

- e. Adopt a Resolution Authorizing the City Manager to Enter Into an Agreement with Midpeninsula Regional Open Space District for Management of Trail Access to Pulgas Ridge Open Space Preserve from the End of Los Vientos Way.



CITY COUNCIL STAFF REPORT

MEETING DATE: June 24, 2024

ITEM TITLE: Adopt a Resolution Authorizing the City Manager to Enter Into an Agreement with Midpeninsula Regional Open Space District for Management of Trail Access to Pulgas Ridge Open Space Preserve from the End of Los Vientos Way.

RECOMMENDATION:

Staff recommends that the City Council authorize the City Manager to enter into an agreement with Midpeninsula Regional Open Space District (Midpen) for management of trail access to Pulgas Ridge Open Space Preserve from the end of Los Vientos Way.

FISCAL IMPLICATIONS:

There is no fiscal impact and no additional appropriation is needed. The cost to service the trash and recycling receptacles and provide dog waste disposal bags will be covered by the Parks Maintenance operating budget.

BACKGROUND:

At its September 11, 2023 City Council meeting, the Council adopted a Resolution making a finding that hiking and pedestrian use of the one-foot wide, no-access strip and easement dedicated to and accepted by the City of San Carlos, at the end of Los Vientos Way, is consistent with the public use granted. Subsequently, the Mayor sent a letter to the Midpen Board formally supporting the public trail access point at this location and asking the Board to consider opening the gate.

At its February 14, 2024 Midpen Board Meeting, the Board unanimously approved public access into Pulgas Ridge Open Space be opened at the end of Los Vientos Way. As part of this agenda item, a Board request was made to formalize the responsibilities of the City of San Carlos and Midpen by entering into an agreement.

Following both the San Carlos City Council action and Midpen Board action, Midpen park rangers and City staff began work in April to remove the existing fence and install a pedestrian gate. In addition, a dog waste bag dispenser, trash and recycling receptacles, and signage were also installed. Public access into the preserve officially opened on Friday, April 26, 2024.

ANALYSIS:

The agreement between Midpen and the City of San Carlos (Attachment 1) outlines the

responsibilities of each party. The formal agreement has been reviewed and accepted by the City and Midpen's legal staff. At its May 22, 2024 Board Meeting, Midpen's Board unanimously authorized the General Manager to enter into an agreement with the City of San Carlos regarding the management of the public access into Pulgas Ridge Open Space Preserve at the end of Los Vientos Way.

ALTERNATIVES:

The alternatives available to the City Council include:

1. Adopt a Resolution authorizing the City Manager to enter into an agreement with Midpeninsula Regional Open Space District for management of trail access to Pulgas Ridge Open Space Preserve from the end of Los Vientos Way; or
2. Do not adopt the Resolution; or
3. Provide staff with alternative direction.

Respectfully submitted by:

Amy Newby, Parks & Recreation Director

Approved for submission by:



Jeff Maltbie, City Manager

ATTACHMENT(S):

1. Resolution for Agreement with Midpeninsula Regional Open Space District
2. Partnership Agreement

RESOLUTION NO. 2024 – ____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CARLOS
AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH
MIDPENINSULA REGIONAL OPEN SPACE DISTRICT FOR MANAGEMENT OF TRAIL
ACCESS TO PULGAS RIDGE OPEN SPACE PRESERVE FROM THE END OF
LOS VIENTOS WAY.**

WHEREAS, under the Recreation Services goal of the 2024 City Council Strategic Plan, the Council included an objective to assess new opportunities to implement the Trails Connection Plan recommendations for public trails; and

WHEREAS, the Parks and Recreation Element of the General Plan and the 2012 Hillside Trails Plan include a vision for the establishment of a public pedestrian trailhead into the Pulgas Ridge Open Space Preserve (“Preserve”) at the end of Los Vientos Way, a public street owned by the City; and

WHEREAS, Midpeninsula Regional Open Space District’s (“District”) mission is to acquire, restore, preserve and protect, in perpetuity, open space land as part of the regional greenbelt, and to provide opportunities for ecologically sensitive public enjoyment and education; and

