Exhibit D
August 23, 2010

STATE OF CALIFORNIA–THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, *Governor*

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December 17, 2007

The Honorable City Council
City of Malibu
Attn: Lisa Pope, City Clerk
23815 Stuart Ranch Road
Malibu, California 90265

Request to Rescind Action of the City Council Denying Local Coastal Program Amendment Proposed by the Santa Monica Mountains Conservancy and Mountains Recreation and Conservation Authority (Malibu LCPA 07-002)

Honorable Council Members:

On November 20, 2006 at Webster School within the City of Malibu the Santa Monica Mountains Conservancy (Conservancy) and the Mountains Recreation and Conservation Authority (Authority) held a joint public hearing on the proposed "Malibu Parks Public Access Enhancement Plan—Public Works Plan."

At this hearing members of your Honorable Council and the City Attorney of the City of Malibu requested that, instead of proceeding *via* a public works plan, that the Conservancy and the Authority submit the proposal as a Local Coastal Program Amendment to the City of Malibu.

On November 29, 2006 the Conservancy and the governing board of the Authority approved and adopted the "Malibu Parks Public Access Enhancement Plan—Public Works Plan" and authorized submission of such plan to the California Coastal Commission.

Subsequent to such action Malibu's representative to the Santa Monica Mountains Conservancy Advisory Committee and the City Attorney of Malibu met with staff of the Conservancy and the Authority. Emerging from such discussions was a proposal made by Malibu's representatives that the Conservancy and Authority rescind approval of the public works plan and instead submit a Local Coastal Program Amendment to the City of Malibu. As an inducement therefor, the City Attorney suggested that rather than have camping at Escondido Canyon (as proposed in the Public Works Plan) the city would entertain a proposal for overnight camping at Charmlee Wilderness Park, owned by the City of Malibu.

Subsequent to such discussions counsel for the Conservancy and the Authority and the Malibu City Attorney negotiated a Memorandum of Understanding regarding litigation, essentially a "Standstill Agreement" pending Conservancy and Authority submission of the Malibu Parks Public Access Enhancement Plan to the City of Malibu as an amendment to the Malibu Local Coastal Program rather than as a Public Works Plan to be submitted directly to the California Coastal Commission.

On January 22, 2007 the Conservancy and the Authority rescinded approval of the Public Works Plan and authorized submission of the contents of that plan to the City of Malibu, with the addition of camping at Charmlee Wilderness Park and removal of the camping proposal at Escondido Canyon, as an amendment to the Malibu Local Coastal Program. This submission has come to be known as LCPA 07-002.

The essence of LCPA 07-002 was:

- Overnight camping opportunities at Charmlee Wilderness Park, Ramirez Canyon Park, and Corral Canyon Park.
- Use of Ramirez Canyon Park (at roughly *half* the intensity of use for major events as previously permitted by the California Coastal Commission) for events and public programs and outreach.
- Parking and trailhead amenities (including restrooms) at Escondido Canyon Park.
- Connecting trail linkages to effectuate the "Coastal Slope Trail" within the City of Malibu.

The Conservancy and Authority were encouraged by the mutually cooperative relationship of city staff and that of the Conservancy and Authority as the application was being processed. The Planning Commission action approving the LCPA gave further support to our hope that proceeding through the City of Malibu would yield a mutually agreed outcome—not totally to the benefit of either party, but representing a half-way course that each party could recommend to the California Coastal Commission.

I need not recount how this hope of cooperation was dashed. The public record is all too vocal in that respect.

Perhaps no aspect of life in Malibu, aside from bikini clad actresses, is better known than the propensity for fire. In the fire-dependent chaparral ecosystem, in the past century Los

Angeles County, and after incorporation, the City of Malibu, has permitted home building in ultra combustible brush areas. The fire history of Malibu has been documented going back to 1929. Anecdotal evidence precedes that by over half a century.

So it was with some surprise that we heard at your December 5, 2007 hearing that, *lo and behold*, fire was an issue that required, not only denial of the LCP Amendment request for specific camping sites, but a total elimination of any possibility of overnight camping in public parks in Malibu, even though camping is a permitted use in the Malibu LCP as approved by the Coastal Commission. (Because of the existing *private* campgrounds, overnight camping with BBQs would continue to be legal, only *public* campgrounds would be affected by the City Council prohibition.)

Considering the extensive mitigation measures (supervised camping, no open campfires—propane only stoves—as proposed in the LCPA), using fire as a reason for eliminating the possibility of overnight camping in the public parks in Malibu seems pretextual for a more pervasive policy to deny access to public parklands paid for and protected by the State of California. This is especially the case since an analysis of testimony between the Conservancy's November 2006 hearing on the Public Works Plan and your December 2007 hearing on the LCPA shows a migration of concern from "overburdening of local roads" (November 2006) to "fire safety" (December 2007).

