acquisition will transfer fee ownership of the property to the District to be preserved as open space and incorporate it into the Sierra Azul Open Space Preserve.

Section 15330 exempts minor clean-up actions to prevent, minimize, stabilize, mitigate or eliminate the release or threat of release of a hazardous waste or substance associated with the former site use if removal actions cost \$1 million or less. The PUMP includes clean-up actions on the Property as necessary to minimize or eliminate the threat of release of hazardous waste.

TERMS AND CONDITIONS

The 38.88-acre Cunningham-Walsh Property is proposed for purchase at a sale price of \$1,550,000 (\$39,866 per acre) plus \$10,000 to cover other miscellaneous associated transaction costs. A net-zero budget transfer of \$40,000 from General Fund Capital to Measure AA Capital is also required for appraisals, legal services, site condition studies, title insurance, and surveyor work related to this transaction. The Property would be purchased as-is on an all-cash basis. Escrow would close on or before December 31, 2025.

After purchase, the Property would require clean-up and restoration.

FISCAL IMPACT

Land acquisitions brought before the Board of Directors (Board) for approval include a budget adjustment increase to the adopted budget. If approved, an increase to the FY26 budget of \$1,550,000 for the acquisition plus \$10,000 to cover other miscellaneous associated costs related to this transaction are required.

Cunningham-Walsh Property Purchase Amount Only (including \$10,000 option deposit)	\$1,550,000
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Total Land purchases approved to date for FY26	0
Total FY26 Land Purchases (if approved)	\$1,550,000

In addition, a net-zero budget transfer of \$40,000 from the existing VP25-004 Cunningham-Walsh Acquisition General Fund Capital (Fund 40) project budget to new Measure AA Capital (Fund 30) project is also required for appraisals, legal services, site condition studies, title insurance, and surveyor work related to this transaction.

The following table outlines the *Measure AA Portfolio 25 Sierra Azul — Loma Prieta Area Public Access, Regional Trails and Habitat Projects* allocation, costs-to-date, projected future project expenditures and projected portfolio balance remaining.

MAA25 Sierra Azul — Loma Prieta Area Public Access, Regional Trails and Habitat Projects Portfolio Allocation:	\$7,986,000
Life-to-Date Spent (as of 08/15/25):	(\$4,355,334)
Encumbrances:	\$0
Cunningham-Walsh Property Purchase:	(\$1,550,000)
Project MAA25-XXX Title Insurance, Escrow fees, and other miscellaneous project costs:	(\$10,000)
Net-zero transfer from Fund 40 to Fund 30:	(\$40,000)
Remaining FY26 Project Budgets:	\$0
Future MAA25 project costs (projected through FY29):	(\$829,430)
Total Portfolio Expenditures:	(\$6,784,764)
Portfolio Balance Remaining (Proposed):	\$1,201,236

The following table outlines the Measure AA Portfolio 25 allocation, projected life of project expenditures and projected portfolio balance remaining.

MAA25 Sierra Azul — Loma Prieta Area Public Access, Regional Trails and Habitat Projects Portfolio Allocation:	\$7,986,000
Projected Project Expenditures (life of project):	
25-001 Burton Land Acquisition	(\$410,150)
25-002 Billingsley Property Acquisition and Site Cleanup	(\$1,936,220)
25-003 Burton Property Site Cleanup	(\$52,298)
25-004 Umunhum-to-the-Sea Trail	(\$585,000)
25-005 Graf-Scholer Property Acquisition	(\$1,002,575)
25-006 Estrada Property Acquisition	(\$954,091)
25-007 Sierra Azul - Knobcone Pine Management	(\$244,430)
25-XXX Cunningham-Walsh Property Purchase	(\$1,600,000)
Total Portfolio Expenditures:	(\$6,784,764)
Portfolio Balance Remaining (Proposed):	\$1,201,236

PRIOR BOARD AND COMMITTEE REVIEW

Due to the simple nature and timing of this potential purchase, this item was not presented to the Real Property Committee.

PUBLIC NOTICE

Property owners and occupants of land located adjacent to or surrounding the subject Property as well as the Sierra Azul interested parties list have been mailed or emailed 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, staff would proceed with the close of escrow for the purchase of the Property by December 31, 2025, and take the next steps identified in the PUMP as contained in this report. The District's South Area Field Office would manage the property as an addition to the Sierra Azul Open Space Preserve.

Attachments:

1. Resolution Authorizing Execution of Purchase and Sale Agreement, Amending the Fiscal Year 2025-26 General Fund Capital and Measure AA Fund Capital Budgets, Authorizing General Manager or Other Appropriate Officer to Execute Certificate of Acceptance for Grant to District, and Authorizing General Manager to Execute any and all Other Documents Necessary or Appropriate to Closing of the Transaction (Sierra Azul Open Space Preserve - Lands of Cunningham-Walsh)
2. Resolution Approving the Filing of a Notice of Nonrenewal of the Williamson Act Contract After the Close of Escrow Pertaining to the Cunningham-Walsh Property (Sierra Azul Open Space Preserve - Lands of Cunningham-Walsh)
3. Cunningham-Walsh Property Location Map

Responsible Department Head:

Allen Ishibashi, Real Property Manager, Real Property Department

Prepared by/Contact Person:

Lupe Hernandez, Real Property Agent II, Real Property Department

Graphics prepared by:

Elizabeth Plumart, GIS Intern

RESOLUTION 25-XX

RESOLUTION OF THE BOARD OF DIRECTORS OF MIDPENINSULA REGIONAL OPEN SPACE DISTRICT AUTHORIZING EXECUTION OF PURCHASE AND SALE AGREEMENT, AMENDING THE FISCAL YEAR 2025-26 GENERAL FUND CAPITAL AND MEASURE AA FUND CAPITAL BUDGETS, AUTHORIZING GENERAL MANAGER OR OTHER APPROPRIATE OFFICER TO EXECUTE CERTIFICATE OF ACCEPTANCE FOR GRANT TO DISTRICT, AND AUTHORIZING GENERAL MANAGER TO EXECUTE ANY AND ALL OTHER DOCUMENTS NECESSARY OR APPROPRIATE TO CLOSING OF THE TRANSACTION (SIERRA AZUL OPEN SPACE PRESERVE - LANDS OF CUNNINGHAM-WALSH)

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 Purchase and Sale Agreement between Timothy S. Cunningham And Mary Johanna Walsh, Trustees Of The Cunningham-Walsh Family Trust, Dated October 9, 1994, 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 Cunningham-Walsh Property”).

