

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, 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 093-590-060, a portion of 093-590-050, and CCSF Parcel 47 491 or 1 (“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

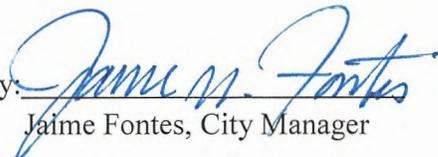
Menlo: City of Menlo Park
City Manager
701 Laurel Street
Menlo Park, CA 94025

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

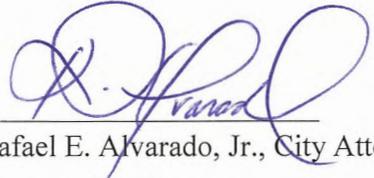
15. Execution of Agreement; Counterparts. This Agreement may be executed by the Parties in counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

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

CITY OF EAST PALO ALTO:

By: 
Jaime Fontes, City Manager
Date: 4/2/2019

Approved as to Form:

By: 
Rafael E. Alvarado, Jr., City Attorney
Date: 4/2/2019

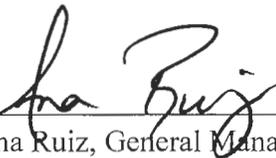
CITY OF MENLO PARK:

By: _____
Starla Jerome-Robinson, City Manager
Date: _____

Approved as to Form:

By: _____
William L. McClure, City Attorney
Date: _____

MIDPENINSULA REGIONAL OPEN
SPACE DISTRICT

By: 
Ana Ruiz, General Manager
Date: 7-11-19

Approved as to Form:

By: 
Hilary Stevenson, General Counsel
Date: 7/10/2019

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

CITY OF EAST PALO ALTO:

Approved as to Form:

By: _____
Jaime Fontes, City Manager

By: _____
Rafael E. Alvarado, Jr., City Attorney

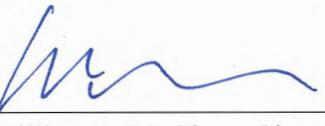
Date: _____

Date: _____

CITY OF MENLO PARK:

Approved as to Form:

By:  _____
Starla Jerome-Robinson, City Manager

By:  _____
William L. McClure, City Attorney

Date: 6/12/19 _____

Date: 6/12/19 _____

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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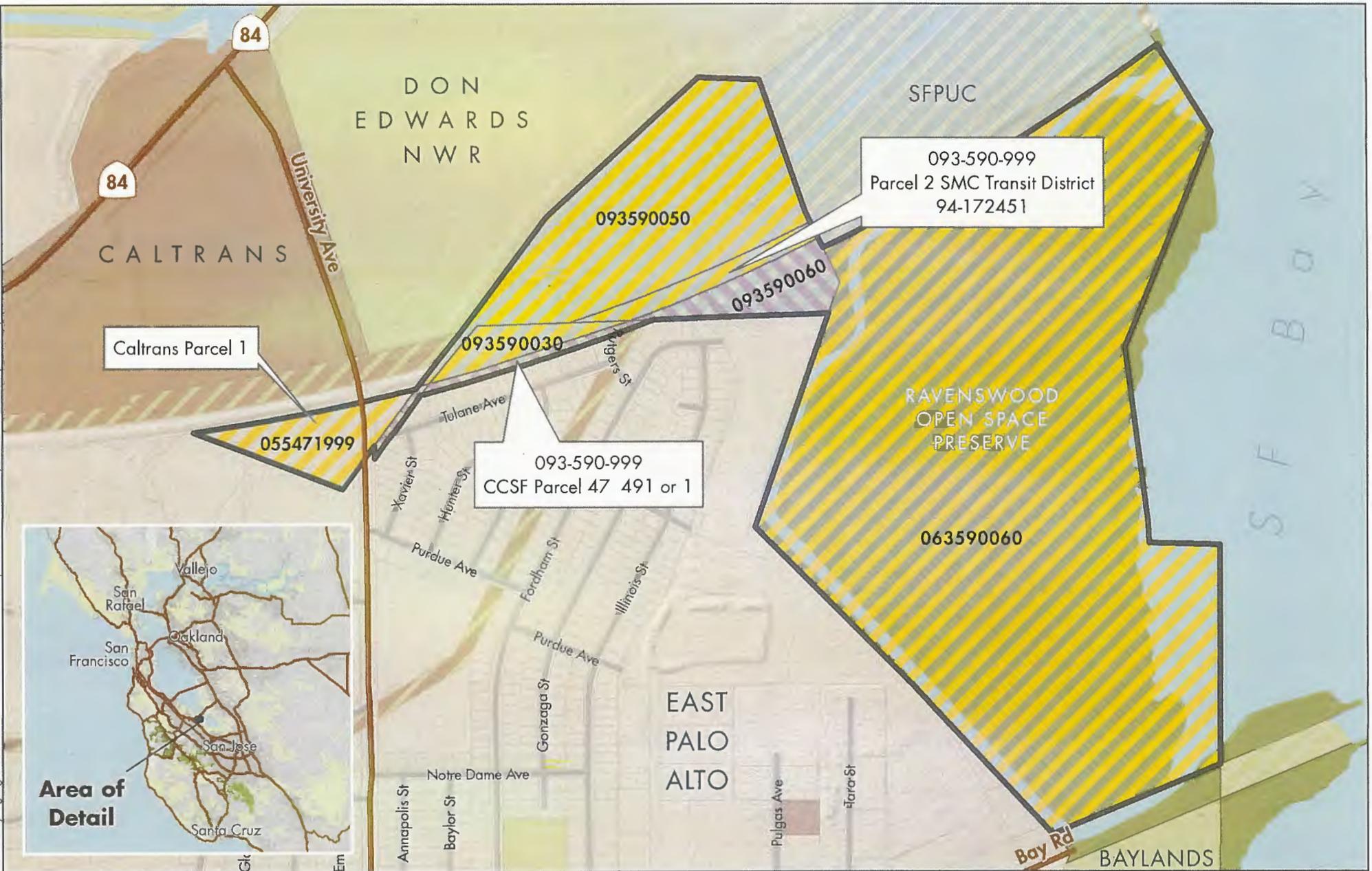


