



MOUNTAINS RECREATION & CONSERVATION AUTHORITY

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MEMORANDUM

TO: The Governing Board

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

DATE: January 9, 2008

SUBJECT: **Agenda Item X: Consideration of resolution further amending the scope of work for grant SMM-0776 to the Mountains Recreation and Conservation Authority from Proposition 84 to include additional project planning and design for the Malibu Public Parks Access Enhancement Plan--Public Works Plan, including compliance with the California Environmental Quality Act, and project planning and design for the Santa Monica Mountains Conservancy/Mountains Recreation and Conservation Authority Malibu Local Program Amendment to be submitted pursuant to the California Coastal Commission LCP override procedures (14 Cal. Code Regs. Sec. 13666 et seq.), all such scope amendments in furtherance of, and directly related to, capital outlay for: (1) acquisition and construction of the Coastal Slope Trail; (2) acquisition and construction of alternative access improvements to Ramirez Canyon Park; (3) public camping facilities at Ramirez Canyon Park both within and without the city of Malibu; (4) public parking, public restrooms, and public camping facilities at Escondido Canyon Park together with related handicapped access improvements, and (5) public parking, public restrooms, and public camping facilities at Corral Canyon Parks together with related handicapped access improvements, City of Malibu and unincorporated Los Angeles County.**

Staff Recommendation: That the Conservancy and Advisory Committee adopt a resolution incorporating this staff report and authorizing the actions noticed above.

Legislative Authority: Public Resources Code Sections 33204.27, 33203.5 and 33211 subdivisions (b) and (c).

Background: The history over the past two years of the Conservancy's efforts to effectuate greater public use and enjoyment of Malibu parks is detailed in the "Background" section of the staff report and recommendation for Item No. 7 on today's agenda. Please refer to that section of Item No. 7 staff report and consider it to be incorporated herein.

Malibu Public Parks Access Enhancement Plan–Public Works Plan: As outlined in the staff report for the previous item on this agenda (Item No. 7), it is obvious that going the individual Coastal Development Permit route through the city of Malibu, even when the Coastal Commission approves the Conservancy’s Local Coastal Program Amendment submitted pursuant to the LCP Override process (14 Cal. Code Regs. § 13666 *et seq.*), will be a tortuous if not torturous process. Much better in terms of everyone’s time, efficiency, and fair play, is to use the Public Works Plan (PWP) process pursuant to Public Resources Code § 30605. This section was specifically enacted for situations such as this. Members will recall that under the PWP process, once a detailed plan is adopted by the Coastal Commission, rather than have individual permits submitted for approval, a notice is given to local government and the Coastal Commission, and then, unless there is an appeal that the proposed project is outside the scope of the PWP, the project goes ahead without further permitting delay. The PWP must be consistent with the certified Local Coastal Program as amended.

California Environmental Quality Act (CEQA) Compliance: There is a disagreement among counsel with respect to the applicability of CEQA to the PWP adoption process. Suffice it to say, however, that with the near certainty of litigation over the issue, the prudent course of action is to prepare a full Environmental Impact Report on the proposed Malibu Public Parks Enhancement Plan–Public Works Plan.

Local Coastal Program Amendment “Override” procedure: As mentioned above, the LCP “override” provision will be used to get the Conservancy’s proposal before the Coastal Commission in the most expeditious manner possible. There will be additional project planning and design costs associated with making this submission to the Coastal Commission’s Executive Director and then back to the city of Malibu.

Proposed Scope Change to Grant SMM-0776: By adoption of the resolution the Conservancy is approving the Executive Director making scope of work changes to said grant in an amount not to exceed \$300,000 for the purposes of: (a) project planning and design for development of additions and refinements to the Malibu Park Public Access Enhancement Plan–Public Works Plan; (b) additional project planning and design related to the Conservancy and Mountains Recreation and Conservation Authority submission to the Executive Director of the Coastal Commission and the city of Malibu pursuant to 14 Cal. Code Regs. § 13666 *et seq.*; (c) the costs of CEQA compliance; (d) contingent directly related legal and litigation costs (outside counsel) not to exceed \$50,000 without further action by the Conservancy, and (e) miscellaneous related expenses necessary to accomplish the foregoing.

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As used in the proposed scope of work change, project planning and design specifically includes “preliminary plans” and “working drawings” as those terms are defined in Section 3.00 of the Budget Act of 2007 (Chap. 171/172 Statutes of 2007).

Relationship of Planning Activity to Capital Outlay Expenditures: Each and every one of the proposed expenditures pursuant to the scope change is directly related to land acquisition and/or the construction of a capital improvement. Reference is made to the definitions in Section 3.00 of the Budget Act of 2007 for the terms “land acquisition” and “construction.”