



Midpeninsula Regional  
Open Space District

R-18-133  
Meeting 18-37  
November 14, 2018

## AGENDA ITEM 4

### AGENDA ITEM

Lease exchange between Communications & Control, Inc., and Midpeninsula Regional Open Space District to receive a Radio Equipment Lease near Sierra Azul Open Space Preserve in exchange for a Master Communication Lease at Rancho San Antonio Open Space Preserve.

### 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 report.
2. Adopt a Resolution authorizing the lease exchange with Communications & Control, Inc.

### SUMMARY

The General Manager recommends adopting the attached Resolution (Attachment 1) to enter into a new, long-term lease with Communications & Control, Inc., (CCI) for radio equipment at Tomita Hill near Sierra Azul Open Space Preserve in exchange for granting a new, long-term master communication lease at Black Mountain in Rancho San Antonio Open Space Preserve (Attachment 2). The lease exchange with CCI provides net benefits to both entities. The recommended lease exchange offsets rental rates, as the sites differ in value, resulting in a net 10-year income for the District of \$508,000. The following report presents a description of the proposed lease exchange, the environmental review findings, and terms.

### DISCUSSION

#### **Black Mountain Communication Site**

The District acquired the Black Mountain communication site in 1981 (R-81-5) and continues to operate and lease the site to communication tenants (Attachments 2 and 3). The site currently hosts five communications facilities with four leased to tenants, including CCI. In 1998, the Board of Directors (Board) approved a long-term sublease from Space Systems/Loral, Inc., to the Association for Continuing Education (ACE) to operate the lowest of the five communication facilities on the ridge at Black Mountain (R-98-73). In the spring of 2009, CCI took over the day-to-day management and responsibility of the lowest communication facility from ACE on a month-to-month basis. The monthly rental rate is \$1,000 per month and the facility includes a fenced area containing approximately 11,500 square feet. Since taking over facility management in 2009, CCI has been a tenant in good standing.

### **Tomita Hill Radio Site**

In 1992, the District entered into a lease agreement with CCI for District radio equipment on Tomita Hill, which is adjacent to the Mount Umunhum area of Sierra Azul Open Space Preserve (Attachments 2 and 4). The District's initial lease with CCI has been amended three times, with the last amendment occurring in August of 2011. Under the provisions of the lease, the District receives tower space and rack space within the main shelter for its radio equipment. The rental rate has remained unchanged at \$1,172 per month since August of 2011. The Tomita Hill site is critical to the performance of the District's radio communications system.

### **USE AND MANAGEMENT**

The District adopted a communications policy for the Black Mountain communications site in December 1982 to direct the use and management of this site. The policy states that new facilities, changes in existing ones, and lease renewals will be considered on a case-by-case basis. Granting a master communication lease to an existing tenant complies with the objectives of the Black Mountain communication policy. No changes to the Use and Management Plan for Rancho San Antonio Open Space Preserve are required.

### **TERMS AND CONDITIONS**

#### **District to CCI**

Under the proposed lease exchange and consistent with the Policies for the Black Mountain Communication Facilities adopted by the Board of Directors on December 8, 1982, the District would execute a new lease for the lowest of five communication facilities at Black Mountain to CCI under the following terms:

<u>Term:</u>	10-years plus three, 5-year options to extend (25-year maximum)
<u>Rent:</u>	The greater of either (1) the fixed minimum monthly rent (\$4,800 plus 3% annual increases) or (2) a percentage equal to 30% of CCI's gross monthly income with monthly rent payments offset by the Tomita Hill lease to the District.
<u>Premises:</u>	11,500 square feet
<u>Use:</u>	Operating and maintaining equipment for transmission and reception of electromagnetic and other communication signals.

#### **CCI to District**

Under the proposed lease exchange, CCI would lease to the District the communication tower and rack space located in the main shelter at Tomita Hill under the following terms:

<u>Term:</u>	10-years plus three, 5-year options to extend (25-year maximum)
<u>Rent:</u>	\$1,102 per month with 3% annual increases (rent shall be credited against the rent paid by CCI to the District under the Black Mountain Lease)
<u>Premises:</u>	Tower and rack space in the main shelter
<u>Use:</u>	Operate radio communication equipment for District or County communications.

Market rent for the Black Mountain communication site is higher than market rent at the Tomita Hill site. Therefore, the District would owe no rent to CCI under the Tomita Hill lease and CCI's lease rate at Black Mountain would be offset by District rent at Tomita Hill (see below).

Black Mountain lease rate:	\$4,800 per month
Tomita Hill lease rate:	<u>-\$1,102 per month</u>
Rent to District:	\$3,698 per month

**FISCAL IMPACT**

Over the initial 10-year lease term, the District would receive a net income of \$508,000 from the lease exchange.

**BOARD COMMITTEE REVIEW**

This item was not previously reviewed by a Board Committee.

**PUBLIC NOTICE**

Property owners of land located adjacent to or surrounding the lease sites 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.

**CEQA COMPLIANCE**

**Project Description**

The project consists of the approval of an agreement between the District and CCI to exchange interests in leased property for the continued operation of existing communication facilities and related improvements. Per the terms and conditions of the exchange, the District will receive a long-term lease with CCI for radio equipment at their Tomita Hill communication site in exchange for granting a new, long-term lease to CCI for an 11,500 square foot communication site at Rancho San Antonio Open Space Preserve.

**CEQA Determination**

The District concludes that the project 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 15301 of the CEQA Guidelines as follows:

Section 15301 exempts operation, repair, restoration, 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 new leases under the lease exchange are for existing facilities, which will be operated and maintained in their current condition with no expansion of use.