Exhibit A: Ravenswood Bay Trail Project Parcels

-  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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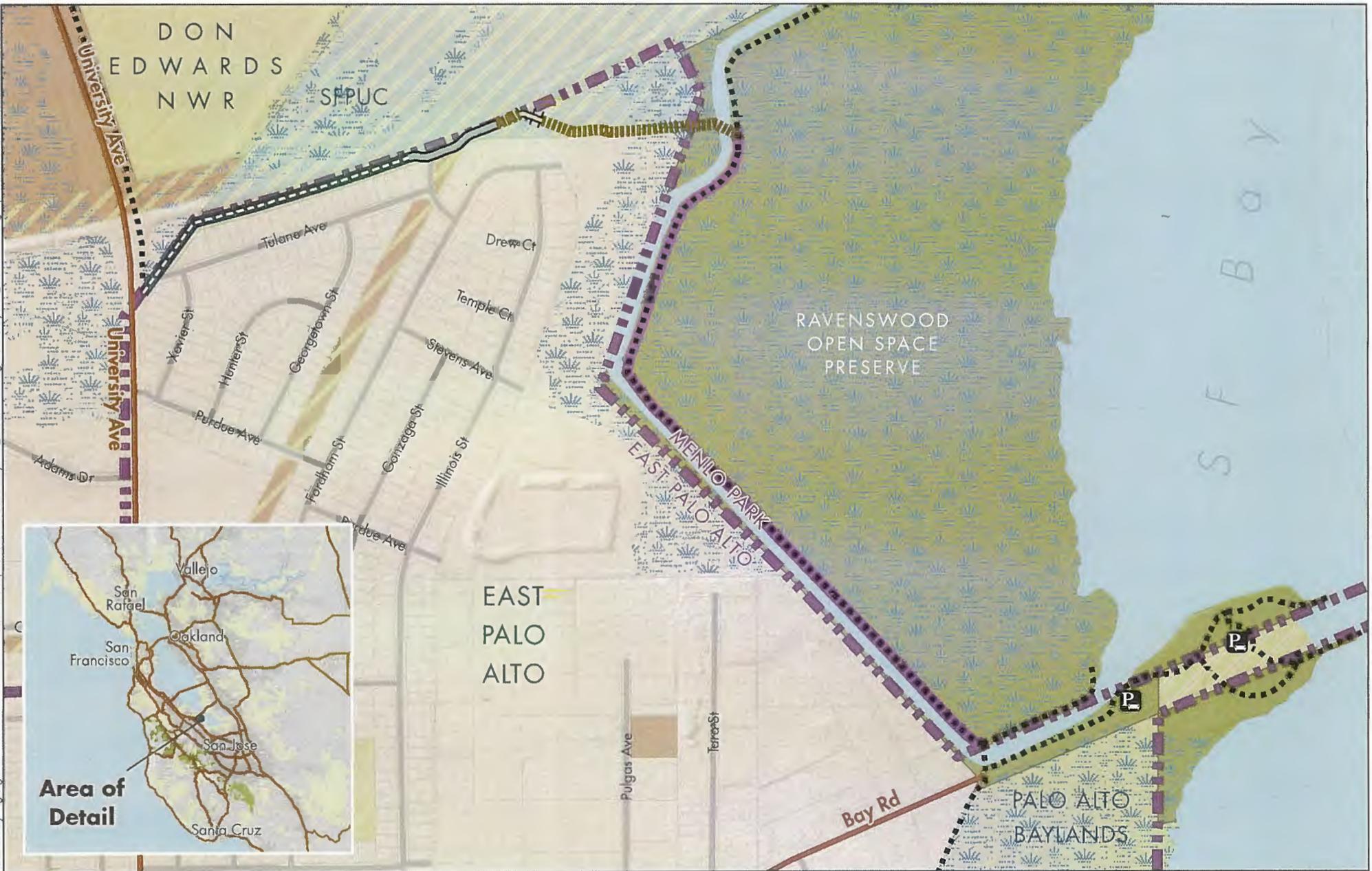


Exhibit B: Ravenswood Bay Trail Improvements

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

Midpeninsula Regional
 Open Space District
 (MROSD)
 January 2019



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