



A duly executed copy of this document has been received and placed on file.

Date: 2/6/08

Meeting Date: 02/06/08  
Agenda Item: 5  
Manager: B. Goldie  
Extension: 2634  
Director: P. Kwok/T. Estremera

**CONFORMED COPY**  
**BOARD AGENDA MEMO**

Discussion     Action     Consent     Information

**SUBJECT:** Amendment to Joint Use Agreement With the City of Cupertino for Bicycle and Pedestrian Path Along Regnart Creek

**RECOMMENDATION:**

1. Consider the potential environmental effects of the project discussed in the Negative Declaration prepared by the City of Cupertino (City) (Attachment 2).
2. Authorize the interim Chief Executive Officer (CEO) to execute the amendment to the Joint Use Agreement (Agreement) with the City (Attachment 3).
3. Authorize the Chair of the Board of Directors to sign the proposed transmittal letter (Attachment 4).

**RATIONALE:**

An amendment (Attachment 3) of the existing Agreement is requested by the City to encumber the additional District lands for recreational purposes along Regnart Creek.

Executive Limitations Policy No. EL-5, Item 5.9, requires that the Board make all decisions regarding the acquisition, encumbrance, or disposal of real property. This amendment to the Agreement, authorizing joint use with the City, encumbers additional District property and is presented to the Board for consideration and delegation of authority to the CEO to execute the agreement.

This amendment also supports Board Ends Policy 3.3.1 which states "Public access to 70 miles of trails along creeks and access to open space by the year 2016 consistent with Measure B." This provides an additional 0.04 miles of trails to support the policy.

**SUMMARY:**

The location of the property is shown as Attachment 1.

On January 20, 2004, the City and the District entered into a 30-year term Agreement for the purpose of allowing recreational uses of District property along Regnart Creek at De Palma

**SUBJECT:** Amendment to Joint Use Agreement With the City of Cupertino for Bicycle and Pedestrian Path Along Regnart Creek

02/06/08

Lane. The City desires to amend the Agreement to extend the limits of the pathway along Regnart Creek up to the terminus of De Palma Lane as shown on Exhibit B. The additional lands provide for 200 feet (0.04 miles) of trail. The premises subject to this amendment are also subject to use for vehicular access as described by the Grant Deeds adopted on December 18, 1961 and January 2, 1962. The Grant Deeds grant the owners of the property at 20055 and 20065 De Palma Lane the right to construct an access road within the District property. The City and the developer have worked together to accommodate the vehicular access and pedestrian path in the design of the development.

Pending the Board's consent of the recommended actions, a District construction/encroachment permit can be issued for the proposed trail construction.

**CEQA REQUIREMENTS:**

The City, acting as a lead agency for the trail project, approved a Negative Declaration for the development at 20055 and 20065 De Palma Lane in July 2006. Later, the City prepared an Environmental Assessment Addendum to the Negative Declaration to include the trail construction.

As a fee title owner of the property where the trail will be constructed and a permitting agency, the District is a responsible agency under CEQA for this project. The District may rely upon the Lead Agency's CEQA analyses prior to approving the Agreement. In its findings for the project, the City states that the project is consistent with the City's General Plan and there are no significant environmental effects. The addendum identifies that the residential development will be subject to the construction best management practices to mitigate for the potential impacts on storm water quality. Provisions will be included in the District's permit for the project, as appropriate, to ensure that the mitigation measures are included in the project delivery.

The final Negative Declaration is included as Attachment 2.

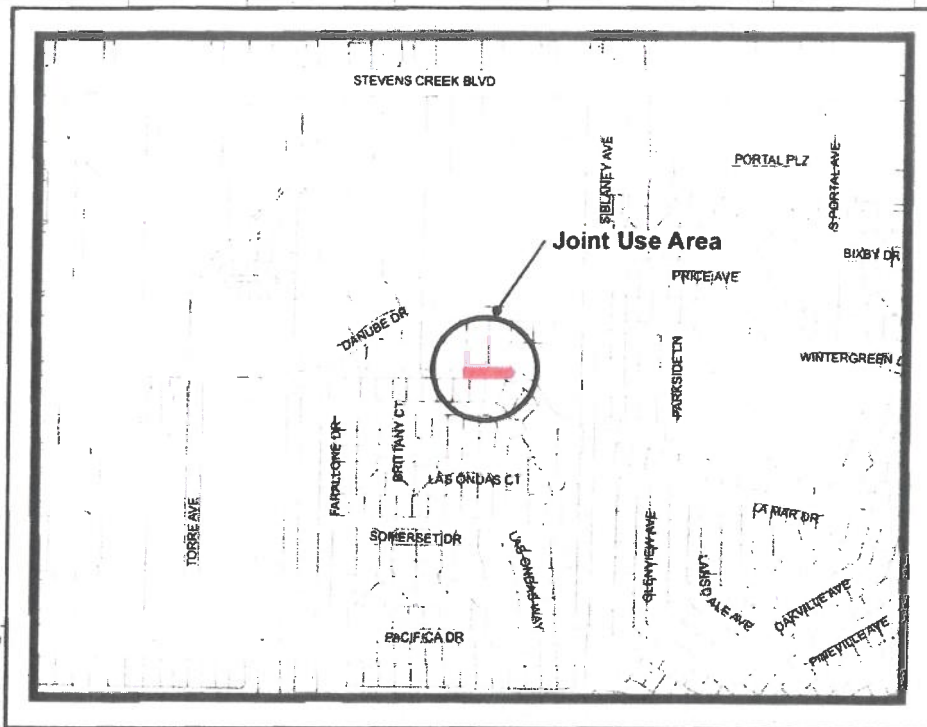
**PUBLIC OUTREACH:**

District staff worked with the City to develop the amendment.