WHEREAS, the City and the District desire to further their common goal to provide public regional trails that increase access to open space and further the recreational opportunities of their constituents; and

WHEREAS, the City has found that pedestrian access over and across the one-foot-wide no access easement at the end of Los Vientos Way is consistent with the public purposes of the easement and requested that the District provide a public trailhead at this location into the Preserve; and

WHEREAS, on February 14, 2024, the District approved creation of a public trailhead into the Preserve at the end of Los Vientos Way; and

WHEREAS, the City and District wish to cooperate and specify their respective roles in establishing, managing, and maintaining the new public trailhead and access point at the end of Los Vientos Way.

NOW, THEREFORE BE IT RESOLVED, that the San Carlos City Council hereby authorizes City Manager to enter into an agreement with Midpeninsula Regional Open Space District for management of trail access to Pulgas Ridge Open Space Preserve from the end of Los Vientos Way.

* * * * *

I, City Clerk Crystal Mui, hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of San Carlos at a scheduled meeting thereof held on the 24th day of June 2024, by the following vote:

AYES, COUNCILMEMBERS:

NOES, COUNCILMEMBERS:

ABSENT, COUNCILMEMBERS:

CITY CLERK of the City of San Carlos

APPROVED:

MAYOR of the City of San Carlos

**PARTNERSHIP AGREEMENT BETWEEN THE CITY OF SAN CARLOS AND
THE MIDPENINSULA REGIONAL OPEN SPACE DISTRICT FOR PUBLIC ACCESS
TO PULGAS RIDGE OPEN SPACE PRESERVE AT LOS VIENTOS WAY**

THIS AGREEMENT is entered into by and between the CITY OF SAN CARLOS, a municipal corporation under the laws of California ("CITY") and the MIDPENINSULA REGIONAL OPEN SPACE DISTRICT, an independent public district under the laws of California ("DISTRICT"). For purposes of this Agreement, each of CITY and DISTRICT may be individually referred to as a "Party," and collectively as the "Parties."

RECITALS

WHEREAS, DISTRICT's mission is to acquire, restore, preserve and protect, in perpetuity, open space land as part of the regional greenbelt, and to provide opportunities for ecologically sensitive public enjoyment and education; and

WHEREAS, DISTRICT'S Board of Directors approved the "*Priority Action - Pulgas Ridge: Regional and Neighborhood Trail Extensions*" as one of the 54 priority actions of the Open Space Vision Plan (priority action #26) on January 29, 2014; and

WHEREAS, CITY's Parks and Recreation Element of the General Plan and the 2012 Hillside Trails Plan includes a vision for the establishment of a public pedestrian trailhead into the DISTRICT'S Pulgas Ridge Open Space Preserve ("Preserve") at the end of Los Vientos Way, a public street owned by the CITY (the "Project"); and

WHEREAS, CITY and DISTRICT desire to further their common goal of providing public regional trails that increase access to open space and further the recreational opportunities of their constituents; and

WHEREAS, CITY has found that pedestrian access over and across the one-foot-wide no access easement at the end of Los Vientos Way is consistent with the public purposes of the easement and requested that the DISTRICT provide a public trailhead at this location into the Preserve; and

WHEREAS, DISTRICT has approved creating a public trailhead into the Preserve at the end of Los Vientos Way;

WHEREAS, CITY and DISTRICT wish to cooperate and specify their respective roles in establishing, managing and maintaining the new public trailhead and access point at the end of Los Vientos Way;

NOW, THEREFORE, in consideration of the mutual promises, covenants and obligations contained herein, CITY and DISTRICT agree:

1. **Term.** The term of this Agreement shall commence upon the full execution hereof by the duly authorized representatives of the CITY and the DISTRICT and continue until terminated by either Party as set forth herein.
2. **Project Establishment, Management and Maintenance.** The Parties' duties to establish, manage and maintain the Project shall be as set forth below. The general intent is for each Party to be responsible for any improvements or issues that occur on their respective properties (*i.e.*, the District's Preserve or City's rights-of-way), except as expressly specified herein.
 - a. CITY will install a garbage receptacle within Los Vientos Way and maintain and regularly service it as needed to prevent it from overflowing. The garbage receptacle will be a DISTRICT-approved design to exclude wildlife from removing and feeding on garbage. CITY will provide a dog waste bag receptacle and will regularly resupply dog waste bags to ensure the dispenser is reasonably stocked.
 - b. CITY shall remain responsible for the management, maintenance and repair of the CITY rights-of-way in the Project vicinity, including, without limitation, Los Vientos Way and Crestview Drive. Such responsibilities include parking management, street improvements or street signage in connection with the Project as determined in the City's sole discretion. CITY also will be responsible for responding to inquiries or complaints regarding parking in the vicinity of the Project.
 - c. DISTRICT will replace the existing chain link fence and gate located at the Preserve boundary with Los Vientos Way with a new vehicle gate and standard DISTRICT fencing. DISTRICT will provide its standard regulatory and trail directional signage at the trail entrance. District will be responsible for the maintenance and repair of any improvements it installs in the Preserve in connection with the Project.
 - d. DISTRICT will be responsible for managing and responding to public inquires and complaints regarding the Preserve.
3. **Public Access Restrictions.** The Preserve will generally be open for public use ½ hour before sunrise to an ½ hour after sunset and closed outside those hours. The DISTRICT may temporarily obstruct or restrict public access through the Project site if, in the DISTRICT's reasonable discretion, it determines that such restrictions are necessary for public safety, research, natural resources protection, trail conditions, maintenance work or other temporary closures necessary to conduct the work of the DISTRICT. Furthermore, nothing in this Agreement shall be construed to limit the DISTRICT's right to manage the Preserve at its discretion including the types of uses allowed in the Preserve. However, neither Party shall permanently obstruct or close public pedestrian access at the end of Los Vientos Way into the Preserve without that Party having attempted to consult with the other Party pursuant to the process in Section 6 below, and having provided a minimum of six months' advance written notice to the other Party.
4. **Insurance.** At all times during the term of this Agreement, CITY shall carry general liability insurance, or a policy of self-insurance, including owned, non-owned and hired auto; property damage; and death and bodily injury, covering its risks arising out of the

performance of any acts pursuant to this Agreement or relating to its operation of the Project. DISTRICT shall be named as additional insured on the policy. Said policy shall be in an amount not less than Two Million Dollars (\$2,000,000) for bodily injury and property damage liability in aggregate per occurrence combined single limit and One Million Dollars (\$1,000,000) combined single limit for auto liability. CITY shall furnish DISTRICT with a Certificate of Insurance evidencing such insurance coverage. At all times during the term of this Agreement DISTRICT shall carry general liability insurance, or a policy of self-insurance, including owned, non-owned and hired auto; property damage; and death and bodily injury, covering its risks arising out of the performance of any acts pursuant to this Agreement or relating to its operation of the Project. CITY shall be named as additional insured on the policy. Said policy shall be in an amount not less than Two Million Dollars (\$2,000,000) for bodily injury and property damage liability in aggregate per occurrence combined single limit and One Million Dollars (\$1,000,000) combined single limit for auto liability. DISTRICT shall furnish CITY with a Certificate of Insurance evidencing such insurance coverage.

