



MOUNTAINS RECREATION & CONSERVATION AUTHORITY

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MEMORANDUM

TO: The Governing Board

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

DATE: October 5, 2011

SUBJECT: **Agenda Item XI: Consideration of resolution authorizing requesting a budget augmentation and modification of scope for grant SMM-50-1108 from the Santa Monica Mountains Conservancy, for Project Planning and Design services for the Lechuza Beach Public Access Improvements Project, City of Malibu.**

Staff Recommendation: That the Governing Board adopt the attached resolution authorizing requesting a budget augmentation and modification of scope for grant SMM-50-1108 from the Santa Monica Mountains Conservancy, for Project Planning and Design services for the Lechuza Beach Public Access Improvements Project, City of Malibu.

Background: On January 24, 2011, the Santa Monica Mountains Conservancy authorized a grant of Proposition 50 funds to the Mountains Recreation and Conservation Authority (MRCA) for Project Planning and Design services for the Lechuza Beach Public Access Improvements Project, City of Malibu. The original grant amount was \$83,000.

An augmentation to grant SMM-50-1108 for an amount not to exceed \$100,000 would be used to support an increase in volume of work for existing tasks described in the original grant agreement, and a modification to the scope to include new potential tasks. If this item is approved, staff would submit a cover letter signed by the Chair and a revised application to the Santa Monica Mountains Conservancy for potential consideration at the anticipated October 24, 2011 Conservancy meeting.

The MRCA is proposing the Lechuza Beach Public Access Improvements Project in order to improve accessibility for people with disabilities and to meet the building code requirements at a public beach. This is a complicated project with ongoing legal issues with the nearby homeowners, various site constraints, and a long history, some of which is described in the attached application for the original grant.

Most of the project planning and design work on the subject project was funded by two grants from the State Coastal Conservancy. Those funds ran out approximately in mid-2010. Project changes due both to potential settlement discussions with the nearby homeowners and decisions to use additional access easements owned by the MRCA have necessitated both new California Environmental Quality Act (CEQA) work and a revised application to the City of Malibu for a coastal development permit (CDP). Those project changes were anticipated to be covered under the \$83,000 grant. That grant included completing the application for, and obtaining, a CDP from the City of Malibu, as well as completion of the CEQA documentation (e.g., Mitigated Negative Declaration).

Since then, several circumstances led to additional work. Many of those tasks are covered under the project description for the \$83,000 grant; however, the volume of work increased. One reason for the increase in the volume of work is the project changes resulting from comments from the homeowners' association (Malibu Encinal Homeowners Association, "MEHOA"). MEHOA provided input on project alternatives (e.g., two rounds of changes to proposed accessible parking spaces) and staff is trying to consider and incorporate such input. Project changes are also being explored due to input from agencies (City of Malibu and California Coastal Commission). It is important to address the City's comments (from Planning Department and Building and Safety Department), as the City is the reviewing agency for the CDP. It is important to proceed with a project that Coastal Commission staff is supportive of, as the Coastal Commission has ultimate authority, e.g., in the case of an appeal. Staff is also soliciting input from groups and individuals of the disabled community regarding refinements to the project so as to triage the project elements and prioritize the crucial project features. Additional funding is needed to move forward to narrow down the alternatives to the best project that MEHOA and MRCA can agree upon, and to complete the CEQA document and review process.

Depending on the types of project changes, some require landscape architect staff time to make changes to the CAD (computer aided design) drawings, engineering consultant's time to make changes to the CAD drawings, consultants' input on the environmental ramifications (e.g., geologist, coastal engineer), and additional coordination with, and review by, outside agencies (e.g., Los Angeles County Fire Department and City of Malibu coastal engineer, Planning Department, and Building and Safety Department). Additional planning analysis is also needed regarding the applicability of variances and deviations from regulations needed to implement some of these project changes suggested by MEHOA. These circumstances led to an increase in the quantity of work. The aforementioned tasks are covered in the original grant. Some of those tasks in the original grant include: planning, design, revising engineering plans, preparation of technical studies by consultants for California Environmental Quality Act work, landscape architect work, and project management. The intent of pursuing intensive upfront planning work is to put forward an agreed-upon plan that will be free of MEHOA-initiated litigation, thus minimizing the need for future litigation expenses. Although staff had intended to move forward with

the CEQA document using the original \$83,000 grant, the additional design changes are resulting in additional expenses.

A budget augmentation is recommended by staff not only to cover the increase in work of existing tasks in the original grant, but also to address a potentially needed modification to the scope of work. Some potential additional tasks would include preparation for/participation in a Malibu Council appeal hearing, preparation for/participation in a California Coastal Commission appeal hearing, and legal review/consultation. MRCA staff and the Attorney General's office are actively negotiating with MEHOA, in an attempt to settle the existing litigation. It is MRCA's hope that a project that is mutually agreeable to MEHOA and MRCA can be processed the City and covered by the CEQA document. There are no guarantees, and there is still the possibility of an appeal of any City of Malibu decision (e.g., by MEHOA, MRCA, Malibu Council, Coastal Commission, or one or more individual property owners) to Malibu Council and/or to the Coastal Commission. Legal review and consultation may also be necessary due to the complexity of the project. The modification to the scope also includes a schedule change, since all the project changes have caused delay.

Consideration: The application to the Conservancy would be in the amount not to exceed \$100,000.