



MOUNTAINS RECREATION & CONSERVATION AUTHORITY

Los Angeles River Center and Gardens
570 West Avenue Twenty-six, Suite 100
Los Angeles, California 90065
Phone (323) 221-9944 Fax (323) 221-9934

June 10, 2005

Elizabeth A. Cheadle, Chairperson
Santa Monica Mountains Conservancy
5750 Ramirez Canyon Road
Malibu, California 90265

Grant Agreement Number SMM-882

Dear Ms. Cheadle:

The Mountains Recreation and Conservation Authority (MRCA) respectfully requests that the project description for grant Number SMM-882 be amended in part to include the projects listed on the attached Exhibit A. In addition, the MRCA requests that the project performance period be extended to June 10, 2005.

Grant Agreement Number SMM-882 funds were used to acquire two properties - Chapter and Natoma Canyons and the West Mulholland Trailhead. On June 9, 2003, the Chapter and Natoma Canyons were sold by the MRCA to the Department of Parks and Recreation for four million dollars. One half of the proceeds of the sale were applied to the Verdugo Hills Oakmont acquisition. The MRCA had originally intended to use the remainder of the proceeds to make improvements to the West Mulholland Trailhead. The MRCA has spent approximately two hundred thousand dollars to date on project design for West Mulholland Trailhead improvements. The MRCA has since determined that there are other projects to which the remaining funds should be applied.

The MRCA requests that the remaining funds be applied to the projects described in Exhibit A, which include legal fees incurred in litigation to complete the Eastport and Soka transactions and a number of acquisition and improvement projects that required additional funds to complete the projects.

Section 6 D of the grant agreement requires the MRCA to submit any significant deviation from the original project scope to the Santa Monica Mountains Conservancy for approval. Section 6 G of the grant agreement provides that after project commencement the grant agreement may be amended by mutual agreement in writing.

In addition to the terms and conditions of the grant agreement, this request complies the State Public Works Board resolution and with the terms of the Property Acquisition Agreement for the Chapter and Natoma Canyons transaction. The Resolution and Property
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Acquisition Agreement require the MRCA to use the proceeds of the sale “in a manner approved by the original granting authorities [i.e., SMMC] and consistent with the original grants and underlying statutes associated with Propositions 13 and 12.” One half of the proceeds of the sale have already been applied to an approved Proposition 13 project - namely the Oakmont acquisition.

Public Resources Code section 5096.353 (Proposition 12) provides that the Santa Monica Mountains Conservancy is authorized to use the funds allocated to the Conservancy for grants for acquisition from a willing seller, enhancement and restoration of natural lands, and improvement of public recreational facilities.

The attached list of projects consists of acquisitions of parkland and natural areas, and improvements to parkland and natural areas and to public recreational facilities.

In addition, the attached project description includes legal expenses that are incidentally but directly related to the acquisition of the 1518 acre Eastport property by the MRCA and legal expenses related to the Soka acquisition contemplated by the voluntary settlement agreement previously entered into with Soka University in 1996. Although the recent acquisition has made the agreement moot, that settlement agreement would have resulted in MRCA’s acquisition of over 300 acres of the Soka property in fee from a willing seller. As you know, the fee acquisition did not take because of failure of conditions precedent totally outside the control of MRCA, but the Soka open space easement was acquired by MRCA and recorded against the property. The MRCA has been advised by the Staff Counsel of the Conservancy that expenses, including legal expenses, that are incidentally but directly related to an acquisition or improvement project are appropriate Proposition 12 expenditures.

In light of the complicated issues and sophisticated expertise required, applying the “but for” test to these legal costs, neither the Eastport nor Soka settlement agreement and open space easement acquisition would have occurred without these expenditures.

Sincerely,

Michael Berger
Chairperson