5. **Indemnification.** In lieu of and notwithstanding the pro rata risk allocation, which might otherwise be imposed between the Parties pursuant to Government Code Section 895.6, the Parties agree that all losses or liabilities incurred by a Party shall not be shared pro rata but, instead, DISTRICT and CITY agree that, pursuant to Government Code Section 895.4, each of the Parties hereto shall fully indemnify and hold each of the other Parties, their officers, board members, employees, and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined in Government Code 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying Party, its officers, employees, or agents, under or in connection with or arising out of any work, authority, or jurisdiction delegated to such Party under this Agreement. No party, nor any officer, board member, or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other Party hereto, its officers, board members, or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other Party hereto, its officers, board members, employees, or agents, under or in connection with or arising out of any work authority or jurisdiction delegated to such other Party under this Agreement. The rights, duties, and obligations of the Parties as set forth above in this section survive termination, expiration, and suspension of this Agreement.
6. **Termination, Failure to Perform, and Dispute Resolution.** In the event of a dispute between the Parties in connection with this Agreement, the Parties shall first meet at the project manager level to attempt to resolve the matter. If the dispute is not resolved at the project manager level, the Parties shall meet at the City Manager / General Manager level to attempt to resolve the matter. If the matter remains in dispute following these meetings, either Party may terminate this Agreement upon six months advance written notice without attempts at further dispute resolution.
7. **Applicable Laws.** This Agreement shall be construed and enforced pursuant to the laws of the State of California with venue in the County of San Mateo.

8. **Notices.**

Any notice required to be given to DISTRICT shall be deemed to be duly and properly given if mailed, postage prepaid with a receipt and signature from the receiving party, and addressed to:

Midpeninsula Regional Open Space District
Attn: General Manager
5050 El Camino Real
Los Altos, CA 94022

or personally delivered to DISTRICT at such address or at such other address as DISTRICT may designate in writing to CITY.

Any notice required to be given to CITY shall be deemed to be duly and properly given if mailed, postage prepaid with a receipt and signature from the receiving party, and addressed to:

City of San Carlos
Attn: City Manager
600 Elm Street
San Carlos, CA 94070

or personally delivered to CITY at such address or such other address as CITY may designate in writing to DISTRICT, with a receipt and signature from the receiving party.

9. **Amendment.** This Agreement contains all of the terms, covenants, and conditions agreed to by the Parties and may not be modified orally or in any manner other than by an agreement in writing signed by both Parties or their respective successors in interest. The Parties may amend this Agreement in writing as necessary to accommodate evolving conditions to effectuate the purpose of the Agreement. In particular, the Parties agree to coordinate on the development of the East Boundary Ridge Trail and amend this agreement, if needed, to accommodate a separate trail access into the preserve, at such time as the City and County of San Francisco agree to provide trail access onto their property. The Parties agree to timely meet, and to negotiate in good faith on any requests for amendment.
10. **Waiver.** The failure of any party to insist upon a strict performance of any of the terms, conditions and covenants contained herein shall not be deemed a waiver of any rights or remedies that the Parties may have and shall not be deemed a waiver of any subsequent breach or default of the terms, conditions and covenants contained herein.
11. **Severability.** If any one or more of the covenants or agreements or portions thereof provided in this Agreement shall be held by a court of competent jurisdiction in a final judicial action to be void, voidable or unenforceable, such covenant or covenants, such agreement or agreements or such portions thereof shall be null and void and shall be deemed separable from the remaining covenants or agreements or portions thereof and shall in no way affect the validity or enforceability of the remaining portions of this Agreement.

12. **Time of the Essence.** Time is of the essence as to all of the provisions of this Agreement as to which time of performance is a factor.

13. **Survival.** The terms and conditions of this Agreement, which by their nature may extend beyond termination of this Agreement, shall survive the expiration or termination of this Agreement to the full extent necessary for their enforcement and for the protection of the Party in whose favor they operate.

14. **Captions.** The captions in the articles of this Agreement are inserted for convenience purposes only and shall not affect the terms of this Agreement.

15. **Counterparts.** This agreement may be executed in duplicate counterparts, each of which will be deemed an original.

16. **Authority.** Each of the parties represent and warrant that they have the right, power, legal capacity and authority to enter into and perform their respective obligations under this Agreement.

IN WITNESS WHEREOF, CITY and DISTRICT execute this Agreement.

CITY OF SAN CARLOS

By: _____

Date: _____

City Manager

Attest: _____

Approved as to form: _____

City Clerk

City Attorney

MIDPENINSULA REGIONAL OPEN SPACE DISTRICT

By: _____

Date: _____

General Manager

Attest: _____

Approved as to form: _____

District Clerk

General Counsel