



Midpeninsula Regional
Open Space District

R-11-14
Meeting 11-12
May 11, 2011

AGENDA ITEM 5

AGENDA ITEM

Approve the purchase of the Peninsula Open Space Trust (Silva) property as an addition to Russian Ridge Open Space Preserve (located at 5755 Alpine Road, La Honda, California, San Mateo County Assessor's Parcel Number (APN) 080-380-030); Approve Grant Agreement with the California State Coastal Conservancy for Funding Assistance with the Proposed Purchase; Adopt the Amended Preliminary Use and Management Plan; Authorize the General Manager to file for Williamson Act Nonrenewal for APNs 080-380-030 and 080-380-040; and Approve a Categorical Exemption in Accordance with the California Environmental Quality Act

GENERAL MANAGER'S RECOMMENDATIONS

1. Determine that the recommended actions are categorically exempt from the California Environmental Quality Act (CEQA) as set out in this report.
2. Adopt the attached Resolution authorizing the purchase of the Silva property from the Peninsula Open Space Trust (POST) and authorizing the General Manager to approve related documents necessary to complete this transaction.
3. Adopt the attached Resolution authorizing the execution of the Grant Agreement with the California State Coastal Conservancy for funding assistance towards the proposed purchase of the POST (Silva) Property.
4. Adopt the Preliminary Use and Management Plan Amendment contained in this report and name the purchased property as an addition to Russian Ridge Open Space Preserve.
5. Adopt the attached Resolution authorizing the General Manager to file, upon close of escrow, a notice of nonrenewal with San Mateo County for the POST (Silva) property (APN 080-380-030) and the District-owned 136-acre former Silva (Kenyon) property at Skyline Ridge Open Space Preserve (APN 080-380-040), which together comprise the lands subject to the Williamson Act Land Conservation Agreement between San Mateo County, Harriet Miller and Frank Kenyon.
6. Indicate the Board's intent to dedicate this property as open space pursuant to the District's Annual Policy for Dedication of Lands.

SUMMARY

The Midpeninsula Regional Open Space District (District) is proposing to approve a purchase agreement for the 97.5 acre POST (Silva) Property, at a price of \$3,090,000. As part of this transaction, staff is seeking approval of a grant agreement from the California Coastal Conservancy in the amount of \$500,000 to assist with this proposed property purchase. In addition, the District is proposing to file for non-renewal of the Williamson Act contract with San Mateo County. The following report presents a description of the POST (Silva) Property, a Preliminary Use and Management Plan, the environmental review, the purchase terms and conditions, and the financial considerations.

DISCUSSION

Property Description

The 97.5-acre POST (Silva) property is located four miles south east of the Town of La Honda along Alpine Road in unincorporated San Mateo County. The property is surrounded by the Russian Ridge Open Space Preserve to the north and west, and the Skyline Ridge Open Space Preserve to the south and east. The property is also accessible from Alpine Road via Skyline Boulevard (State Highway 35) with close to a mile of frontage along Alpine Road. It is currently owned by POST, which purchased the property from the Silva family on behalf of the District in December 2010. On December 8, 2010, the District Board approved the property purchase, authorized the General Manager to assign the Purchase Agreement to POST and enter into a License and Management Agreement between the District and POST, adopted the Preliminary Use and Management Plan, and approved a Categorical Exemption in accordance with CEQA (see Report R-10-147). Please refer to the December 8, 2010 report for a detailed property description.

USE AND MANAGEMENT

Planning Considerations

The December 8, 2010 report (R-10-147) contains a detailed description of the planning considerations related to zoning, existing structure use, and public access. Several additional planning considerations not previously discussed are presented below.

Recently, POST has informed District staff that their Board would like to recognize POST President Audrey Rust, who is retiring this year, in appreciation of her leadership in helping to preserve open space lands of the San Francisco Peninsula and the Santa Cruz Mountains for almost twenty-five years. POST has expressed a strong interest in locating a recognition landscape feature on the POST (Silva) property, because it provides sweeping panoramic views of Mindego Hill and other POST-protected lands, affording an inspiring reminder of all that Ms. Rust has accomplished during her tenure. POST has also expressed a strong interest in expediting public access to the Mindego Ranch area of Russian Ridge Open Space Preserve by assisting the District with the necessary public access infrastructure, such as additional trails and a staging area. Their initial concept includes a recognition site, potential staging area and trailhead at the 2.5 acre flat situated along Alpine Road at the northeast corner of the property. No decision can be made regarding such proposal at this time. Staff will be working with POST over the coming months to clarify their ideas, with the next step being to initiate the District's Use and Management Planning process regarding this concept.

