



Midpeninsula Regional  
Open Space District

R-24-92  
Meeting 24-19  
July 10, 2024

## AGENDA ITEM 8

### AGENDA ITEM

Proposed Third-Party Compensatory Mitigation Project at Bear Creek Redwoods Open Space Preserve

### GENERAL MANAGER'S RECOMMENDATIONS

5)

1. Accept staff's analysis of the proposed third-party compensatory mitigation project at Bear Creek Redwoods Open Space Preserve to restore 1.43 acres of seasonal wetland and riparian habitat.
2. Authorize the General Manager to negotiate a mitigation agreement with KM-ECR, LLC, (estimated at \$450,000 to \$640,000 over ten years) and return for future approval of the mitigation agreement.

### SUMMARY

Over the past several years, Midpeninsula Regional Open Space District (District) has laid the groundwork for restoring a wet meadow and riparian areas at Bear Creek Redwoods Open Space Preserve (Preserve). Although these restoration efforts have been delayed due to competing priorities, the proposed third-party mitigation agreement described in this report provides an opportunity to initiate a portion (Mitigation Project) of the restoration project with outside funding. The District received a proposal from KM-ECR, LLC, the developer of a project in downtown Redwood City (Developer), to fund the Mitigation Project, which staff have determined aligns with the District's Mitigation Policies. The mitigation would compensate for impacts resulting from the Developer's relocation of an engineered channel into a more natural configuration as part of its redevelopment project. Under the Developer's proposal, all costs for the Mitigation Project will be covered, including design, peer review, implementation, monitoring, and staff reimbursement (at an estimated cost of \$450,000 to \$640,000 over ten years). The General Manager recommends that the Board of Directors (Board) accept staff's analysis of the Mitigation Project and authorize negotiating a mitigation agreement (Mitigation Agreement) with the Developer. The General Manager will return with the negotiated Mitigation Agreement for the Board's approval, with the mitigation restoration work expected to start as early as the end of Fiscal Year 2025.

## BACKGROUND

A natural wet meadow<sup>1</sup> is located in the northeast section of the Preserve (Attachment 1). Before District ownership, a road was constructed that bisected the wetland. The District continued the road maintenance by discing for fire protection and emergency access. The disced road concentrates water during storm events, resulting in active incision of an unnamed ephemeral channel, likely decreasing local shallow groundwater levels and threatening additional incision (or headcutting) into the existing wetland habitat. The primary goal of the restoration approach at the channel is to arrest incision, stabilize the channel bed, and raise groundwater levels in the immediate area. This restoration project has a high likelihood of receiving approval from regulatory agencies as potential mitigation for environmental impacts elsewhere.

In 2016, the Board authorized the General Manager to install a shaded fuel break along the property line with Highway 17 (Attachment 1). Since completing the shaded fuel break in 2017 (which allows for the removal and restoration of the disc line without compromising fire safety), staff have anticipated restoration efforts at the site. Due to other competing priorities including opening the Preserve to the public and implementing the Wildland Fire Resiliency Program, this restoration planning has been delayed.

## DISCUSSION

In 2022, the Board of Directors (Board) adopted a Mitigation Chapter as part of the comprehensive [Resource Management Policies](#). It directs staff to evaluate and recommend third-party compensatory mitigation when it fulfills District goals and meets District criteria. External mitigation valued above the General Manager's purchasing authority requires Board approval.

The District was approached by ecological consultant H. T. Harvey & Associates (Consultant) who was hired by the Developer to help secure appropriate offsite mitigation necessary to implement its redevelopment project within the City of Redwood City (City). Since 1970, the ecologists and professionals at H. T. Harvey & Associates have delivered consulting services to public agencies (including the District), private entities, and nonprofit organizations. The expertise of their staff encompasses a wide range of biological and design disciplines (including wildlife, plant, aquatic, and restoration ecology as well as landscape architecture) required to perform high-quality work on ecological restoration projects.

