



Midpeninsula Regional  
Open Space District

R-19-61  
Meeting 19-13  
May 15, 2019

## AGENDA ITEM 6

### AGENDA ITEM

Ravenswood Bay Trail Joint Permitting Agreement

### GENERAL MANAGER'S RECOMMENDATION

Adopt a Resolution authorizing the General Manager to execute a Joint Permitting Agreement for the Ravenswood Bay Trail Project.

### SUMMARY

The Ravenswood Bay Trail Project (Project) will close a 0.6 mile gap in the San Francisco Bay Trail. The Project is located within the jurisdictions of the cities of East Palo Alto (EPA) and Menlo Park. The recommended Joint Permitting Agreement, between EPA, Menlo Park, and the Midpeninsula Regional Open Space District (District), will allow EPA to be the lead permitting agency for the Project to fulfill the permitting oversight requirements for both City jurisdictions, including the portions within Menlo Park's jurisdiction. Menlo Park City Council approved the Agreement on January 15, 2019 and EPA City Council approved the Agreement on April 2, 2019. The Agreement is awaiting District approval to execute.

### DISCUSSION

In accordance with the Board-approved Measure AA 5-year Project List, District staff is working to complete a 0.6 mile trail connection to close a gap in the San Francisco Bay Trail (Attachment 1). This trail connection will open up 80 miles of continuous regional trail and will provide easily accessible recreational opportunities for the EPA and Menlo Park communities, including outdoor enthusiasts, hikers, joggers, and bicyclists. The new trail connection will be ADA-accessible, offers a setting for wildlife viewing and environmental education, and increases public respect and appreciation for the Bay. It also has important transportation benefits, providing a bicycle commute alternative for Bay Area residents.

The Project is located within the jurisdictions of the cities of EPA and Menlo Park. District and city staff collaborated to develop a Joint Permitting Agreement (Agreement) to achieve an efficient development review process for the Project (Attachment 2). The Agreement, between EPA, Menlo Park, and the District, allows EPA to serve as the lead agency for plan review and permitting for the entire Project, including the portions within Menlo Park's jurisdiction. Menlo Park City Council approved the Agreement on January 15, 2019 and EPA City Council approved the Agreement on April 2, 2019.

The Agreement is modeled after a similar agreement among the same participating agencies that was used to govern the permitting review for the Cooley Landing project. The Agreement would

terminate upon completion of the Project or upon determination that environmental or legal obstacles to the Project make implementation infeasible.

### FISCAL IMPACT

The fiscal year (FY) 2018-19 budget includes \$402,038 for the Ravenswood Bay Trail Project MAA02-002. There are sufficient funds in the project budget to cover the recommended action and expenditures. The current cost estimate to secure the necessary building permits is \$23,600. As part of a separate agenda item at this same meeting, the General Manager is recommending to execute a contract amendment with Callander Associates for additional design, engineering, permit assistance, and construction administration to support the Ravenswood Bay Trail Project (R-19-60). This contract amendment is included in the table below.

<b>Ravenswood Bay Trail MAA02-002</b>	<b>Prior Year Actuals</b>	<b>FY2018-19 <i>Amended Budget</i></b>	<b>FY2019-20 <i>Projected Budget</i></b>	<b>Estimated Future Years</b>	<b>Total</b>
District Funded (Fund 30):	\$232,253	\$119,285	\$551,849	\$828,207	\$1,731,594
Grants and Donations Awarded:	\$229,621	\$282,753	\$1,424,911	\$818,043	\$2,755,328
<b>Project #MAA02-002 Budget:</b>	<b>\$461,874</b>	<b>\$402,038</b>	<b>\$1,976,760</b>	<b>\$1,646,250</b>	<b>\$4,486,922</b>
Spent-to-Date (as of 04/17/2019):	(\$461,874)	(\$158,542)	\$0	\$0	(\$620,416)
Encumbrances:	\$0	(\$157,781)	\$0	\$0	(\$157,781)
Callander Associates Contract Amendment (R-19-60):	\$0	(\$50,170)	(\$20,000)	\$0	(\$70,170)
<i>15% Contingency:</i>	\$0	(\$7,526)	(\$3,000)	\$0	(\$10,526)
<i>Allowance</i>	\$0	\$0	(\$38,499)	\$0	(\$38,499)
<b>Budget Remaining (Proposed):</b>	<b>\$0</b>	<b>\$28,020</b>	<b>\$1,915,261</b>	<b>\$1,646,250</b>	<b>\$3,589,531</b>

The following table outlines the Measure AA Portfolio 02 allocation, costs-to-date, and the fiscal impact related to the Ravenswood Bay Trail project (MAA02-002).

