



Midpeninsula Regional  
Open Space District

R-12-82  
Meeting 12-29  
August 22, 2012

## AGENDA ITEM 4

### AGENDA ITEM

Consider Approval of a Lease Amendment for the Historic Fremont Older Residence with Morton and Elaine Levine at the Fremont Older Open Space Preserve and Determine that the Recommended Actions are Categorically Exempt from the California Environmental Quality Act (CEQA)

### GENERAL MANAGER'S RECOMMENDATIONS

A handwritten signature in black ink, appearing to be "J. G. ...".

1. Determine that the recommended actions are categorically exempt from the California Environmental Quality Act (CEQA) as set forth in this report.
2. Authorize the President of the Board of Directors to execute the Residential Lease Amendment with Morton and Elaine Levine.

### SUMMARY

The Midpeninsula Regional Open Space District (District) proposes to amend the lease for the Historic Fremont Older Residence with Mort and Elaine Levine to extend their lease term for an additional five years with one option for an addition five year term, adjust the rental rate from \$1,450 to \$1,550 per month, and the continued responsibility of maintaining the historic structures and grounds. Since 1977, the Levines have restored and maintained this historic property and helped conduct annual public tours of this property. The following report provides background information and the proposed lease amendment.

### DISCUSSION

At its meeting in September 1977, the District entered into a 25-year lease with Morton and Elaine Levine for a 1.6-acre area of the former Fremont Older property, which included the main residence and landscaped gardens (see Report R-77-40). This lease arrangement expired on August 31, 2002, and the Levines remained as holdover tenants while staff prepared a new lease. The original lease was entered into for the purpose of restoring the historic structures and gardens in lieu of rent. The historic residence was originally built in 1911 for Fremont Older, a San Francisco newspaper editor, and his wife Cora, a California historian. Prior to entering into

the 25-year lease agreement with the Levines, the District was prepared to demolish the main residence structure, which was badly deteriorated and uninhabitable. The Fremont Older Ranch House Committee approved the historical restoration in October 1979 (see memorandum dated October 18, 1979). During the initial two years of the lease, the Levines restored the main residence and gardens at a cost of \$350,000, and the house and gardens were put on the National Historic Register.

Over the years, the original lease was amended on several occasions (August 1978, and January 1987). The 1987 lease amendment provided for the addition of approximately 0.4-acres, including the Adobe residence that had been used originally as a pool house (in 1977, the District restored the pool house and filled in the badly damaged swimming pool). Including the land from the 1987 lease amendment, the lease area consists of approximately two-acres.

On November 13, 2002, the District Board approved a new five-year lease with one five-year option with Morton and Elaine Levine for the former Fremont Older property, which included the main residence, landscaped gardens and the adobe residence (see Report R-02-121). The Levines exercised the five-year option, therefore the current lease will terminate on August 31, 2012.

In addition to the initial \$350,000 investment made by the Levines in 1978-1979 to restore the main residence and gardens, they estimate they have spent an additional \$461,143 (\$131,143 over the last ten years) for the ongoing maintenance and repair of the structures and grounds. Over the last ten years, the maintenance and repairs have included a new roof and windows for the main residence, an improved water system that serves the Fremont Older residences and the nearby District employee residence, repainting the exterior of the main residence, significant porch repairs and significant septic system repairs for the Adobe residence. Since the completion of the initial restoration work in the late 1970s, the District has conducted annual public tours of the historic residence and garden each spring.

Because the Levines have been excellent stewards and tenants of the historic Fremont Older residence and premises, staff is recommending extending the term of the existing lease for five years with one five-year option to extend the term, for a total of ten additional years on top of the original ten-year lease. The District's enabling legislation allows lease of District-owned property for up to twenty-five (25) years. The proposed lease amendment also calls for maintaining the below market rental rate in exchange for the ongoing repair and maintenance work needed to keep the premises in a first class condition. Further details of the lease amendment are discussed in the terms and conditions section of the report.

## **USE AND MANAGEMENT PLAN**

This lease amendment is consistent with the Use and Management Plan for the Fremont Older Open Space Preserve.

## **CEQA COMPLIANCE**

**Project Description**

The proposed project consists of a lease amendment for existing public structures to extend the lease duration for up to ten years and the associated ongoing repair and maintenance, involving no expansion of use.

**CEQA Determination**

The District concludes that this project will not have a significant effect on the environment. The project is categorically exempt from 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 lease specifies the property will be operated and maintained in the current, condition and there will be no expansion of use.