On February 9, 2011, District staff sent a letter to San Mateo County requesting County General Plan conformity review of the District's proposed property purchase. The POST (Silva) property's General Plan land use designation is General Open Space (OS). County staff declined to schedule the item for County Planning Commission review within the statutorily required County review period, in effect deeming the purchase in conformity with the General Plan. District staff follow-up with County staff identified no concerns regarding the acquisition's conformity with the County General Plan.

In 2000, the District purchased the 136-acre Silva (Kenyon) property as an addition to Skyline Ridge Open Space Preserve. Both the POST (Silva) and former Silva (Kenyon) properties are subject to the Land Conservation Agreement between San Mateo County, Harriet Miller, and Frank Kenyon under the California Land Conservation Act of 1965 (also known as the Williamson Act). The former Silva (Kenyon) property is currently subject to a long-term grazing lease as part of the District's conservation grazing program at Skyline Ridge Open Space Preserve (OSP). The 11-acre fallow oat and hay fields on the POST (Silva) property are not physically connected to the grazed lands at Skyline Ridge OSP and likely do not constitute a viable agricultural use due to their small size. According to the California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP), the POST (Silva) property is not well suited to the cultivation of agricultural crops, and does not contain Prime Farmland, Unique Farmland or Farmland of Statewide Importance.

The Williamson Act Land Conservation Agreement is a voluntary agreement between a landowner and the County to encourage retaining commercial agricultural use in exchange for property tax reduction. As a government agency, the District is not subject to property taxation. Consequently, the contract imposes an undue administrative burden upon the District without affording any benefits.

Staff informed the California Department of Conservation (CDC) regarding the POST (Silva) property purchase, as required. In the past, CDC staff has recommended the District consider filing for contract nonrenewal. Nonrenewal is the standard administrative procedure for terminating a Williamson Act Land Conservation Agreement and the recommended Preliminary Use and Management Plan Amendment for the POST (Silva) property calls for nonrenewal. For administrative consistency, staff also recommends filing a notice of nonrenewal for the former Silva (Kenyon) property, since it is also covered by the same Land Conservation Agreement. These lands would continue to be used for agriculture and open space, in compliance with the existing contract during the ten-year nonrenewal period.

Preliminary Use and Management Plan Amendment (Next Steps)

The Preliminary Use and Management Plan adopted by the District Board on December 8, 2010 is indicated below. Amendments now proposed to address circumstances that have changed in the last several months are shown below in ***bold italic*** and ~~strikeout~~ text. The Amended Preliminary Use and Management Plan represents a status quo approach to management. The property will be maintained in its current condition, with no physical changes anticipated. If changes to land use or the physical environment are proposed in the future, the plan would be subject to further environmental review and public input.

Public Access:	Open the trail segment between the current Preserve boundary and Alpine Road to bicycle use. Discourage equestrian and hiking access of this segment. The remainder of the property is closed to public use.
Signs and Site Security:	Install signs discouraging equestrian and hiking use of the trail to Alpine Road. Install “no parking” signs along Alpine Road. Review and install closed area, preserve boundary and private residence signs where appropriate.
Structures and Improvements:	Continue to lease the residence and associated improvements. Install appropriate water treatment infrastructure. Maintain the barn, water and sewer systems in working order. Conduct a market analysis and assessment of the most advantageous long-term approach for the improved area, considering the need for operational management presence in this area of the preserve. Options for study include a long-term lease or a term interest sale. Upon completion, return to the Board for further consideration.
Resource Management:	Conduct invasive plant and animal management activities consistent with the District’s standard policies and procedures.
Patrol:	Routinely patrol the property and the no parking area along Alpine Road.
Wildfire Fuel Management:	Further assess vegetative communities on the property to determine wildfire management needs. Maintain appropriate defensible space clearances around residential improvements.
<i>POST Site Naming:</i>	<i>For a limited period, allow POST to name specific locations, land formations, trails, natural and physical features, staging areas or other areas of significance within the property, consistent with the District’s “Policy for Site Naming and Gift Recognition”.</i>
Roads and Trails:	Maintain existing internal roads and driveways in immediate vicinity of the improvements in a serviceable condition according to District standards. Maintain the Mindego Ranch access road in serviceable condition, and perform an assessment of any immediate erosion / sediment control needs.
Site Safety Inspection:	Remove and dispose of asbestos pipes, empty fuel tanks and miscellaneous debris from the property in accordance with all applicable laws. There are no other known safety hazards on the site.
Name:	Name the property as an addition to Russian Ridge Open Space Preserve.
<i>Williamson Act:</i>	<i>Non-renew the Williamson Act contract. Comply with the existing Williamson Act contract during the nonrenewal period.</i>