<b>MAA02 Portfolio Allocation:</b>	<b>\$5,052,000</b>
Grants and Donations Awarded (as of 04/17/2019):	\$2,755,328
Lifetime Spent-to-Date (as of 04/17/2019):	(\$1,489,985)
Encumbrances (as of 04/17/2019):	(\$626,387)
Contract Amendment including Contingency and Allowance:	(\$119,195)
<b>Portfolio Balance Remaining (Proposed):</b>	<b>\$5,571,761</b>

### PUBLIC NOTICE

Public notice was provided as required by the Brown Act.

**CEQA COMPLIANCE**

The Board certified a Mitigated Negative Declaration and Initial Study for the Ravenswood Bay Trail Connection Project on November 16, 2016 (R-16-146). EPA City Council made a finding that the approval of the agreement is consistent with the Mitigated Negative Declaration previously adopted for the project by the Midpeninsula Open Space District in 2016 and by the City related to the previously adopted Ravenswood/Four Corners TOD Specific Plan EIR.

**NEXT STEPS**

Following Board approval of the Joint Permitting Agreement, the General Manager will execute the Agreement with the Cities of EPA and Menlo Park. If the District is able to secure all permits this year, construction is scheduled to begin in September 2019. If permits are delayed, construction will begin in September 2020. Due to sensitive species, construction can only occur between September through January.

## Attachment(s)

1. Ravenswood Bay Trail Improvements
2. Ravenswood Bay Trail Draft Joint Permitting Agreement EPA and Exhibits
3. Resolution Authorizing the General Manager to Execute a Joint Permitting Agreement for the Ravenswood Bay Trail Project

## Responsible Department Head:

Jane F. Mark, AICP, Planning Department

## Prepared by:

Gretchen Laustsen, Planner III, Planning Department

## Graphics prepared by:

Nathan Greig, GIS Data Analyst I

RAVENSWOOD BAY TRAIL CONNECTION PROJECT  
JOINT PERMITTING AGREEMENT

This Ravenswood Bay Trail Connection Project Joint Permitting Agreement (“Agreement”) is entered into by and among the City of East Palo Alto, a municipal corporation (“EPA”), the City of Menlo Park, a municipal corporation (“Menlo Park”) and the Midpeninsula Regional Open Space District, a public district under the laws of California (“District”), collectively “the Parties,” dated \_\_\_\_\_ (“Effective Date”).

RECITALS

WHEREAS, District owns, has property rights, or will secure property agreements to certain parcels of land more specifically identified as San Mateo County Assessor’s Parcel Number 093-590-030, 093-590-050 and 093-590-060, 063-590-060, CCSF Parcel 47 491 or 1 (referred to as 093-590-999) , Parcel 2 SMC Transit District 94-172451 (referred to as 093-590-999) and Caltrans Parcel 1 (referred to as 055-471-999), as shown on Exhibit A attached hereto and incorporated herein by this reference (“Project Parcels”) comprising a portion of Ravenswood Open Space Preserve (“Preserve”) and the adjacent lands owned by San Francisco Public Utilities Commission and Caltrans;

WHEREAS, the Project Parcels are located within Menlo Park’s and EPA’s jurisdictional boundaries;

WHEREAS, EPA has jurisdiction over certain parcel of land more specifically identified as San Mateo County Assessor’s Parcel Number , a portion of 093-590-050, CCSF Parcel 47 491 or 1, and 093-590-060 (“EPA Jurisdiction”) which it has zoned as Ravenswood Open Space;