Fire safety is a prime concern of the Conservancy and the Authority. While the City of Malibu has not taxed itself to maintain its own fire department, but relies upon the too-stretched-thin resources of Los Angeles County, the Authority does maintain its own fire service to protect the parklands of the Conservancy and the Authority.

The camping proposal put before your Honorable City Council contemplated the 24/7 supervision of such campsites by a qualified wildland firefighter (either staff or as a volunteer park host). Moreover, immediate firefighting resources (water tanks, compressed air units, etc.) were proposed. The net effect would be the safest—even if over-engineered—campground program in America.

This overture was rejected.

What about other aspects of the plan?

- After the Authority acquired, pursuant to a Conservancy grant, property adjacent to Latigo Canyon Road for an alternative parking area to service at least ten parking spaces for Escondido Canyon Park, in response to the community request to

minimize parking at the terminus of Winding Way, the City of Malibu went one better and nixed the proposal to place even two handicapped and equestrian parking spaces in Escondido Canyon Park. The Authority's good faith effort to respond to the community was met by the City opting for some vague and ill-defined alternative that would not guarantee handicapped parking nor equestrian parking, but would instead assure that the neighbors would not be upset. The substitution of ten (10) for twenty-eight (28) parking spots is a clear diminution of public access, and results in an outcome whereby, at the end of the day, even without overnight camping, there is no meaningful public access because there is no parking.

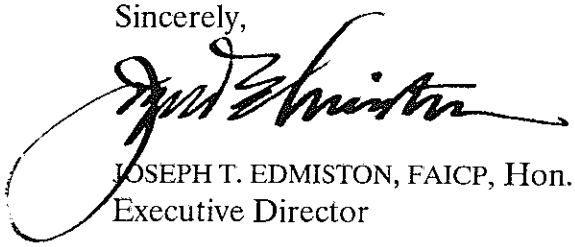
- Pursuant to what we felt were good faith negotiations with Malibu city staff, the Conservancy and Authority proposed a level of use for major events at Ramirez Canyon Park roughly half that which was previously approved by the California Coastal Commission. Notwithstanding the City of Malibu's understanding that the State general fund could not provide support for operation of Ramirez Canyon Park, the City of Malibu has proceeded to condition any reasonable use of Ms. Streisand's donation to the people of the State of California upon an Eight and One Half Million Dollar ($8,500,000) road, and even if such road is purchased and constructed by the State, the permitted uses would be only HALF that which had heretofore been granted by the California Coastal Commission (maximum 16 public events pursuant to Malibu plan *vs.* 32 public events as approved by the Coastal Commission). The City makes an elaborate balancing argument in favor of the alternative road, but gives the Conservancy and Authority virtually *nothing* in terms of public programs or events if the Coastal Commission doesn't agree with such argument. (NB: The alignment of the alternative road is outside Malibu city limits and thus subject to the original jurisdiction of the Coastal Commission.)

There is substantial agreement on the alignment of the Coastal Slope Trail, but we disagree with the consequences thereof. Council members praised the trail, as well they might. It involves millions of dollars of easement acquisition by the Conservancy and Authority principally to benefit residents of Malibu and not the general public. Without adequate parking for "outsiders" who may want to use the trail, and no overnight accommodation except in *uber*-expensive hotel rooms and almost as expensive private campgrounds, this is a trail system primarily benefitting Malibu residents. (How ironic that the City claims it lacks authority to condition development approval upon granting trail easements, so the taxpayers of the State of California must pay for such easements at the very same time that the City of Malibu permits developers to proceed with their projects unfettered by a contribution to the public weal.)

So, members of the Council, it is beyond peradventure that the result of your action is a diminution of public access to public resources, diminution of use of public property to the advantage of a select few at the expense of the majority, and millions of dollars of state taxpayer's investment in what will amount to a private trail system for Malibu residents. No wonder such an outcome got your unanimous vote to the huzzahs of a riotous contingent of locals.

Under such circumstances, shame alone should militate for recession of your vote. But if that doesn't do it, then surely you understand that inviting us to submit to Malibu's Local Coastal Program amendment process has resulted in the ultimate *bait and switch*. In consideration whereof, the Conservancy and Authority hereby request that the City Council rescind its action of December 5, 2007. We will deem a failure to do so within 30 days of this letter as a rejection of our request and shall act accordingly.

Sincerely,



JOSEPH T. EDMISTON, FAICP, Hon. ASLA
Executive Director

cc: Conservancy members
Advisory Committee members
California Coastal Commission
Interested parties