

Attachment  
MRCA Item VI  
11/1/04

Materials prepared by: C. McLane 10/28/04

**STANDARD AGREEMENT AMENDMENT**

STD. 213 A (Rev 6/03)

 CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED \_\_\_\_\_ Pages

AGREEMENT NUMBER	AMENDMENT NUMBER
<b>SMM-0479</b>	<b>1</b>
REGISTRATION NUMBER	
<b>3810100453111.1</b>	

1. This Agreement is entered into between the State Agency and Contractor named below:
- STATE AGENCY'S NAME  
Santa Monica Mountains Conservancy
- CONTRACTOR'S NAME  
Mountains Recreation and Conservation Authority (Soka Prop 50)
2. The term of this Agreement is 9-27-04 through 10-31-06
3. The maximum amount of this Agreement after this amendment is: \$0
4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:
- Acquisition of fee title including an option to acquire fee title of an approximately 588-acre property western Los Angeles County (APNs 4455-015-002, 4455-016-032, 4455-016-033, 4455-028-043, 4455-033-003, 4455-033-005, 4455-033-006, 4455-033-007, 4455-033-009, 4455-033-010, 4455-033-011, 4455-033-018, 4455-033-021, 4455-033-022, 4455-033-023, 4455-033-026, 4455-034-001, 4455-035-001, 4455-040-007, 4455-040-010), unincorporated Calabasas area.

All other terms and conditions shall remain the same.

**IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.**

<b>CONTRACTOR</b>		<b>CALIFORNIA</b> Department of General Services Use Only
CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.)		
Mountains Recreation and Conservation Authority		
BY (Authorized Signature)	DATE SIGNED (Do not type)	
		
PRINTED NAME AND TITLE OF PERSON SIGNING		
Michael Berger, Chair		
ADDRESS		
570 W. Avenue 26, Suite 100, Los Angeles, CA 90065		
<b>STATE OF CALIFORNIA</b>		<input type="checkbox"/> Exempt per:
AGENCY NAME		
Santa Monica Mountains Conservancy		
BY (Authorized Signature)	DATE SIGNED (Do not type)	
		
PRINTED NAME AND TITLE OF PERSON SIGNING		
Jerome C. Daniel, Chair		
ADDRESS		
5750 Ramirez Canyon, Malibu, CA 90265		

BILL LOCKYER  
Attorney General

State of California  
DEPARTMENT OF JUSTICE



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October 26, 2004

Laurie Collins  
Chief Staff Counsel  
Santa Monica Mountains Conservancy  
Los Angeles River Center and Gardens  
570 West Avenue Twenty-Six, Suite 100  
Los Angeles, CA 90065

RE: Amendment of Proposition 50 Grant to MRCA for Soka University Acquisition

Dear Ms. Collins:

You have asked that the Office of the Attorney General review the above-referenced grant to the Mountains Recreation and Conservation Authority (MRCA) and advise the Conservancy whether the grant complies with the General Obligation Bond Law and Proposition 50. We are reviewing this grant pursuant to the budget control language which mandates Attorney General review of Conservancy grants to insure compliance with the General Obligation Bond Law and the pertinent bond acts.

At its September 2004 meeting, the Conservancy awarded a grant of \$4 million of Proposition 50 funds to the MRCA for use in the Soka acquisition. Prior to approving this grant, the Attorney General's Office wrote a letter to you in which we concluded the grant was proper under the General Obligation Bond Law and Proposition 50. Based on the information you have provided, the Conservancy now proposes to amend its grant of Proposition 50 bond funds to the MRCA to broaden its scope to authorize the MRCA to acquire an option to acquire fee title to the 588 acres Soka University property in the Malibu Creek watershed. It is our understanding that if the MRCA does acquire an option, the amount it pays for the option will be credited to the ultimate purchase price.

Proposition 50 makes available \$200 million "for expenditures and grants for the purpose of protecting coastal watersheds, including, but not limited to, acquisition, protection, and restoration of land and water resources and associated planning, permitting and administrative costs." (Wat. Code, § 79570.) Proposition 50 defines "acquisition" to mean "the acquisition of a fee interest or any other interest including easements, leases, and development rights." (Wat. Code, § 79505, subd. (a).) An option to purchase must be considered to be an "interest" in the property because it gives the holder a right to purchase. (See *Rollins v. Stokes* (1981) 123

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Cal.App.3d 701.) Thus, the purchase of an option would be an acquisition under Proposition 50.

We also note that Proposition 50 provides \$20 million to the Conservancy to be expended for protection of Santa Monica Bay and Ventura County coastal watersheds. (Wat. Code, § 79570, subd. (c).) The acquisition and restoration of land and water resources in the Santa Monica Bay and Ventura County coastal watersheds is an authorized means of protecting those watersheds. Here, the acquisition of an option is a means to enable the MRCA to acquire and protect the Soka property which is located in the Santa Monica Bay watershed. On this basis too, the acquisition of an option is appropriate under Proposition 50.

We conclude that the amendment of the Conservancy's grant of Proposition 50 funds to the MRCA to allow the MRCA to use the funds to acquire an option to purchase the property is proper under the General Obligation Bond Act and Proposition 50.

Sincerely,



JOHN A. SAURENMAN  
Supervising Deputy Attorney General

For BILL LOCKYER  
Attorney General