WHEREAS, Menlo Park has jurisdiction over that certain parcel of land more specifically identified as San Mateo County Assessor’s Parcel Number 093-590-030, a portion of 093-590-050, 063-590-060, Parcel 2 SMC Transit District 94-172451 and Caltrans Parcel 1 (“Menlo Park Jurisdiction”) which it has zoned as Flood Plain District;

WHEREAS, District has undertaken a planning and development process to complete 0.6 mile trail connection to close a gap in the San Francisco Bay Trail (“Project”) by constructing trail improvements as shown on Exhibit B attached hereto and incorporated herein by this reference (“Trail Improvements”);

WHEREAS, the Parties desire a timely, efficient, orderly and proper development review process for the proposed Project in accordance with the land use regulations of their respective jurisdictions;



WHEREAS, the Parties have reached agreement and desire to voluntarily enter into this Agreement to facilitate the development review process of the proposed Project subject to conditions and requirements set forth herein.

NOW, THEREFORE, with reference to the foregoing recitals and in consideration of the promises, obligations and covenants herein contained, the Parties agree as follows:

1. No Commitment to Develop Project. The Parties acknowledge and agree that none of them can precommit to approval or implementation of the proposed Project since EPA's, Menlo Park's and the District's respective approvals are contingent upon fulfillment of all applicable regulatory requirements including but not limited to obtaining any required governmental approvals and completion of any environmental review required under the California Environmental Quality Act (CEQA). The Parties acknowledge that such process may identify environmental, financial or legal obstacles to the implementation of all or a portion of the proposed Project. Notwithstanding any other sections of this Agreement, the provisions of this Section 1 shall control the Parties' agreements herein.
2. Applicable Rules and Regulations. In consideration for the benefits of the proposed Project provided to EPA and Menlo Park, the Parties agree that the terms and conditions governing the development of the proposed Project, including but not limited to the permitted uses of the underlying property and the intensity of use, shall be those applicable rules, regulations, permitting requirements and ordinances of EPA, as may be amended, added or deleted during the term of this Agreement ("EPA Regulations"), and applicable state and federal law, including National Pollutant Discharge Elimination System ("NPDES") permit requirements set forth in NPDES Permit No. CAS 612008 applicable to regulated projects located in Menlo Park and EPA. District shall provide Menlo Park with copies of the approved grading and drainage plans, executed storm water Operations and Maintenance Agreement, and all subsequent reports per the Operations and Maintenance Agreement for the Project as may be necessary for Menlo Park to comply with Menlo Park's reporting requirements pursuant to the NPDES Permit.
3. Authority; Processing. EPA shall serve as the lead agency in facilitating the development review process for the proposed Project. District and Menlo Park acknowledge that, if approved and implemented, a significant portion of the proposed Project would be located within EPA Jurisdiction. In order to facilitate and expedite EPA's development review process for the proposed Project, if approved, the Parties authorize District to develop those portions of the proposed Project that are located on the Project Parcels and within Menlo Park's jurisdiction boundaries in accordance with the EPA Regulations and state and federal law. . Nothing in this Agreement is intended to waive any Party's right to exercise its police power, including zoning authority.
4. Other Governmental Permits. Upon application by District for approvals required by other governmental agencies or quasi-governmental agencies having jurisdiction over the proposed Project, which permits and approvals do not conflict with EPA's, Menlo Park's

and District's respective regulatory requirements, Menlo Park and EPA shall cooperate with District in facilitating the processing of such approvals.

5. Effective Date; Term. This Agreement shall become effective upon the Effective Date and shall terminate upon (i) the completion of the proposed Project, as determined jointly by EPA and the District, or (ii) upon determination by EPA or the District that the existence of environmental, financial or legal obstacles to the proposed Project renders its implementation infeasible. This Agreement may be amended at any time by mutual agreement of the Parties in writing.
6. Authority to Execute Agreement. Each party covenants that the individual executing this Agreement on behalf of the party is a person duly authorized and empowered to execute this Agreement for such party.
7. Indemnity.

EPA agrees to indemnify, defend and hold harmless Menlo Park and District and their respective elected and appointed councils, boards, commissions, officers, agents, contractors and employees from and against any and all actions, suits, claims, liabilities, losses, damages, penalties, obligations and expenses (including but not limited to attorneys' fees and costs) which may arise, directly or indirectly from the acts or omissions of EPA pursuant to this Agreement.