Dedication: ~~Withhold dedication of the property as public open space. Review dedication status as part of the subsequent planning process.~~ ***Indicate an intention to dedicate this property as public open space, as required by the Coastal Conservancy grant agreement.***

Subsequent Planning: ~~Analyze opportunities~~ ***Working collaboratively with POST, study the feasibility of a POST-sponsored recognition site landscape feature potentially including a public staging area and trail. Implementation of such a feature is contingent on future environmental review and regulatory requirements.*** ~~as well as~~ ***Further analyze*** natural resource management ***needs on the property.***

The planning process should include public workshops to gather input, and public hearings to review draft and final plans. Prepare further environmental review ***and obtain necessary permits*** as needed.

The Amended Preliminary Use and Management Plan will take effect at the close of escrow and remain effective until the Plan is further amended or a Comprehensive Use and Management Plan or Master Plan is approved for Russian Ridge Open Space Preserve.

CEQA COMPLIANCE

District staff prepared a Categorical Exemption for the purchase of the 97.5-acre Silva property, an addition to Russian Ridge Open Space Preserve, assigning the right to purchase the property to POST, entering into a License and Management Agreement between the District and POST, and the concurrent adoption of a Preliminary Use and Management Plan for the property (for CEQA purposes, “the Project”), which was approved by the Board on December 8, 2010. A Notice of Exemption was filed with the San Mateo County Clerk / Recorder and the California State Clearinghouse on December 9, 2010 and was posted for a period of 30 days in accordance with CEQA. Therefore, the District previously conducted, and the Board approved, the environmental review process required for the POST (Silva) property purchase and the Preliminary Use and Management Plan.

However, several new project components are being brought forward for District Board approval herein that were not part of the previous environmental review process. These items consist of approving the Coastal Conservancy Grant Agreement, the Preliminary Use and Management Plan Amendment, and the nonrenewal of the Williamson Act Land Conservation Agreement.

Project Description

The project consists of approving the grant agreement with the California State Coastal Conservancy and amending the property’s Preliminary Use and Management Plan to include public access improvement and natural resource management studies. Ultimately, the property will be included in a future update to the use and management plan for the Russian Ridge Open Space Preserve, which would be subject to further public input and subsequent environmental review. The outcome of this future decision-making process is speculative at this time.

The project also includes nonrenewal of Williamson Act Land Conservation Agreement for two assessor’s parcels on approximately 233.5 acres of land. With nonrenewal, the agreement will still be effective until approximately 2021. Of the 233.5 acres proposed for nonrenewal,

approximately 90 acres at Skyline Ridge Open Space Preserve are actively used for commercial agricultural purposes and the District intends to continue this use. An additional 11 acres have been historically used for agriculture, but are not currently used for commercial agricultural production. The remaining 132.5 acres of land under the agreement is not currently used for agriculture, due to inappropriate site conditions. No change in current agricultural or open space uses is anticipated as a result of nonrenewal.

CEQA Determination

The District concludes that this project will not have a significant effect on the environment. It is categorically exempt from California Environmental Quality Act (CEQA) under Sections 15061(b)(3), 15378(b)(4), 15262, and 15301 of the CEQA Guidelines as follows:

The District concludes that approving the grant agreement with the California State Coastal Conservancy is exempt from CEQA. The action seeks a funding mechanism. Submitting an application to secure grant funds for a potential acquisition neither requires the District to purchase the property nor expend the funds. Approval of this funding mechanism is exempt under CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the establishment of a funding mechanism could cause a significant physical impact on the environment. Moreover, Guidelines Section 15378(b)(4) states that a “project” under CEQA does not include the creation of government funding mechanisms or other government fiscal activities that do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. The District Board previously determined that the purchase of the property is categorically exempt under CEQA Guidelines Sections 15301, 15316, 15317, 15325, and 15061(b)(3).

Section 15262 exempts a project involving only feasibility or planning studies for possible future actions which the agency has not approved, adopted, or funded. The project calls for further planning studies regarding the potential POST recognition site, a public staging area, and additional trail. No decisions are being made now about future physical changes to use, management or public access improvements proposed for the property, and the District retains discretion on these improvements.

