



# MOUNTAINS RECREATION & CONSERVATION AUTHORITY

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## MEMORANDUM

TO: The Governing Board

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

DATE: October 3, 2012

SUBJECT: **Agenda Item IX: Consideration of resolution approving the application, assurances, and application submission for grant funds from the California State Coastal Conservancy, entering into a grant agreement, and acceptance of grant funds for project planning and design, and development of Malibu Coastal Access Public Works Plan, for multiple beach accessways in City of Malibu: thirteen sites located at Carbon Beach, La Costa Beach, Las Flores Beach, Las Tunas Beach, Escondido Beach, Lechuza Beach, and Malibu Cove Beach.**

Staff Recommendation: That the Governing Board adopt the attached resolution approving the application, assurances, and application submission for grant funds from the California State Coastal Conservancy, entering into a grant agreement, and acceptance of grant funds for project planning and design, and development of Malibu Coastal Access Public Works Plan, for multiple beach accessways in City of Malibu: thirteen sites located at Carbon Beach, La Costa Beach, Las Flores Beach, Las Tunas Beach, Escondido Beach, Lechuza Beach, and Malibu Cove Beach.

Background: The subject action would authorize the Mountains Recreation and Conservation Authority (MRCA) to apply to, and accept funds from, the California State Coastal Conservancy (SCC) to conduct project planning and design, and to develop a Malibu Coastal Access Public Works Plan (PWP) for potentially thirteen beach accessways in Malibu. The grant would also cover the preparation a California Environmental Quality Act (CEQA) document for the PWP. Maximizing public access and opening up existing, unopened, beach accessways are priorities of the California Coastal Commission, SCC, MRCA, and other agencies and organizations. This project would help implement numerous policies of the City of the Malibu Local Coastal Program (LCP; see partial list of policies at the end of this staff report).

One proposed site is owned by the SCC and one site is owned by MRCA. (The site locations are described in more detail below.) Proposed public access at several of these sites would be located on vertical beach access easements (i.e., some held by SCC, some by MRCA). Some of these sites also include lateral beach access easements. There are beach access deed restrictions on several sites. Prior to the certification of the 2002 City of Malibu LCP, the California Coastal Commission presided over the permitting process for coastal development permits (CDPs) in the City of Malibu and has facilitated numerous offers to dedicate (OTDs) for vertical and lateral beach access easements (or direct grants of easements). Since certification of the 2002 Malibu LCP, the City inherited the responsibility for issuing CDPs, and has since facilitated several offers for beach access easements. Many of these beach access OTDs and easements, however, have not been opened yet for public use. MRCA would conduct the planning and design, and prepare the PWP, in order to improve and open these public beach accessways.

As background, over the years, SCC has pursued the opening of some of the beach accessways included in this report. Several of these accessways already have been analyzed to varying degrees (e.g., survey, landscape architect drawings, engineering analysis, geotechnical analysis, etc.). Of note, private improvements (e.g., walls, stairs to access private home, tennis court, bulkhead, etc.) have encroached into the public access easements, effectively blocking or impeding public access at some sites. On that same note, several of the beach access easements are currently subject to litigation and/or enforcement action by California Coastal Commission. Although it would not be MRCA's responsibility to resolve such issues related to the encroachments as part of this grant, undoubtedly some coordination will be needed between MRCA staff and California Coastal Commission staff to design and analyze some of the proposed public access improvements.

The sites would require varying levels of improvements and varying levels of environmental analysis to provide initial, and/or maximize existing, public access to the beach. At most of these sites, currently there is not adequate and safe public access. Some sites may require geotechnical analysis and engineering design to construct stairs, while other sites may only need signage identifying the public access location and the rules/regulations. If the grant is awarded, MRCA staff will need to further investigate the degree of public access improvements and environmental analyses needed at each of these sites.

Pursuant to the 2002 Malibu LCP, the City of Malibu has the authority to issue CDPs in the City. The PWP permitting process is an alternative to that process. Public Resources Code 30605 states in part:

To promote greater efficiency for the planning of any public works or state university or college or private university development projects and as an alternative to project-by-project review, plans for public works or state university or college or private university long-range land use development

plans may be submitted to the commission [California Coastal Commission] for review in the same manner prescribed for review of the local coastal programs...

According to the Malibu LCP, "Public Works" include: "All publicly financed recreational facilities, all projects of the State Coastal Conservancy, and any development by a special district."

The MRCA has substantial experience with preparing a PWP. Santa Monica Mountains Conservancy (SMMC) and MRCA prepared a PWP for the Malibu Parks Public Access Enhancement Plan. The PWP that was submitted to the California Coastal Commission was approved. That plan encompassed a series of public access projects and programs at/near several SMMC and MRCA parks. That plan is currently in litigation.

MRCA has other specific experience with beach access projects in Malibu. MRCA currently holds and manages several opened beach accessways in Malibu. MRCA planning staff is also conducting the planning to develop the project and acquire permits to open or improve several other beach accessways in Malibu (e.g., at Malibu Road, Lechuza Beach).

Given the degree of similarity of these projects at these thirteen sites (goals, methods, issues, etc.), and to facilitate the swift implementation of the planning and construction of the beach access projects, SCC staff and MRCA staff determined that it would be advantageous to prepare one plan, one CEQA document, and obtain one approval/permit, where possible. Hence, MRCA staff is recommending that the Board approve the application to SCC for \$470,000 in funding to prepare this Malibu Coastal Access Public Works Plan.