Menlo Park agrees to indemnify, defend and hold harmless EPA and District and their respective elected and appointed councils, boards, commissions, officers, agents, contractors and employees from and against any and all actions, suits, claims, liabilities, losses, damages, penalties, obligations and expenses (including but not limited to attorneys' fees and costs) which may arise, directly or indirectly from the acts or omissions of Menlo Park pursuant to this Agreement.

District agrees to indemnify, defend and hold harmless EPA and Menlo Park and their respective elected and appointed councils, boards, commissions, officers, agents, contractors and employees from and against any and all actions, suits, claims, liabilities, losses, damages, penalties, obligations and expenses (including but not limited to attorneys' fees and costs) which may arise, directly or indirectly from the acts or omissions of District pursuant to this Agreement.

8. Default/Remedies/Termination.
  - a. Notice and Opportunity to Cure. Before this Agreement may be terminated or action may be taken to obtain judicial relief, the party or parties seeking relief ("Nondefaulting Party") shall comply with the notice and cure provisions of this Section 8.a. A Nondefaulting Party in its discretion may elect to declare a default

- under this Agreement in accordance with the procedures hereinafter set forth for any failure or breach of any other party (“Defaulting Party”) to perform any material duty or obligation of said Defaulting Party in accordance with the terms of this Agreement. However, the Nondefaulting party must provide written notice to the Defaulting Party setting forth the nature of the breach or failure and the actions, if any, required by the Nondefaulting Party to cure such breach or failure. The Defaulting Party shall be deemed in “default” of its obligations set forth in this Agreement if the Defaulting Party has failed to take action and cure the default within thirty (30) days after the date of such notice.
- b. Remedies for Breach. The parties acknowledge that the purpose of this Agreement is to carry out the Parties’ objectives as set forth in the Recitals above. In the event of a default, the Nondefaulting Party may, at its option, institute legal action to cure, correct or remedy such default, enjoining any threatened or attempted violation, enforce the terms of this Agreement by specific performance, or pursue any other legal or equitable remedy. Furthermore, any Nondefaulting party, in addition to or as an alternative to exercising the remedies set forth in this Section 8.b., in the event of a default by any party, may give notice of its intent to terminate this Agreement.
9. Severability. Except as otherwise provided herein, if any provision(s) of this Agreement is (are) held invalid, the remainder of this Agreement shall not be affected as necessarily required by the invalid provisions, and shall remain in full force and effect unless amended or modified by mutual consent.
10. Agreement Runs with the Land. All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall be binding upon the Parties and their respective heirs, successors and assigns, devisees, administrators, representatives, lessees and all of the persons or entities acquiring the property on which the Project is located or any portion thereof, or an interest therein, whether by operation of law or in any manner whatsoever, and shall inure to the benefit of the parties and their respective heirs, successors and assigns.
11. Further Actions and Instruments. Each of the Parties shall cooperate and provide reasonable assistance to the other Parties to the extent necessary to implement this Agreement. Upon the request of a party at any time, the other Parties shall promptly execute, with acknowledgement or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonable necessary to implement this Agreement.
12. Applicable Law; Venue. This Agreement shall be construed and enforced in accordance with the internal laws of the State of California. Any action at law or in equity arising under this Agreement or brought by any party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and tried in San Mateo County.

13. Dispute Resolution. Any dispute or claim in law or equity between any or all of the Parties arising out of this Agreement, if not resolved by informal negotiation between the Parties, shall be submitted to alternate dispute resolution, with each party bearing its own costs and legal fees. Should litigation result, the court shall determine who bears legal fees and costs.