**NEXT STEPS**

Upon approval by the Board of Directors, staff will execute the lease exchange with CCI per the terms and conditions described in this report.

Attachments:

1. Resolution Approving Lease Exchange with Communication & Control, Inc. for Lease Agreement at Black Mountain Communication Site and Lease Agreement at Tomita Hill Communication Site, Authorizing General Manager or other Appropriate Officer to Execute Lease Agreements and any and all other Documents Necessary or Appropriate to complete the Transaction and Authorizing the General Manager to Negotiate and Approve all Subsequent Lease Options
2. Overall Project Location Map
3. Black Mountain Location Map
4. Tomita Hill Location Map

Responsible Department Manager:  
Michael Williams, Real Property Manager

Prepared by:  
Allen Ishibashi, Sr. Real Property Agent

Graphics prepared by:  
Nathan Greig, GIS Data Analyst I

**RESOLUTION 18-\_\_**

**RESOLUTION OF THE BOARD OF DIRECTORS OF MIDPENINSULA REGIONAL OPEN SPACE DISTRICT (DISTRICT) APPROVING LEASE EXCHANGE WITH COMMUNICATION & CONTROL, INC., GRANTING LEASE OF DISTRICT'S BLACK MOUNTAIN COMMUNICATION SITE, AND IN EXCHANGE OBTAINING A DISTRICT LEASE OF TOMITA HILL COMMUNICATION SITE; AUTHORIZING GENERAL MANAGER OR OTHER APPROPRIATE OFFICER TO EXECUTE LEASE AGREEMENTS AND ANY AND ALL OTHER DOCUMENTS NECESSARY OR APPROPRIATE TO COMPLETE THE TRANSACTION AND AUTHORIZING THE GENERAL MANAGER TO NEGOTIATE AND APPROVE SUBSEQUENT LEASE OPTIONS (RANCHO SAN ANTONIO OPEN SPACE PRESERVE)**

---

**WHEREAS**, the Midpeninsula Regional Open Space District (District) may, under the provisions of Section 5540 and 5563 of the Public Resources Code, lease property owned by the District for up to twenty-five (25) years, and

**WHEREAS**, the Board of Directors hereby finds that the proposed lease premises at Black Mountain located in the Rancho San Antonio Open Space Preserve remains presently unnecessary for open space purposes and that execution of a Communication Site Lease is in the best interest of the public; and

**WHEREAS**, the District wishes to enter into a long-term lease with Communication & Control, Inc., for use of the Radio Communication Site at Tomita Hill.

Now, therefore, 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 approves leasing the Communication Site at Black Mountain to Communication & Control, Inc., and does hereby authorize the President, General Manager, or other appropriate officers to execute said Lease on behalf of the District.

**SECTION TWO.** The Board of Directors of the Midpeninsula Regional Open Space District approves entering into the Radio Communication Site Lease at Tomita Hill between Midpeninsula Regional Open Space District and Communication & Control, Inc., and does hereby authorize the President, General Manager, or other appropriate officers to execute said Lease on behalf of the District.

**SECTION THREE.** The General Manager or the General Manager's designee is hereby authorized to exercise, negotiate, and execute the subsequent five-year lease options as set forth in the Black Mountain and Tomita Hill Communication Site Leases, respectively. The General Manager or the General Manager's designee is further authorized to execute any and all other documents necessary or appropriate for the completion of such transactions.

**SECTION FOUR.** The General Manager and General Counsel are further authorized to approve any technical revisions to the attached Agreements and documents, which do not involve any material change to any term of the Agreements or documents, which are necessary or appropriate to complete or implement this transaction.

\* \* \* \* \*

PASSED AND ADOPTED by the Board of Directors of the Midpeninsula Regional Open Space District on \_\_\_\_\_, 2018, 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



### Proposed Communication Lease Exchange Attachment 2

- |   |   |  |
|---|---|--|
|  MROSD Preserves       |  Watershed Land      |  Highlighted Property         |
|  Other Protected Lands |  Land Trust          |  Proposed Communication Lease |
|  Private Property      |  Other Public Agency |  |

Midpeninsula Regional  
Open Space District  
(MROSD)  
October 2018



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.



### Proposed District to Communication & Control, Inc. Site Lease Attachment 3

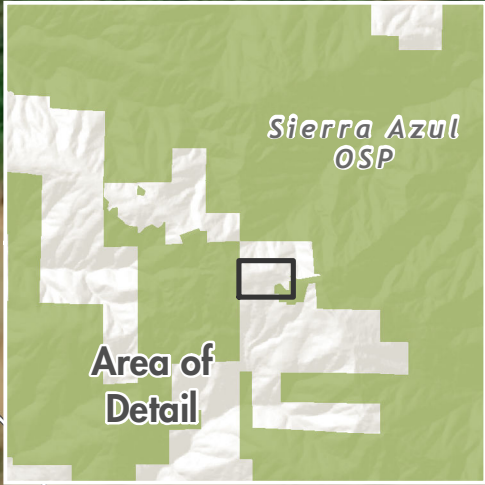
- Lease Area
- Point of Interest
- MROSD Gate
- Unpaved All-Season Road
- Unpaved Seasonal Road



Midpeninsula Regional  
Open Space District  
(MROSD)  
October 2018







**Proposed Communication & Control, Inc. to District Site Lease** Attachment 4

-  Lease Area
-  Unpaved Seasonal Road
-  Paved Road

Midpeninsula Regional  
Open Space District  
(MROSD)  
October 2018