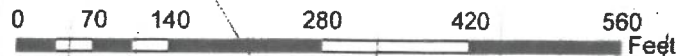
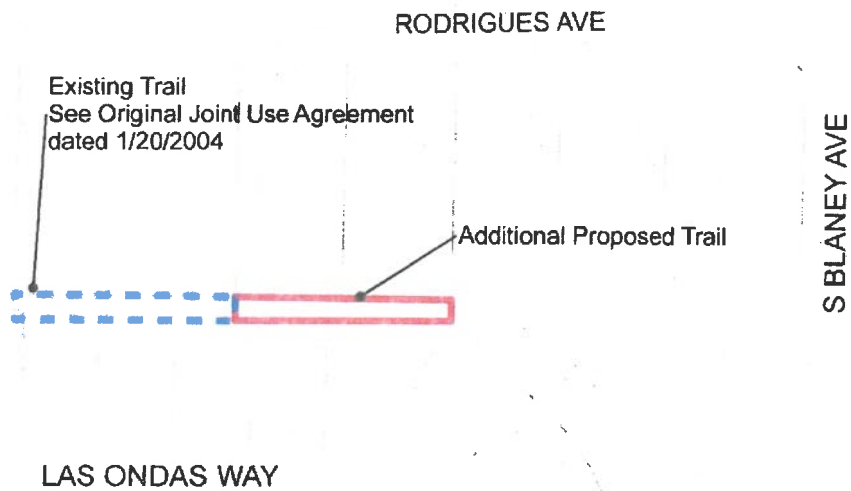
**FINANCIAL IMPACT:**

There is no immediate or direct financial impact with the approval of the amendment.

-  Existing Trail
-  SCVWD Fee



**LOCATION MAP**



Santa Clara Valley Water District  
 5750 Almaden Expressway  
 San Jose, CA 95118-3614



**Regnart Creek Trail  
 Joint Use Agreement  
 Santa Clara Valley Water District  
 And  
 City of Cupertino**

**ATTACHMENT**

**1**

**AMENDMENT  
TO THE JOINT USE AGREEMENT BETWEEN THE  
CITY OF CUPERTINO  
AND  
SANTA CLARA VALLEY WATER DISTRICT  
ALONG REGNART CREEK**

This agreement is made and entered into on this 6th day of FEB, 2008, ("Effective Date") by and between the City of Cupertino, a chartered California municipal corporation, with its principal place of business located at 10300 Torre Avenue, Cupertino, California 95014 ("City") and Santa Clara Valley Water District, a California public entity, with its principal place of business located at 5750 Almaden Expressway, San Jose, California 95118 ("District"). District and City may be referred to herein individually as a "Party" or collectively as the "Parties".

**RECITALS**

- A) Whereas, the Parties entered into an agreement entitled "JOINT USE AGREEMENT" (Agreement), effective January 20, 2004 for recreational purposes on premises along Regnart Creek; and
- B) Whereas, the Parties now wish to amend the Agreement to include additional lands as shown on Exhibit B.
- C) Whereas the parties recognize that the premises subject to this amendment are used for vehicular access as described by the Grant Deeds adopted December 18, 1961 and January 2, 1962.

The Parties agree to amend the Agreement as follows:

**AGREEMENT PROVISIONS**

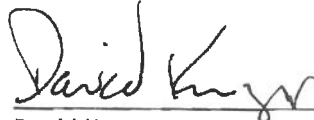
- 1) Exhibit A to the original Agreement (attached), is hereby amended as set forth in Exhibit B attached to this Amendment and incorporated by this reference. The alignment of a bicycle and pedestrian access path shall be along Regnart Creek (a portion of APN 369-32-036) at the terminus of DePalma Lane.
- 2) All other terms of the original Agreement, not specifically modified by this Amendment shall remain in full force and effect.

The Parties acknowledge and accept the terms and conditions of this Amendment as evidenced by the following signatures of their duly authorized representatives. It is the intent of the Parties that this Amendment shall become operative on the Effective Date first set forth above.