14. Notices. Any notice or communication required hereunder between the Parties must be in writing and may be given either personally, by registered or certified mail, return receipt requested. If given by registered or certified mail, the same shall be deemed to have been given and received on the date of actual receipt by the addressee designated below as the party to whom the notice is sent. A party may at any time, by giving ten (10) days written notice to the other Parties, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

EPA: City of East Palo Alto  
City Manager  
2415 University Avenue  
East Palo Alto, CA 94303

Menlo: City of Menlo Park  
City Manager  
701 Laurel Street  
Menlo Park, CA 94025

District: Midpeninsula Regional Open Space District  
General Manager  
330 Distel Circle  
Los Altos, CA 94022

15. Execution of Agreement; Counterparts. This Agreement may be executed by the Parties in counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

CITY OF EAST PALO ALTO:

Approved as to Form:

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_, City Manager

Rafael E. Alvarado, Jr., City Attorney

Date: \_\_\_\_\_

Date: \_\_\_\_\_

CITY OF MENLO PARK:

Approved as to Form:

By: \_\_\_\_\_  
, City Manager

By: \_\_\_\_\_  
William L. McClure, City Attorney

Date: \_\_\_\_\_

Date: \_\_\_\_\_

MIDPENINSULA REGIONAL OPEN  
SPACE DISTRICT

Approved as to Form:

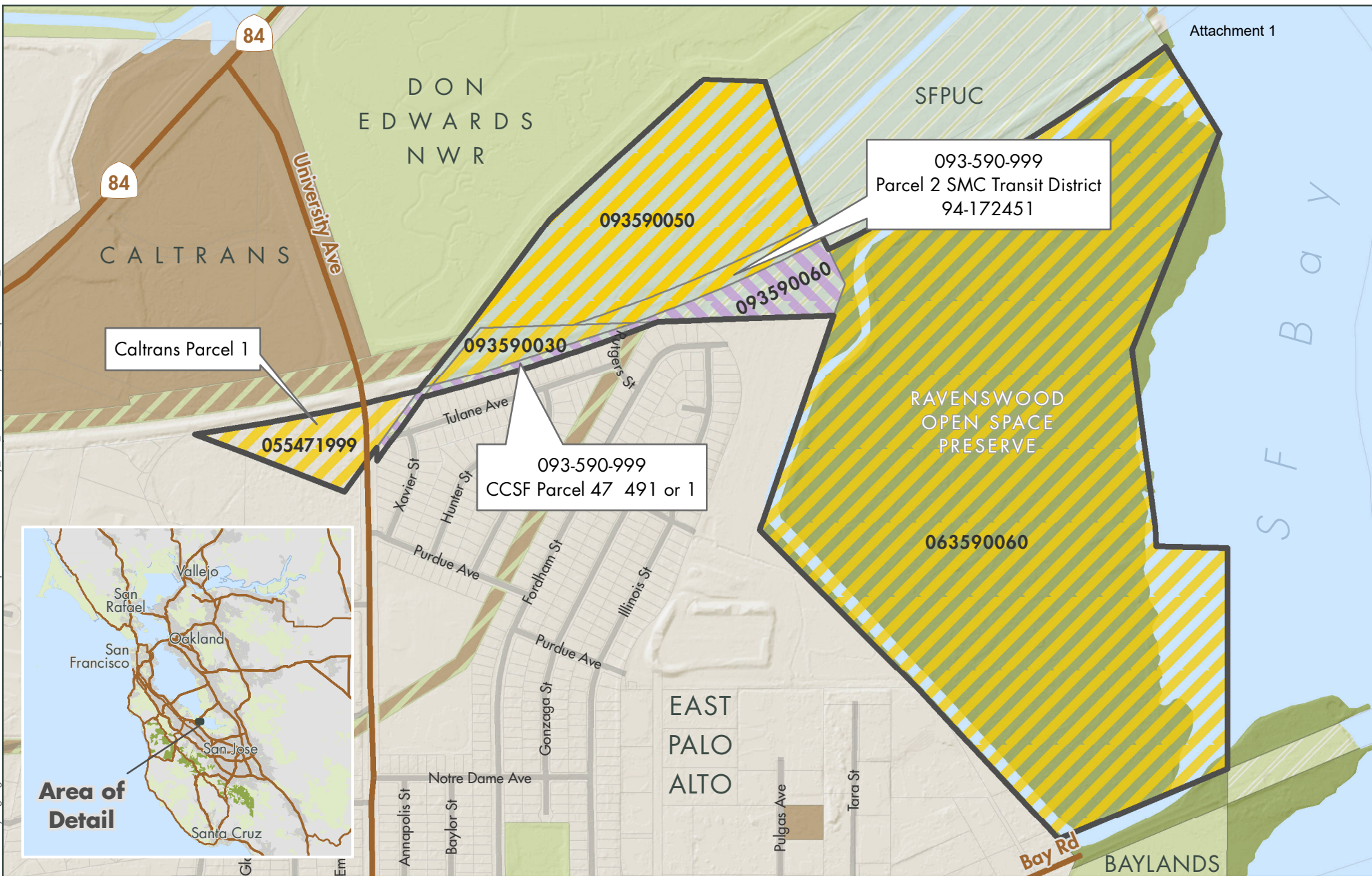
By: \_\_\_\_\_  
Ana Ruiz, General Manager