The proposed Mitigation Project at the Preserve would enhance the natural resource values of 1.43 acres of wet meadow and riparian channel habitat as mitigation for impacts to 0.16 acres of low-quality habitat associated with the development. Mitigation Project activities would include the removal of invasive species rated as "High," "Moderate," or "ALERT" by the California Invasive Species Council (e.g., French broom, Harding grass) or listed as a noxious weed by Federal or State departments of agriculture (e.g., yellow starthistle). Planting and seeding local native species from the region will be used to revegetate the area. The Mitigation Project cost estimate is between \$450,000 to \$640,000 over ten years (including monitoring) and includes reimbursement for staff time. The anticipated start of the mitigation work is expected as early as the end of Fiscal Year 2025.

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<sup>1</sup> Wet meadows are a type of marsh. These wetlands resemble grasslands and are typically drier than other marshes except during periods of seasonal high water. The high-water table allows the soil to remain saturated, and various water-loving grasses, sedges, rushes, and wetland wildflowers proliferate.

### *Evaluation Criteria*

The District's Mitigation Policy directs staff to evaluate and recommend third-party compensatory mitigation when it fulfills District goals and meets District criteria. A list of the elements considered in the analysis is provided below. Refer to Attachment 2: Mitigation Policy Evaluation for 901 El Camino Real Project (Redwood City) for the complete analysis.

- Alignment with District Mission, Policies, and Goals
- Proximity to District Lands and Regional Context
- Public, Partner, and Social Implications
- Low-impact Project Design and Appropriate Mitigation
- Ecological Impact versus Value

### *Recommendation*

In addition to regulatory requirements for the mitigation, the District has requested the development to include an interpretation sign at a public gathering area describing the natural history of the area including description of the native plants used in the landscape and why they are important to include in urban design.

Based on the above evaluation, the General Manager finds that the proposed development project and accompanying Mitigation Project on District lands would result in long-term natural resource benefits and recommends that the Board authorize the General Manager to negotiate a Mitigation Agreement with the Developer. The Mitigation Agreement would provide funding for the design, peer review, implementation, and monitoring of the mitigation work by the District, including reimbursement of District staff time to manage all aspects of the project.

## **FISCAL IMPACT**

The Developer would prefer to provide off-site mitigation funds on an in-lieu fee basis to fully fund the implementation and monitoring of a project large enough, or a portion of a larger restoration project, to meet regulatory agency requirements for compensatory mitigation. If approved, the resulting Mitigation Agreement will result in a positive fiscal impact, by providing funding for restoration work the District was planning on completing without outside funding. All costs for the mitigation work will be funded by the Developer, including reimbursement of District staff time. The developer is proposing a one-time payment to fund the costs of the mitigation; planning, permitting, implementation and monitoring. The exact amount is still to be determined. Future additional restoration work will be budgeted for in future fiscal years.

## **PRIOR BOARD AND COMMITTEE REVIEW**

On March 23, 2022, the Board adopted a new Mitigation Policy and associated revisions to the Resource Management Policies to guide future decisions on outside agency mitigation requests and inform mitigation efforts for internal projects ([R-22-41](#), [Minutes](#)).

## **PUBLIC NOTICE**

Public notice was provided as required by the Brown Act.

## CEQA COMPLIANCE

The City of Redwood City, as the lead agency, is preparing a 15183 Consistency Checklist tiered off the Redwood City DTPP Plan-Wide Amendments Subsequent Environmental Impact Report (SCH #20211090249). Once completed, a Notice of Determination will be issued (estimated September 2024). All CEQA documents will be published on the State of California's CEQA webpage at <https://ceqanet.opr.ca.gov>.

Pursuant to Section 15168 of the CEQA Guidelines, the District has determined that the off-site mitigation actions proposed in Bear Creek Redwoods Open Space Preserve associated with the Project as contemplated herein are within the scope of the approved Open Space Maintenance and Restoration Program, and the Initial Study/Mitigated Negative Declaration, adopted by Board Resolution No. 21-32 on September 22, 2021. Furthermore, in accordance with Sections 1304 (Minor Alterations of Land) and 15333 (Small Habitat Restoration Projects) of the State CEQA Guidelines the mitigation actions as described herein are categorically exempt from CEQA.

## NEXT STEPS

If approved, staff will negotiate the Mitigation Agreement with the Developer and the General Manager will return to the Board for approval of the Mitigation Agreement and approval of the Mitigation Project. A Mitigation and Monitoring Plan would be prepared that relies on existing Preserve management documents prepared by the District. The Board would be updated on this project through the annual Comprehensive Vegetation Management Report. Additional restoration activities to elevate this mitigation project to full scale restoration project will be planned during the annual Action Plan and Budget development process.