### **Detailed Description of Site Locations**

The following are the thirteen locations which may be included in the PWP. If the grant is awarded, upon further and future investigation, it is possible that a subset would be included in the final PWP.

(1) Las Tunas Beach: (no street address: Los Angeles County Assessor Parcel Numbers [APNs]: 4449-007-013, -014, -015, -016 and -017, fee owner: MRCA);

(2) Las Tunas Beach: (19016 Pacific Coast Highway [PCH], fee owner Harner, deed restriction in favor of public access; 19020 PCH, fee owner: Hundley, public access easement owner: MRCA);

(3) Las Flores Beach: (20802 PCH, fee owner: Lent, public access easement owner: State of California for benefit of SCC);

(4) La Costa Beach: (21554 PCH, fee owner: Wayne, deed restriction in favor of public access);

(5) La Costa Beach: (21664 PCH, fee owner SCC);

(6) Carbon Beach: (22030 PCH, fee owner Pozzo/Keith, deed restriction in favor of public access);

(7) Carbon Beach: (22466 PCH, fee owner: Ackerberg, public access easement owner: MRCA);

(8) Carbon Beach: (22814 PCH, fee owner: Intrastate, deed restriction in favor of public access);

(9) Malibu Cove Beach: (26834 Malibu Cove Colony Road, fee owner: Toberman, deed restriction in favor of public access);

(10) Escondido Beach: (27910 PCH, fee owner: Wildman, parking access easement owner: SCC; also at adjacent property 27920 PCH, fee owner: Mancuso, vertical public access easement owner: SCC);

(11) Escondido Beach: (27400 PCH ["Geoffreys Restaurant"], fee owner: Holiday House, LLC, vertical public access easement owner: MRCA [please note: easement begins at Geoffreys Restaurant, passes across Escondido Beach Road {private street} and continues over 27348 Pacific Coast Highway {residential parcel on the beach} fee owner: Finer Space Malibu LLC]);

(12) Escondido Beach: (27700 PCH, fee owner Dick Clark, deed restriction in favor of public access);

(13) Lechuza Beach: (no street addresses available, APNs: 4470-021-900; 4470-028-900 through 918, 4470-001-900, 4470-024-900, 901: fee owner for public access: MRCA; easements over West Sea Level Drive and East Sea Level Drive, APNs 4470-021-008, 009, easement owner: MRCA; APNs 4470-001-003, 004, 005, 006, 008, 012, 013, lateral beach access easement owner: MRCA; and 31736 Broad Beach Rd., fee owner: Barbara J. Page, trustee, vertical public access easement owner: SCC).

Regarding Lechuza Beach, as background, MRCA staff has applied to the City of Malibu for a CDP for the Lechuza Beach Public Access Improvements Project (CDP App. No. 07-087). This is a site and project with a long history, a myriad of legal complexities, and various physical constraints. MRCA acquired the Lechuza Beach property (including various easements) with a SCC grant over 10 years ago. A substantial portion of the

planning work to date was funded by SCC. The current planning work is being funded by grants from the SMMC.

The Lechuza Beach site and project has been the subject of much controversy and several lawsuits over the years. Most recently, the homeowners' association (Malibu Encinal Homeowners' Association; MEHOA) filed a lawsuit against MRCA regarding the public access project. As part of the settlement negotiations, MRCA and the Attorney General's office (on behalf of MRCA) have been coordinating closely with MEHOA and their lawyer for several years regarding the proposed project and management plan for Lechuza Beach. The CDP application process is far along, although the project elements continue to change based on the negotiations. If at some point in the future MRCA would like to pursue a PWP with the California Coastal Commission instead of a CDP with the City of Malibu, MRCA staff could more easily pursue that option with today's action.

### **Consistency with Malibu Local Coastal Program (LCP)**

Development of the proposed Malibu Coastal Access Public Works Plan would be consistent with, and implement the policies of, the Malibu LCP, including, but not limited to the following policies:

2.1 The shoreline, parklands, beaches and trails located within the City provide a wide range of recreational opportunities in natural settings which include hiking, equestrian activities, bicycling, camping educational study, picnicking, and coastal access. These recreational opportunities shall be protected, and where feasible, expanded or enhanced as a resource of regional, state and national importance.

2.7 ...Where there is an existing, but unaccepted and/or unopened public access Offer-to-Dedicate (OTD), easement, or deed restriction for lateral, vertical or trail access or related support facilities e.g. parking, construction of necessary access improvements shall be permitted to be constructed, opened and operated for its intended public use.

2.11 Public land, including rights of way, easements, dedications, shall be utilized for public recreation or access purposes, where appropriate and consistent with public safety and the protection of environmentally sensitive habitat areas.

2.38 To help finance the construction and maintenance of new accessways, the use of private or public grants or other local, State and Federal funding sources shall be utilized.

2.56 The CCT [California Coastal Trail] shall be designed and implemented to achieve the following objectives: Provide a continuous walking and hiking trail as close to the ocean as possible:...Ensure that all segments of the trail have vertical access connections at reasonable intervals:...

2.67 Facilities to complement public access to and along the shoreline should be provided where feasible and appropriate. This may include parking areas, restroom facilities, picnic tables, or other such improvements....

2.70 Offers to dedicate public access shall be accepted for the express purpose of opening, operating, and maintaining the accessway for public use...