



MOUNTAINS RECREATION & CONSERVATION AUTHORITY

Los Angeles River Center & Gardens
570 West Avenue Twenty-six, Suite 100
Los Angeles, California 90065
Phone (323) 221-9944

MEMORANDUM

TO: The Governing Board

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

DATE: April 3, 2013

SUBJECT: **Special Agenda Item IV: Consideration of resolution authorizing acceptance of a coastal access easement over a portion of the property located at 22548 Pacific Coast Highway, City of Malibu.**

Staff Recommendation: That the Governing Board adopt the attached resolution accepting a coastal access easement over a portion of the property located at 22548 Pacific Coast Highway, City of Malibu.

Background: The dedication of this coastal access easement to the public was a condition of approval by the County of Los Angeles when the subject property was converted into condominiums. This easement has been memorialized on tract maps for the subject property since approval in the early 1970s, which predate both the Coastal Act and the incorporation of the City of Malibu.

The easement itself has remained impassable to members of the public since that time due to improvements on the property constructed by the property owners and the homeowners association.

In 2009, Access for All (“AFA”), the nonprofit organization responsible for maintaining and operating various other coastal access easements along the coast in Malibu, filed suit against the County of Los Angeles, as the easement holder, and the Malibu Outrigger Homeowners Association to open the subject easement (“*Outrigger*” suit). That lawsuit was filed in conjunction with a purported settlement of separate litigation involving another nearby coastal accessway (“*Ackerberg*” suit).

The settlement in the *Ackerberg* case was challenged in court by both the California Coastal Commission and the State Coastal Conservancy. Ultimately, the settlement was declared invalid and the Commission and the Coastal Conservancy prevailed in the litigation. As a result of the *Ackerberg* resolution, the MRCA agreed to accept

an assignment of the coastal access easements previously held by AFA.

The *Outrigger* suit against the County and the homeowners association, however, remains active. In an attempt to resolve a portion of the *Outrigger* suit, AFA's attorney recently contacted MRCA staff to discuss the possibility of this agency taking title to the coastal access easement that is the subject of this item.

Staff from the California Coastal Commission and the State Coastal Conservancy are initially supportive of the proposal, in light of the MRCA's management of other coastal access easements in Malibu. Likewise, the Los Angeles County Counsel responsible for the *Outrigger* litigation was open to the proposal, which would result in the dismissal of the County from the case. Any such proposal would require the approval of the County Board of Supervisors.

Acceptance of this easement would be a significant addition to the MRCA's roster of coastal access easements. The subject easement would provide access to a portion of the beach in Malibu that is underutilized by the public. Since the easement area is currently improved as paved parking area, the existing encroachments could be remedied.

Staff recommends adoption of the attached resolution and acceptance of the access easement, subject to staff's due diligence and the fulfilment of certain conditions precedent. Specifically, staff recommends that, the Governing Board approve acceptance of the easement only upon confirmation, subject to the discretion of the Executive Director, that a) the MRCA not be responsible for any the costs of improving the easement and removing encroachments as required to facilitate public access, b) the MRCA not be responsible for any cost of litigation, including but not limited to the *Outrigger* case, that may be necessary to open the accessway, c) consultation with and/or agreement of Los Angeles County, the California Coastal Commission, and the State Coastal Conservancy, and d) completion of appropriate due diligence by staff.