### Attachments

1. Map: Wetland Restoration Area at Bear Creek Redwoods Preserve
2. Mitigation Policy Evaluation for 901 El Camino Real Project (Redwood City)
3. Map: Regional Context of Mitigation Project

Responsible Department Head:

Kirk Lenington, Natural Resources Manager

Prepared by:

Coty Sifuentes-Winter, Senior Resource Management Specialist, Natural Resources  
Meredith Manning, Resource Management Specialist III, Natural Resources

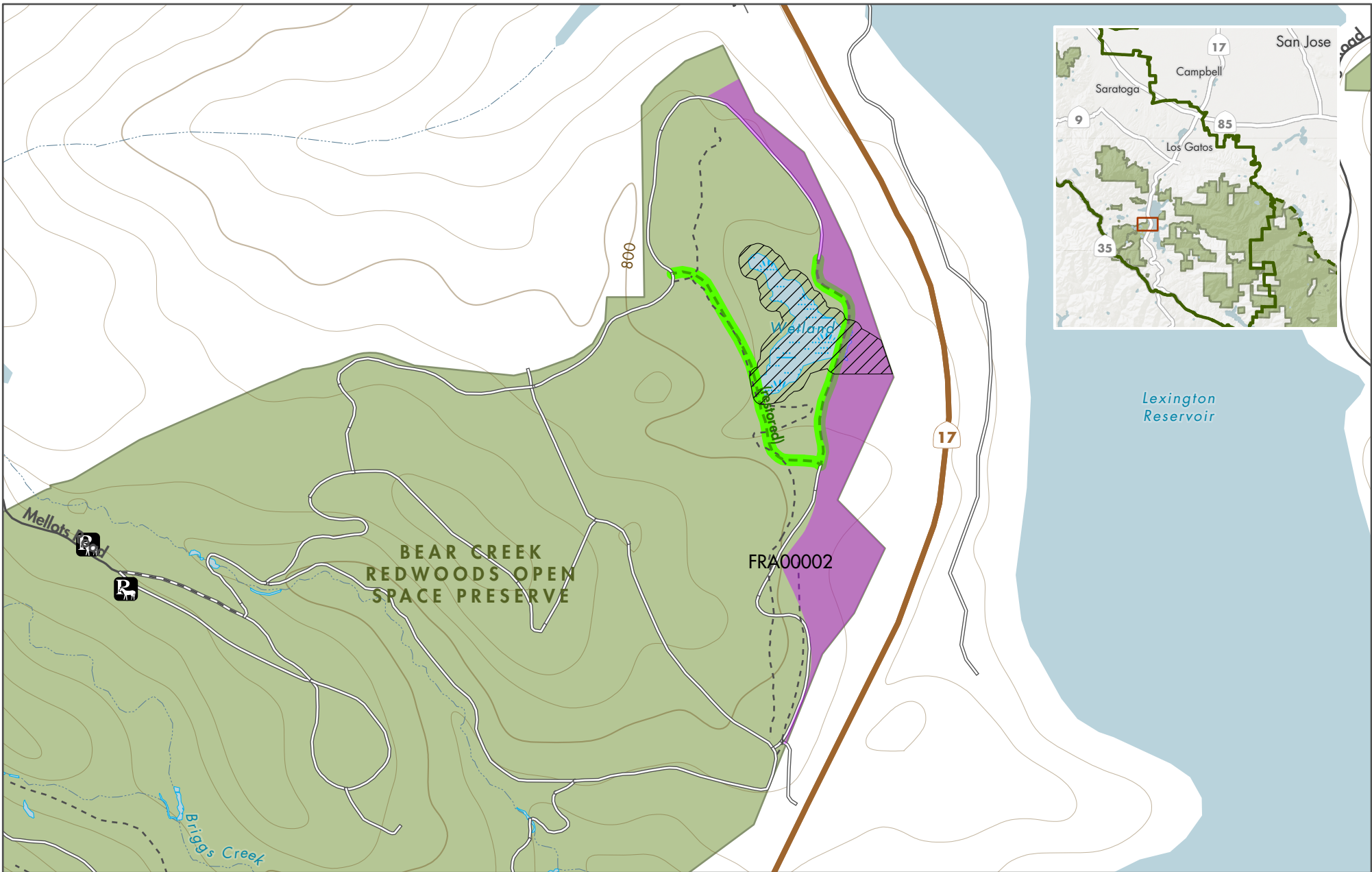
District Contact:

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### Wetland Restoration at Bear Creek Redwoods Preserve

### ATTACHMENT 1

Midpeninsula Regional  
Open Space District  
(Midpen)  
6/11/2024



- Midpen preserves
- Shaded fuel break
- Former unpaved road (to be restored)
- Mitigation Area



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.



Midpeninsula Regional  
Open Space District

# Memorandum

DATE: July 10, 2024

MEMO TO: Board of Directors

THROUGH: Stefan Jaskulak, Acting General Manager

(5)

FROM: Coty Sifuentes-Winter, Senior Resource Management Specialist  
Meredith Manning, Resource Management Specialist III

SUBJECT: Mitigation Policy Evaluation for 901 El Camino Real Project (Redwood City)

## MITIGATION POLICY

The Midpeninsula Regional Open Space District's (District) Board of Directors (Board) approved a policy in 2022 to guide evaluations of outside agency mitigation requests and inform District-led project mitigations. The Mitigation Policy includes evaluation criteria for third party compensatory mitigation projects to examine alignment with the District's mission, proximity to District lands, public implications, project design impact, and ecological impact versus value. The policy emphasizes achieving regional and landscape-level benefits and leveraging external mitigation funding to support restoration and natural resource resilience.

## EXTERNAL PROJECT

A developer (KM-ECR, LLC) (Developer) is assisting the City of Redwood City (City) in furthering its transit goals, improving the street grid, and redeveloping underutilized commercial space, among other goals, by constructing a modern, high-density, transit-oriented commercial and residential space. The proposed project includes demolition of existing structures, road relocation, and future redevelopment of 901 El Camino Real and immediately adjacent areas (see [Redwood City Development Projects](#) for more details).

An application has been submitted for a six-story office building covering 279,000 sq. ft., a 6,548 sq. ft. teen center, 1,284 sq. ft. of retail space, and a public open area. The plan includes 513 below ground parking spaces. The project also includes the construction of 99 affordable housing units.

The developer is working with the ecological consultant firm, H. T. Harvey & Associates (Consultant). Since 1970, their trained ecologists and professionals have delivered consulting services to public agencies (including the District), private entities, and nonprofit organizations. The expertise of their staff encompasses a wide range of biological and design disciplines

(including wildlife, plant, aquatic, and restoration ecology as well as landscape architecture) required to perform high-quality work on ecological restoration projects.

*Regulatory agency requirements*

The project necessitates relocating an engineered channel into a more natural configuration which is the catalyst for this proposed off-site mitigation. Although the proposed development project was well-received by regulatory agencies and will restore a low-quality engineered channel to the maximum extent feasible, there is insufficient compensatory riparian habitat onsite to meet the Regional Water Quality Control Board's (RWQCB) requirements for mitigating this temporal loss. The remainder of the mitigation must be located offsite. The Consultant reached out to the District inquiring if suitable offsite compensatory mitigation was available. The District has identified a potential mitigation site at Bear Creek Redwoods Open Space Preserve (Bear Creek Redwoods).

## MITIGATION POLICY EVALUATION

The District's Mitigation Policy directs staff to evaluate and recommend third-party compensatory mitigation when it fulfills District goals and meets District criteria. The Mitigation Policy outlines the following analysis:

Alignment with District Mission, Policies, and Goals

The project is considered "infill" development, which helps slow the expansion of the built environment into surrounding natural habitats. Additionally, the onsite mitigation project will improve habitat by relocating a channelized stream and improving its ecological function. The project mainly offers office spaces and various amenities that promote community engagement. These include outdoor landscaping, encouraging social gatherings, and a youth center supporting at-risk teenagers. The Basic Policy promotes public access, the recreational use of natural resources, and the expansion of protected open spaces. By redeveloping underutilized urban spaces, the project increases urban density and reduces development pressure on suburban and rural areas. As such, the project also aligns well with the District's adopted Legislative Program, Board Goal#1/Policy #4:

*Promotes urban infill and urban growth boundaries to avoid sprawl and protect natural and working lands and prevents pressure to develop open spaces and further encroach upon the wildland-urban interface, riparian areas and open space buffer areas.*

The Developer proposing the project specializes in urban redevelopment of underutilized areas. This type of infill development generally does not conflict with sensitive natural resources and helps slow down suburban sprawl. With the development project, the proponent supports all recommendations by the Consultants and regulatory agencies to establish the most ecologically valuable habitat for onsite mitigation.

Proximity to District Lands and Regional Context

The proposed project is located within an urban area within the District's boundary. The City has approved the project to increase the density of infill development. The proposed project will not directly affect District lands or surrounding natural ecosystems. See Attachment 3 for a regional map showing the location of the development and offsite mitigation.

### Public, Partner, and Social Implications

The nature of the urban development is being designed to foster community gathering and non-vehicular transportation by rejuvenating an underutilized urban area. The development project will result in more useable property for Caltrain, an improved street grid in the area, and the construction of a multi-story commercial building that will house offices, a youth/teen center, retail/hospitality space, publicly accessible outdoor space, an underground parking garage, and 99 units of housing for rent, plus one manager unit at an offsite location with affordable housing partner Abode. The public open area will feature benches and shade structures allowing people to enjoy the higher-quality more natural habitat area.

Input from tribal groups was obtained, leading to recommendations to include culturally valuable species in the restoration. The City fully supports this project which has received no known opposition.

The City removed a small encampment of unhoused people at the site who were offered [homeless services](#) through the City. These actions have reduced pollution pressures on local waterways and riparian areas. This is consistent with prior Board actions to support legislation such as [Santa Clara County Measure A](#) in 2016 and legislation such as [AB 1469 \(Kara, 2023\)](#).

### Low-impact Project Design and Appropriate Mitigation

On-site mitigation is planned, but additional off-site mitigation is necessary **due to the need to relocate an engineered channel into a more natural configuration**. The improved channel will provide partial on-site mitigation; however, the RWQCB has stated that additional mitigation is necessary, which will need to be completed off-site. All impacts to the existing channel at the development project will be permanent. The development project will require permits from the California Department of Fish and Wildlife (CDFW), RWQCB, and the U.S. Army Corps of Engineers (USACE), each with its own set of permit conditions. The RWQCB has mandated an alternative analysis to determine the project alternative that causes the least environmental damage. Funding for the development project and on-site mitigation comes from private sources held by the Developer. The Consultant expects that annual monitoring and reporting of the relocated channel will be necessary for 10 years to ensure that all success criteria are met. The District anticipates that the off-site mitigation at Bear Creek Redwoods will have similar monitoring and reporting requirements as those required on-site.

Impacts from the development project include 0.16 acres of low-quality habitat in exchange for the mitigation requirement which would include the enhancement of 1.43 acres of wet meadow and riparian areas.

### Ecological Impact versus Value

The area around the development site is highly urbanized per the City's [Downtown Precise Plan](#), with most reaches of creek culverted into storm drains, extensive hardscape, and existing roads. The quality of the existing sensitive channel habitat that will be impacted at the development site is considered very low as compared to the improved high-quality habitat site following the proposed mitigation site at Bear Creek Redwoods. The proposed development project maximizes channel improvements on site to minimize off-site mitigation requirements, which includes a more natural meander and contain much higher-quality native biodiversity.