SECTION TWO. The Board authorizes the expenditure of \$1,550,000 for the purchase of the Cunningham-Walsh Property, including a deposit of \$10,000.

SECTION THREE. The General Manager or the General Manager’s designee is authorized to expend up to \$10,000 to cover the cost of title insurance, escrow fees, and miscellaneous costs related to this transaction.

SECTION FOUR. The Board approves an amendment to the Budget and Action Plan for Fiscal Year 2025-26 consisting of an increase to the Measure AA Fund Capital budget in the amount of \$1,560,000 and a net-zero budget transfer of \$40,000 from the General Fund Capital to the Measure AA Fund Capital budget. Except as herein modified, the FY 2025-26 Budget and Action Plan, Resolution No. 25-11 as amended, shall remain in full force and effect.

SECTION FIVE. 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 SIX. The General Manager or the General Manager’s designee (Real Property Manager) is authorized to provide a notice of acceptance to the seller, execute all escrow documents and to extend escrow if necessary.

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 September 10, 2025, at a regular meeting thereof, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

Zoe Kersteen-Tucker, Secretary
Board of Directors

Jed Cyr, President
Board of Directors

APPROVED AS TO FORM:

Hilary Stevenson, 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.

Maria Soria, District Clerk

RESOLUTION 25-XX

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
MIDPENINSULA REGIONAL OPEN SPACE DISTRICT PURSUANT TO
GOVERNMENT CODE SECTION 51245 APPROVING THE FILING OF A
NOTICE OF NONRENEWAL OF THE WILLIAMSON ACT CONTRACT
AFTER CLOSE OF ESCROW PERTAINING TO THE CUNNINGHAM-
WALSH PROPERTY (SIERRA AZUL OPEN SPACE PRESERVE - LANDS
OF CUNNINGHAM-WALSH)**

WHEREAS, The Midpeninsula Regional Open Space District (“District”), upon close of escrow, will own one parcel of land in unincorporated Santa Clara County which is subject to a Land Conservation Contract under the California Land Conservation Act of 1965 known as the Williamson Act; and

WHEREAS, the mission of the District includes preservation of open space and agricultural lands in perpetuity so that acquisition of such contracted lands accomplishes the purposes of the Williamson Act; and

WHEREAS, the procedures established by the County of Santa Clara for administering such contracts serve no useful purpose when land is owned by a park or open space agency preserving such lands’ open space and agricultural resources, yet such procedures can impose a procedural and financial burden on the District’s ability to efficiently carry out its operations; and

WHEREAS, the benefits of reduced property tax in exchange for such land preservation is no longer relevant once the District has acquired such lands as the District is exempt from property tax in most situations.

NOW, THEREFORE, the Board of Directors of Midpeninsula Regional Open Space District does hereby resolve as follows:

SECTION ONE. Authorizes the General Manager or Real Property Manager of the District, pursuant to Government Code Section 51245, to file a notice of nonrenewal with the Board of Supervisors of Santa Clara County for Assessor’s Parcel Number 562-06-022, which upon close of escrow will be owned by the District.

SECTION TWO. Authorizes the General Manager as agent of the District to execute and submit all documents and take such actions as may be necessary or convenient to accomplish the purpose of this Resolution, or to comply with the requirements of the Santa Clara County Code or the State Williamson Act, in order to accomplish the nonrenewal of the contract described above.

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PASSED AND ADOPTED by the Board of Directors of the Midpeninsula Regional Open Space District on September 10, 2025, at a regular meeting thereof, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

Zoe Kersteen-Tucker, Secretary
Board of Directors

Jed Cyr, President
Board of Directors

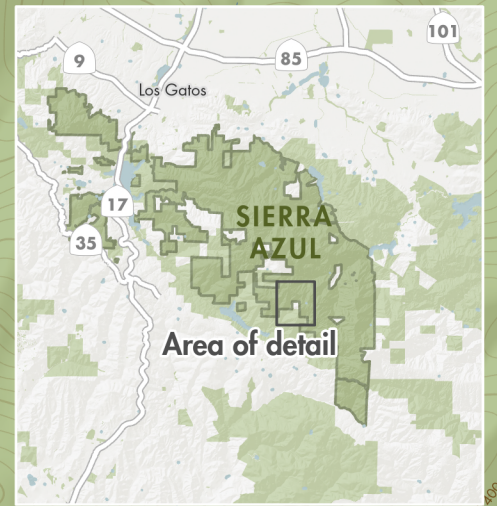
APPROVED AS TO FORM:

Hilary Stevenson, 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.

Maria Soria, District Clerk

SIERRA AZUL OPEN SPACE PRESERVE



Cunningham-Walsh
APN: 562-06-022 —
38.88 acres

SAN JOSE
WATER
COMPANY

Cunningham-Walsh Property

- Sierra Azul Open Space Preserve
- Watershed land
- Cunningham-Walsh property

Midpeninsula Regional
Open Space District
(Midpen)
4/24/2025

Miles
0
0.1
0.2