By: \_\_\_\_\_  
Hilary Stevenson, General Counsel

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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### Exhibit A: Ravenswood Bay Trail Project Parcels

- Project Parcels Boundary
- Menlo Park Jurisdiction
- East Palo Alto Jurisdiction

Midpeninsula Regional  
Open Space District  
(MROSD)  
January 2019



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.



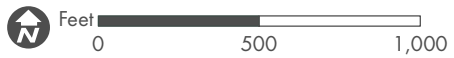
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### Exhibit B: Ravenswood Bay Trail Improvements

- |                       |                    |                                |                   |
|-----------------------|--------------------|--------------------------------|-------------------|
| MROSD Preserves       | Existing Bay Trail | Paved Trail                    | Trail Resurfacing |
| Other Protected Lands | Wetland            | Boardwalk                      | Bridge            |
| Watershed Land        | City Boundary      | SFPUC Service Road/Paved Trail |                   |
| Other Public Agency   |                    |                                |                   |

Midpeninsula Regional  
Open Space District  
(MROSD)  
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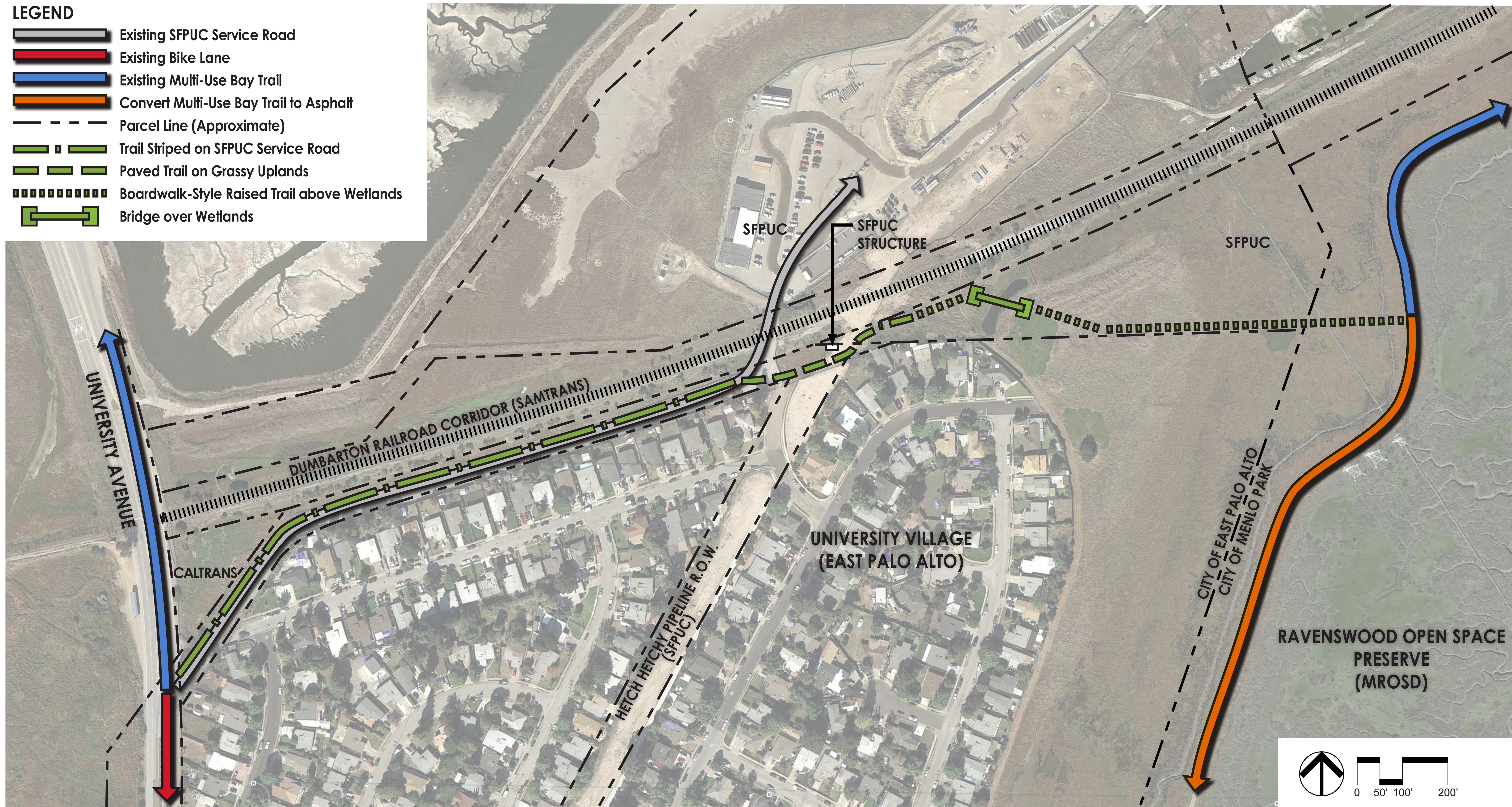