Section 15301 exempts operation, repair, maintenance, permitting, leasing, licensing or minor alteration of existing public or private structures, facilities, mechanical equipment or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination. The Preliminary Use and Management Plan Amendment specifies the property will be operated and maintained in its current condition and there will be no expansion of use. The Williamson Act Land Purchase Agreement will not be renewed, with no changes to the use of the property.

The actions proposed are also exempt under Section 15061(b)(3), as there is no possibility the actions may have a significant effect on the environment.

TERMS AND CONDITIONS

The POST (Silva) property is being purchased at a price of \$3,090,000, which is payable in cash at the close of escrow. The purchase price is well supported by an independent fair market appraisal commissioned by the District which values the property at \$3,218,000. At the meeting of December 8, 2010, the Board approved the assignment of the District’s purchase rights for the

Silva property to POST allowing the District to pursue a grant application in the amount of \$500,000 with the California State Coastal Conservancy (Conservancy). A License and Management Agreement was entered into for managing the property while under POST ownership as part of the Russian Ridge Open Space Preserve. This License Agreement will terminate at the close of escrow.

The District’s purchase agreement with POST is conditioned upon the approval by the Conservancy of a grant in the amount of \$500,000. The Conservancy Board will be considering approval of this grant on May 19, 2011. Upon the anticipated approval of this grant, the District will enter into the grant agreement with the Conservancy and at the close of escrow record an Irrevocable Offer to Dedicate Title in Fee which will memorialize the terms and conditions of the grant. This recorded restriction ensures that the POST (Silva) property provides for resource protection, public access, open space and agricultural purposes. The grant agreement also allows the District to pursue a term interest sale of the residential structures on the property providing that the proceeds of such a sale are used for a nearby open space purchase or habitat restoration or public access improvements on the Silva property. In the unlikely event the Conservancy Board does not approve the funding agreement, the purchase of the POST (Silva) property would be reconsidered at a future Board meeting.

The Purchase Agreement with POST includes a covenant that provides POST with a five-year right to propose a recognition site in honor of POST’s outgoing President, Audrey Rust, at the property. If approved by the District, POST will be responsible for all design, construction and maintenance costs associated with the implementation of the proposed recognition site. Implementation and construction of a recognition site is contingent upon District approval in the context of the District’s use and management planning process, CEQA review, and all applicable permitting and regulatory requirements. The purchase agreement also includes a covenant that provides POST a period of five years to recognize significant donors through the naming of a single, specific location, land formation, trail, or other natural feature on the property with small plaques or signs, in accordance with the District’s “Policies for Site Naming and Gift Recognition” and subject to approval by the District’s Legislative, Funding and Public Affairs Committee.

BUDGET CONSIDERATIONS

FY2011–12 Budget for New Land Purchases:

New Land	\$13,495,000
Land purchased this year	(\$ 41,000)
POST(Silva) property purchase	(\$ 3,090,000)
New Land Purchase Budget Remaining	\$10,364,000.00

PUBLIC NOTICE

Public notice was provided as required by the Brown Act. No additional notice is required.

NEXT STEPS

Upon approval by the Board of Directors, staff will proceed with close of escrow for the purchase of the property. The District’s Skyline Field Office will manage the property as an

addition to Russian Ridge Open Space Preserve in accordance with the adopted Preliminary Use and Management Plan. Board approval of the grant agreement will make the funds available for disbursement to the District when requested. Staff will work with POST to clarify their ideas for the recognition site, staging area, and trail, and initiate the Use and Management Planning process regarding these public access improvements.

Attachment(s)

1. Three Resolutions
2. Location Map

Prepared by:

Sandra Sommer, AICP, Senior Real Property Planner
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Contact person:

Michael Williams, Real Property Manager

Graphics prepared by:

Zachary Alexander, Planning Technician

RESOLUTION 11-__

RESOLUTION OF THE BOARD OF DIRECTORS OF MIDPENINSULA REGIONAL OPEN SPACE DISTRICT AUTHORIZING ACCEPTANCE OF PURCHASE AGREEMENT, AUTHORIZING 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 (RUSSIAN RIDGE OPEN SPACE PRESERVE - LANDS OF PENINSULA OPEN SPACE TRUST (SILVA))