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

**TERMS AND CONDITIONS**

Staff proposes a lease amendment with the Levines to extend the lease term and adjust the rental rate. The current lease terms and proposed lease terms are explained below:

The following list represents some of the key provisions under the existing 2002 lease agreement:

1. The lease term is from September 1, 2002, to August 31, 2012 (included five-year option).
2. The initial rental rate was \$650 per month plus \$500 per month for the adobe (for a total of \$1,150) and it was increased to \$1,450 per month when the five-year option was exercised in 2007.
3. The Levines were required to conduct the following improvement projects prior to October 15, 2005: Fremont Older Residence: roof replacement, significant repair of front porch and decking, painting of all exterior surfaces. Adobe: repair or replace septic system.
4. The District agreed to be responsible for 25% of the capital costs concerning the water system as the system also serves the Fremont Older employee residence.
5. The Levines are responsible for maintaining and repairing the extensive landscaping and gardens on-site.
6. The lease allows for a sub-tenancy agreement for the one bedroom Adobe residence.
7. In the event that unexpected major repairs or replacements are needed during the lease term, the District and Tenant agree to evaluate the cost of any such repairs or replacements in relation to the rental amount and to adjust such rental amounts as may be appropriate.

8. The lease allows the District to conduct up to three open house tours the historic residence each year.

The proposed lease amendment provides for the continued repair and maintenance of the structures, gardens and grounds during the extended term of the lease. The amendment includes the following changes to the existing 2002 lease agreement:

1. The lease term shall be extended for an additional five years from September 1, 2012, to August 31, 2017 with one five-year option to extend the term.
2. The rental rate shall be increased from \$1,450 per month to \$1,550 per month for the initial term. The rental rate has taken into account the ongoing repair and maintenance costs needed to maintain the historic premises in a first class condition.
3. The rental rate under the five-year option term shall remain flat at \$1,550 per month.
4. The noticing section of the lease shall be updated regarding District contact information.

The flat rental rate during the five-year extension and five-year option takes into consideration the Levines' 35-year commitment to restore and maintain the historic Fremont Older residence, train docents and conduct annual public tours of the historic structures and grounds. All other terms and conditions of the 2002 lease shall remain in full force and effect.

#### **BOARD COMMITTEE REVIEW**

Committee review of this item is not needed.

#### **FISCAL IMPACT**

As the Levines are responsible for general maintenance and repair obligations under the lease, the District should only incur costs associated with any defensible space requirements. Over the five-year lease term, the District will receive up to \$93,000 in rental payments and up to an additional \$93,000 for a total of \$186,000 if the five-year option is exercised. The numbers represent the maximum rental income to the District assuming that there are no unexpected capital improvements needed for the premises as the Levines may be granted a rental credit to help off-set significant capital costs.

#### **PUBLIC NOTICE**

Public notice was also provided as required by the Brown Act.

#### **NEXT STEPS**

Upon approval by the Board of Directors, staff will execute the lease amendment.

Attachments:

1. Resolution
2. Map

Responsible Department Manager:  
Mike Williams, Real Property Manager

Prepared by:  
Allen Ishibashi, Real Property Specialist

Contact person:  
Same as above

Graphics prepared by:  
Alex Roa, GIS Technician

**RESOLUTION NO. 12-XX**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
MIDPENINSULA REGIONAL OPEN SPACE DISTRICT APPROVING  
LEASE AMENDMENT WITH MORTON AND ELAINE LEVINE FOR  
THE HISTORIC FREMONT OLDER RESIDENCE (FREMONT  
OLDER OPEN SPACE PRESERVE)**

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The Board of Directors of the Midpeninsula Regional Open Space District does hereby resolve:

Section One. The 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 the Board of Directors hereby finds that the proposed lease premises located in the Fremont Older Open Space Preserve remains presently unnecessary for open space purposes and that continuation of the lease for historical preservation is in the best interests of the public.

Section Two. The Board of Directors of the Midpeninsula Regional Open Space District approves the Lease Amendment between Midpeninsula Regional Open Space District and Morton and Elaine Levine and does hereby authorize the President, General Manager or other appropriate officers to execute said Lease Amendment on behalf of the District.

Section Three. The General Manager or the General Manager’s designee is hereby authorized to negotiate and approve the exercise of the subsequent five-year lease option as set forth in the Lease Amendment. The General Manager is further authorized to execute any and all other documents necessary or appropriate to the completion of such transactions.

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### Lease Area for Historic Fremont Older Residence

-  Lease Area (2 Acres +/-)
-  Water System
-  Fremont Older Open Space Preserve
-  Structures

Midpeninsula Regional Open Space District (MROSD)



August, 2012



To District Employee Residence  


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.