



# MOUNTAINS RECREATION & CONSERVATION AUTHORITY

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## MEMORANDUM

TO: The Governing Board

FROM:  Joseph T. Edmiston, FAICP, Hon. ASLA, Executive Officer

DATE: February 10, 2010

SUBJECT: **Agenda Item V: Consideration of resolution authorizing augmentation of the contract with Dudek and Associates, Inc. for work on the Malibu Parks Public Access Enhancement Plan and associated Environmental Impact Report.**

Staff Recommendation: That the Governing Board adopt the attached resolution authorizing augmentation of the contract with Dudek and Associates, Inc. for work on the Malibu Parks Public Access Enhancement Plan in an amount not to exceed \$425,000.

Background: In June 2009, the California Coastal Commission voted unanimously 12 to 0 to approve the Santa Monica Mountains Conservancy and MRCA proposed amendment to the Malibu Local Coastal Program. This action created an overlay for increased public access to public lands in Malibu through an expanded trail network and the development of campsites in multiple locations. The Malibu Parks Public Access Enhancement Plan, the implementation tool of this overlay, has subsequently been revised to be consistent with the approved LCP amendment (LCPA). The most substantial change was the addition of the Conservancy's Malibu Bluffs property during the Coastal Commission hearings as a potential site for camping facilities within the new LCPA overlay zone. Additionally, the agencies committed to evaluating the safety of Ramirez Canyon Road and additional means of access to Ramirez Canyon Park. Environmental review for CEQA compliance of the Plan must be at the Environmental Impact Report (EIR) level. Once the Final EIR is certified, the Plan will then be brought back to the Coastal Commission for approval.

Dudek and Associates, Inc. (Dudek) has done the majority of the work on the preparation of the Malibu Parks Public Access Enhancement Plan over the last several years. On August 5, 2009, the MRCA Governing Board approved an augmentation to the Dudek contract to continue the revisions to the Plan and to prepare of the Draft Environmental Impact Report for the project. Dudek mostly

uses its own staff to prepare the many necessary technical studies necessary for the EIR. These include fire hazards, archaeology, noise analysis and biology.

Since August 2009, MRCA and Santa Monica Mountains Conservancy staff have worked with Dudek to prepare a revised PWP and Draft EIR. The scope of the project has been revised and refined many times in that period, as such the scope of work has greatly expanded. Dudek prepared the Notice of Preparation for the DEIR in early September. The DEIR is now in its minimum 45 day circulation period. A public hearing on the DEIR is scheduled for February 22, 2010.

Based on experience to date, the DEIR and Final EIR will be greatly scrutinized and litigated. Staff's approach has been to attain the most thorough, high quality document to address potential project impacts. Given the importance of the project and the public investment to date, it is imperative that the environmental document be capable of withstanding challenges. Investment at this end of the process is much more cost effective than litigation expenses.

Fairly late in the EIR preparation process staff selected a set of DEIR alternative projects to deal with many potential contingencies and to reduce project impacts. In addition to the proposed project, there is a an alternative project to cover the contingency of the LCPA being overturned in court. There is also a redesigned project that substantially reduces impacts while still providing significant public benefit.

The original Dudek contract contemplated a 700 page DEIR, with 150 pages of appendices and 40 color images. The DEIR in circulation consists of 1400 pages, 3853 pages of appendices, and 1099 color images. The document is large even by large subdivision standards. It has to address five distinct park locations in great detail. Copies have been provided to all Governing Board members.

It is imperative that the PWP make the June 2010 California Coastal Commission hearing agenda because there will not be another local hearing until November. To certify the FEIR in time for the Commission staff to prepare for the June hearing, a tight time schedule must be followed.

To meet this time schedule Dudek has performed out-of-scope services at the request of MRCA staff without a formal contract amendment. Dudek spent out its contract well before the DEIR had been completed. Nonetheless Dudek pushed to complete the DEIR and met the public distribution deadline of February 2, 2010. The contract must be amended and augmented to cover Dudek's costs to date, to prepare the FEIR, make PWP adjustments, and assist staff in the public hearing process.

The attached contract amendment proposal from Dudek dated February 8, 2010, lays out the unfunded costs to date and projected costs to take the project through the June California Coastal Commission hearing. It also provides extensive background. The Phase 1 scope of work is related to the PWP. The Phase 2 scope of work deals with the EIR and FEIR preparation. The proposal states how much of the proposed \$425,000 amendment is for the past and future expenses of each of these two contract Phases. For example the future cost of completing the FEIR is estimated at \$191,025. Dudek has provided detail of how many hours they expect each staff member to work on each task. MRCA staff will carefully monitor the progress of the work and the expenditure of funds. Staff will do any of the scoped work in house if possible to reduce the amount paid to Dudek. Dudek's proposal includes FEIR copying, attending meetings and hearings, and interfacing with Coastal Commission staff. The proposal also includes almost \$50,000 to prepare responses to comments on the draft EIR. Due to the size and complexity of the document, the number of comments could be voluminous and require the attention of various specialists. If the number of comments is less than anticipated, the dollar amount would go down. The proposal from Dudek is attached.

Consideration: The contract amendment will not exceed \$425,000. Funding for this contract would come from Santa Monica Mountains Conservancy grant number SMM-0776.