# TRAIL PLAN

## Bay Trail Connection at Ravenswood

September 20, 2018

- LEGEND**
-  Existing SFPUC Service Road
  -  Existing Bike Lane
  -  Existing Multi-Use Bay Trail
  -  Convert Multi-Use Bay Trail to Asphalt
  -  Parcel Line (Approximate)
  -  Trail Striped on SFPUC Service Road
  -  Paved Trail on Grassy Uplands
  -  Boardwalk-Style Raised Trail above Wetlands
  -  Bridge over Wetlands





**RESOLUTION NO. 19-\_\_**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE MIDPENINSULA REGIONAL OPEN SPACE DISTRICT AUTHORIZING THE GENERAL MANAGER TO EXECUTE A JOINT PERMITTING AGREEMENT FOR THE RAVENSWOOD BAY TRAIL PROJECT**

**WHEREAS**, the Ravenswood Bay Trail Project (Project) will close a 0.6 mile gap in the San Francisco Bay Trail; and

**WHEREAS**, the Project is located within the jurisdictions of the cities of East Palo Alto (EPA) and Menlo Park; and

**WHEREAS**, a Joint Permitting Agreement, between EPA, Menlo Park, and the Midpeninsula Regional Open Space District (District), will allow EPA to be the lead permitting agency for the Project to fulfill the permitting oversight requirements for both City jurisdictions, including the portions within Menlo Park’s jurisdiction, thereby creating an efficient development review process for the proposed Project; and

**WHEREAS**, Menlo Park City Council approved the Agreement on January 15, 2019 and EPA City Council approved the Agreement on April 2, 2019;

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Directors of the Midpeninsula Regional Open Space District does hereby approve the Joint Permitting Agreement among the District, the City of East Palo Alto, and the City of Menlo Park. The Board hereby authorizes the General Manager or the General Manager’s designee to execute the Joint Permitting Agreement on behalf of the District. The General Manager and General Counsel are further authorized to approve minor revisions to the Joint Permitting Agreement that do not substantially change any material terms of the Joint Permitting Agreement. The General Manager or the General Manager’s designee is further authorized to execute any and all documents necessary or appropriate to enter into the Joint Permitting Agreement.

\* \* \* \* \*

PASSED AND ADOPTED by the Board of Directors of the Midpeninsula Regional Open Space District on \_\_\_\_\_, 2019, at a regular meeting thereof, by the following roll call vote:

- AYES:**
- NOES:**
- ABSTAIN:**
- ABSENT:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Secretary  
Board of Directors

\_\_\_\_\_  
President  
Board of Directors

**APPROVED AS TO FORM:**

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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.

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District Clerk