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

1. The Board of Directors of Midpeninsula Regional Open Space District does hereby accept the offer contained in that certain Purchase Agreement between the Peninsula Open Space Trust 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 or other appropriate officer to execute the Agreement on behalf of the District to acquire the real property described therein (“the POST (Silva) Property”).
2. The General Manager, President of the Board of Directors or other appropriate officer is authorized to execute Certificate of Acceptance for the Grant Deed on behalf of the District.
3. The General Manager or the General Manager’s designee shall cause to be given appropriate notice of acceptance to the seller and to extend escrow if necessary.
4. The General Manager is authorized to expend up to \$5,000 to cover the cost of title insurance, escrow fees, and other miscellaneous costs related to this transaction.
5. 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.
6. The purpose of this Section is to enable the District to reimburse its general fund for the cost of certain land acquisitions. The District wishes to finance certain of these real property acquisitions and expects to use tax-exempt debt, such as bonds, but a tax-exempt financing is not cost-justified for the District unless the principal amount of the financing is large enough to justify the related financing costs. Consequently, it is the District’s practice to buy property with its general funds and, when a tax-exempt financing is cost-justified based on the aggregate value of acquisitions, to issue tax-exempt obligations to reimburse itself for previous expenditures of general funds. These general funds are needed for operating and other working capital needs of the District and are not intended to be used to finance property acquisitions on a long-term basis.

U.S. Income Tax Regulation Section 1.150-2 requires an issuer of tax-exempt debt to declare its intent to use a portion of tax-exempt debt proceeds for reimbursement of expenditures prior to the payment of the expenditures. Accordingly, the Board of Directors hereby declares its intent to issue tax-exempt obligations in the maximum principal amount of \$3,090,000 and to use a portion of the proceeds of the obligations for reimbursement of District expenditures for acquisition of the POST (Silva) Property that are paid before the date of issuance of the obligation.

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RESOLUTION NO. 11-__

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE MIDPENINSULA
REGIONAL OPEN SPACE DISTRICT APPROVING AND AUTHORIZING
EXECUTION OF THE GRANT AGREEMENT FOR GRANT FUNDS FROM THE
CALIFORNIA STATE COASTAL CONSERVANCY FOR THE PENINSULA OPEN
SPACE TRUST (SILVA) PROPERTY PURCHASE**

WHEREAS, the Legislature has established the California State Coastal Conservancy (Conservancy) under Division 21 of the California Public Resources Code, and has authorized the Conservancy to award grants to public agencies and nonprofit organizations to implement these provisions; and

WHEREAS, grants are awarded under eligibility guidelines adopted by the Conservancy; and

WHEREAS, procedures established by the Conservancy require the applicant to certify, through a resolution, execution of the Grant Agreement and approval of its terms and conditions prior to submission of a request to the Conservancy for disbursement of grant funds;

NOW, THEREFORE, be it resolved that the Board of Directors of the Midpeninsula Regional Open Space District hereby:

1. Agrees to the terms and conditions of the Grant Agreement; and
2. Has or will have sufficient funds to operate and maintain the funded project; and
3. To the extent permitted by law, agrees to provide any funds needed beyond the grant requested to complete the project funded under this program through the allocation of uncommitted funds; and
4. Authorizes the General Manager, as agent and representative of the Midpeninsula Regional Open Space District, to execute the Grant Agreement, the Irrevocable Offer to Dedicate Title in Fee and all documents necessary to comply with the Conservancy's grant requirements.

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RESOLUTION NO. 11-__

**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 LAND CONSERVATION AGREEMENT
BETWEEN SAN MATEO COUNTY,
HARRIET MILLER AND FRANK KENYON**

WHEREAS, the Midpeninsula Regional Open Space District (“District”), upon close of escrow, will own a parcel of land in unincorporated San Mateo County, known as San Mateo County Assessor’s Parcel Number 080-380-030, which is subject to a Land Conservation Agreement between San Mateo County, Harriet Miller, and Frank Kenyon under the California Land Conservation Act of 1965 (also known as the Williamson Act); and

WHEREAS, in 2000, the District purchased a parcel of land in unincorporated San Mateo County, known as San Mateo County Assessor’s Parcel Number 080-380-040, which is also subject to the same Land Conservation Agreement between San Mateo County, Harriet Miller, and Frank Kenyon; 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