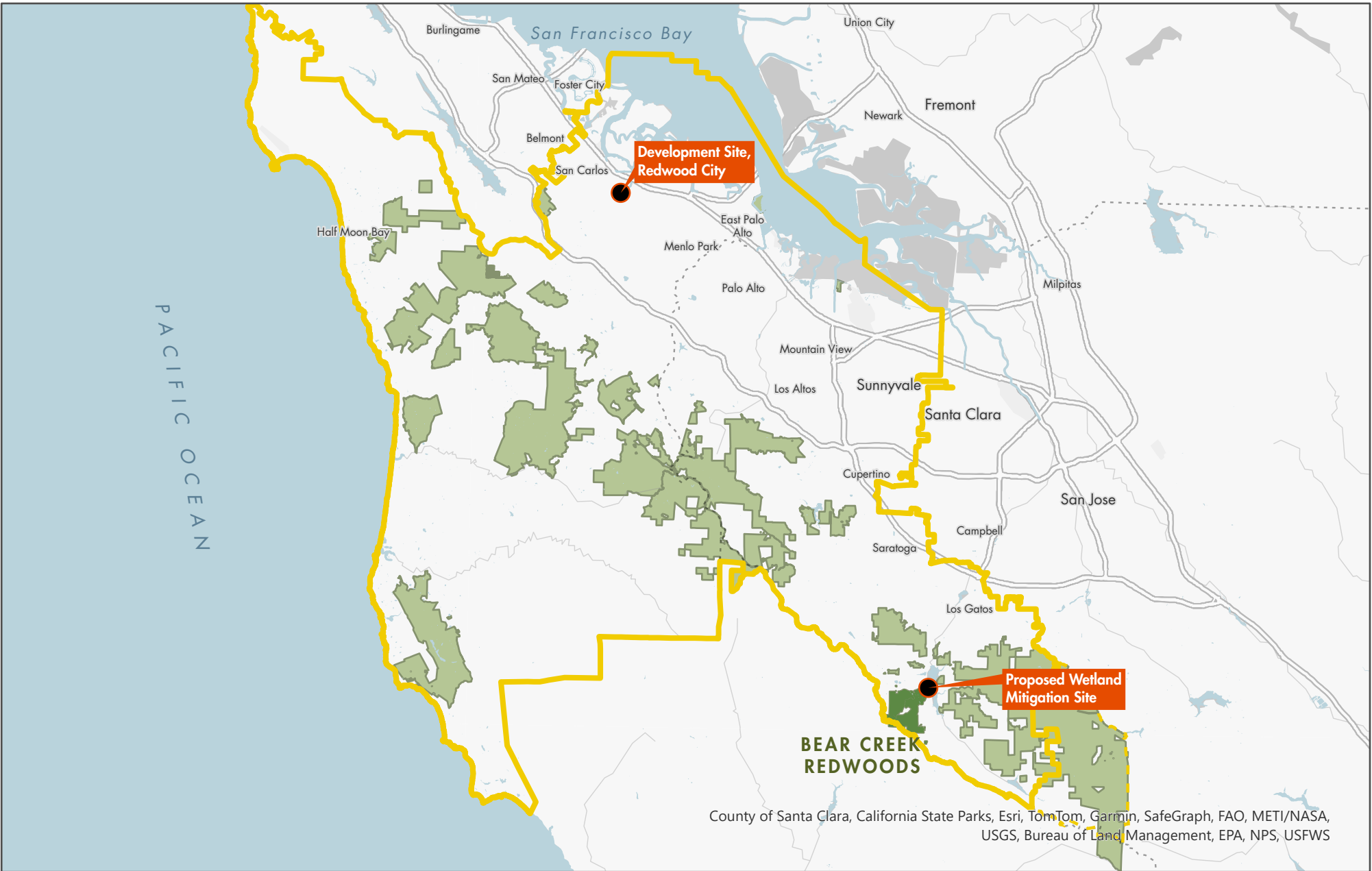
No sensitive species are known on the development site. The area of potential effect is entirely urbanized and provides low habitat suitability for sensitive species. Underground storm drains are located upstream and downstream of the channel, removing most opportunity for wildlife movement.

The mitigation project would provide the foundation for future restoration activities for two rare species known at Bear Creek Redwoods: Hickmann's popcornflower (*Plagiobothrys chorisianus* var. *hickmanii*; CNPS ranking 4.2) and annual water miners' lettuce (*Montia fontana*; locally rare).

## CONCLUSION

Staff conclude that the third-party compensatory mitigation meets the District's criteria as laid out within the Board-approved Mitigation Policy.

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County of Santa Clara, California State Parks, Esri, TomTom, Garmin, SafeGraph, FAO, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, USFWS

### Regional Context of Mitigation Project

 Midpen preserves

## ATTACHMENT 3

Midpeninsula Regional  
Open Space District  
(Midpen)  
6/11/2024



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