**CITY OF CUPERTINO, CALIFORNIA**

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Charles Kilian  
City Attorney

 2.25.08  
\_\_\_\_\_  
David Knapp  
City Manager

ATTEST:

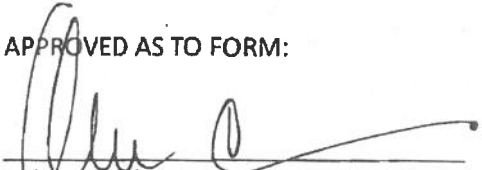
  
\_\_\_\_\_  
Kim Marie Smith  
City Clerk

10300 Torre Avenue  
Cupertino, CA 95014  
Telephone: (408) 777-3212  
Facsimile: (408) 777-3366

"City"

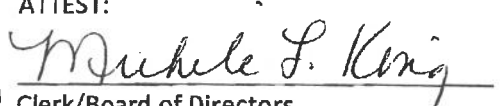
**SANTA CLARA VALLEY WATER DISTRICT,  
a public entity**

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Debra Cauble  
District Counsel

  
\_\_\_\_\_  
Olga Martin Steele  
Chief Executive Officer

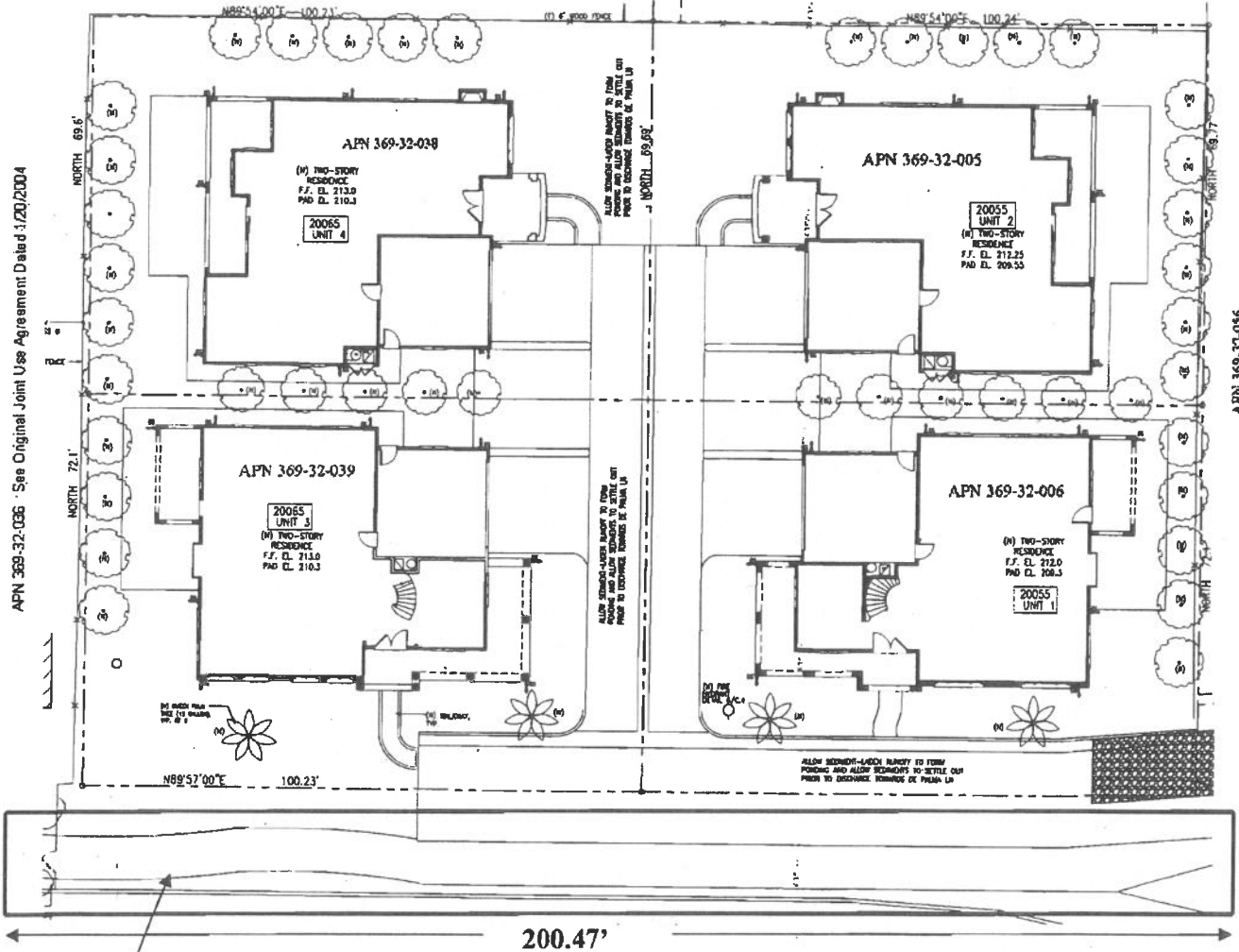
ATTEST:

  
\_\_\_\_\_  
acting Clerk/Board of Directors

5750 Almaden Expressway  
San Jose, CA 95118  
Telephone: (408) 265-2600  
Facsimile: (408) 266-2897

"District"

# 20055 / 20065 DE PALMA LANE Amendment



APN 369-32-036 - See Original Joint Use Agreement Dated 1/20/2004

APN 369-32-036

Additional  
Joint Use  
Agreement Area

## EXHIBIT "B"

REGNART CREEK TRAIL  
JOINT USE AGREEMENT  
SANTA CLARA VALLEY WATER DISTRICT  
AND  
CITY OF CUPERTINO



Location Map