



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, 2013

SUBJECT: **Agenda Item X: Consideration of resolution authorizing: (a) entering into an agreement to release MRCA from existing obligation to design and construct an access road, and (b) a grant of construction easement for said access road to the owners of properties adjacent to MRCA parkland (APN 4452-025-900) on Sweetwater Mesa, City of Malibu.**

Staff Recommendation: That the Governing Board adopt the attached resolution authorizing: (a) entering into an agreement to release MRCA from existing obligation to design and construct an access road, and (b) a grant of construction easement for said access road to the owners of properties adjacent to MRCA parkland (APN 4452-025-900) on Sweetwater Mesa, City of Malibu.

Background: The MRCA accepted fee title to the subject property (APN 4452-025-900) in 2001 as a dedication resulting from the issuance of a Coastal Development Permit by the California Coastal Commission.

The property was encumbered with an easement for ingress and egress which was originally recorded in 1957. In the 1990s, various disputes arose between the MRCA's predecessor-in-interest and the owners of properties that benefitted from the easement over the scope and location of the easement.

Eventually a settlement was reached that fixed the location of the easement and required the previous owner of the now-MRCA property to construct an access road through the easement at its sole expense. The MRCA property was previously a portion of a larger set of properties that are now owned by a variety of entities. All of these properties are encumbered by the easement and bound by the subsequent settlement agreement.

Staff was recently approached with this proposal by counsel for one of the property owners on Sweetwater Mesa on his client's behalf and on behalf of the other

property owners that currently benefit from the access easement and settlement agreement.

Under the proposal, the MRCA would be permanently relieved of its obligation pursuant to the settlement to pay for the planning, design, and construction of the access road. In exchange, the MRCA would grant to the Sweetwater Mesa property owners the right to construct said access road across MRCA property at the sole expense of the Sweetwater Mesa property owners.

The proposed agreement has purportedly been accepted by the other owners of the burdened properties, which would expose the MRCA to a greater share of the costs of road construction in the event the MRCA does not enter into the agreement. The agreement would likely not have any net negative effect on the habitat of the property as it simply shifts the burden of road construction. In light of these facts, staff has determined it is in the best interests of the agency to agree to these terms once due diligence has been completed and the parties have settled on specific terms.

Please see attached maps for reference.