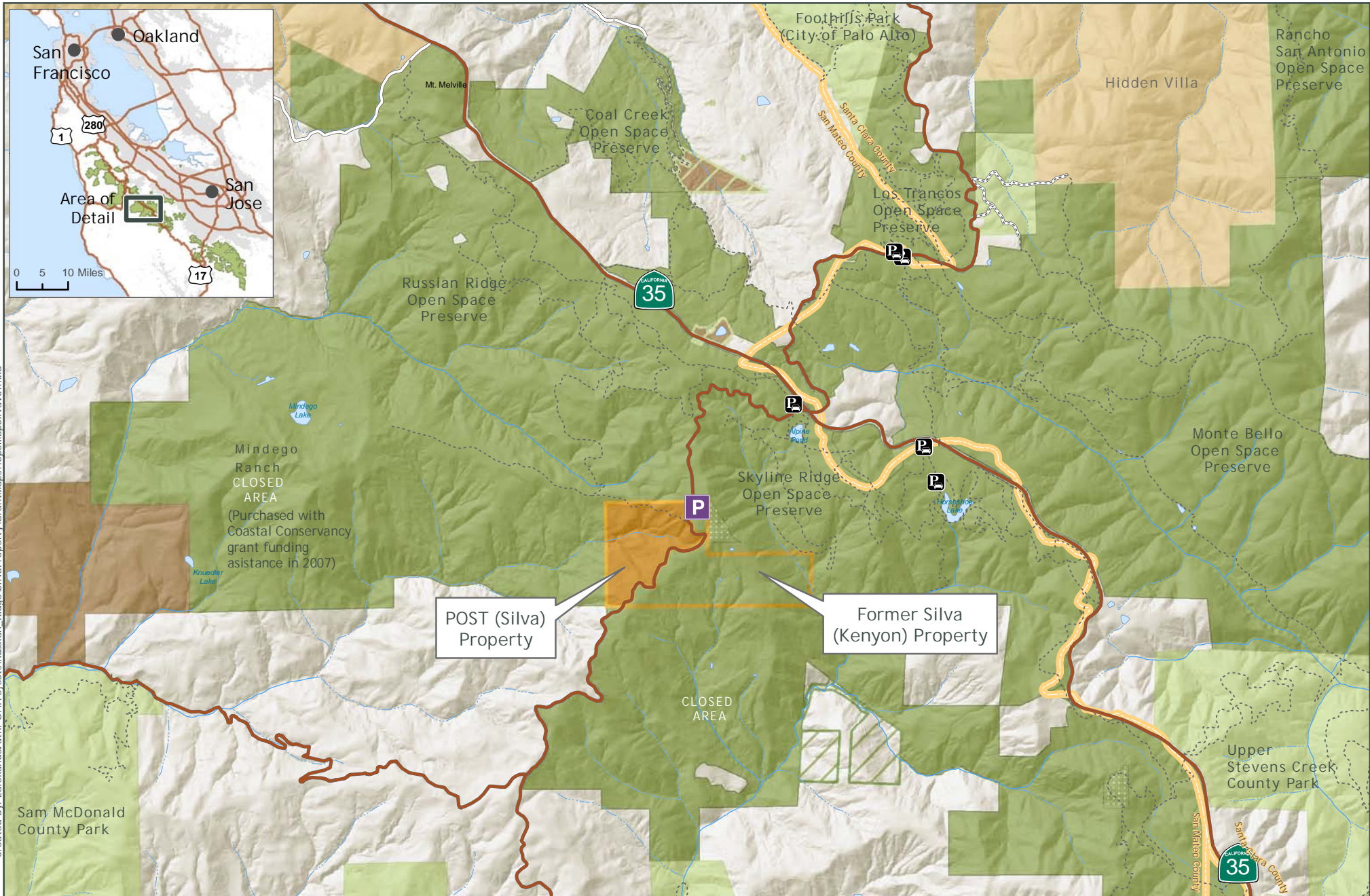
WHEREAS, the procedures established by the County of San Mateo for administering such contracts serve no useful purpose when land is owned by a park or open space agency preserving such lands’ open space and agricultural resources, yet such procedures can impose a procedural and financial burden on the 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, BE IT RESOLVED that the Board of Directors hereby:







1. Authorizes the General Manager of the District, pursuant to Government Code Section 51245, to file a notice of nonrenewal with the Board of Supervisors of San Mateo County for Assessor’s Parcel Numbers 080-380-030 and 080-380-040, (currently subject to the same Land Conservation Contract) and, upon close of escrow, both owned by the District.
2. 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 San Mateo County Code or the State Williamson Act, in order to accomplish the nonrenewal of the contract described above.

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POST (Silva) Property Location

- | | | |
|---|---|---|
|  MROSD Preserves |  Other Public Agency |  Potential Staging Area Site |
|  Other Protected Open Space or Park Lands |  Private Property |  Land Trust |

Midpeninsula Regional Open Space District
(MROSD)

April, 2011



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