

Memorandum

To : The Conservancy
The Advisory Committee

Date: November 8, 2010

From : 
Joseph T. Edmiston, FAICP, Hon. ASLA, Executive Director

Subject: **Agenda Item 14: Consideration of resolution authorizing a budget augmentation for SMM-0776 to the Mountains Recreation and Conservation Authority.**

Staff Recommendation: That the Conservancy adopt the attached resolution authorizing a budget augmentation in the amount of \$1.1 million of Proposition 84 funds for SMM-0776 to the Mountains Recreation and Conservation Authority for work associated with the Malibu Parks Public Access Enhancement Plan – Public Works Plan.

Legislative Authority: Sections 33204.2(a), 33204.27(a), and 75060(d)(1) of the Public Resources Code and Section 6500 *et seq.* of the Government Code.

Background: The multi-year effort of the Conservancy and the Mountains Recreation and Conservation Authority (MRCA) on the Malibu Parks Public Access Enhancement Plan - Public Works Plan (PWP) passed a major milestone with a unanimous approval by the California Coastal Commission in October. As outlined in the attached MRCA staff report for the MRCA's November 3, 2010 meeting, the uncharted waters of the PWP approval process resulted in significant unanticipated project costs. Those unanticipated costs included a combination of staff time, consultants, and legal services. The MRCA Governing Board will consider a request to authorize a budget augmentation for SMM-0776 at its November 3rd meeting. As stated in the MRCA staff report, the Chair of the MRCA will submit a letter that confirms the Governing Board official request. This letter may be sent under separate cover.

The Conservancy's last budget augmentation to the MRCA for SMM-0776 was in June 2010 in the amount of \$1.1 million. The MRCA had anticipated that that funding would carry the approval process to the Coastal Commission hearing and cover substantial post hearing legal expenses. To date the MRCA has spent more than this amount and needs to have adequate funding for both the known and anticipated legal challenges. Staff time will also be required to support the legal team on those challenges too. One CEQA lawsuit has been filed over the Ramirez Canyon components of the project and the City of Malibu has voted to file suit against the Coastal Commission. Fortunately, the administrative record for this joint Conservancy/MRCA project is strong and of unprecedented depth. The administrative record is currently being prepared for the CEQA lawsuit.

The extraordinary requirements of the Fire Department, the path to a PWP approval before the Coastal Commission, and well funded opponents have created an environment that requires meticulous planning and implementation. In order to protect the public investment to date to bring about historic public access opportunities in Malibu, the MRCA's costs, and anticipated costs, are warranted. The bulk of this requested funding is for legal expenses.

The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84), allocated funds to the Santa Monica Mountains Conservancy in Chapter 7, 75060(d)(1) of the Public Resources Code, for the protection of beaches, bays and coastal waters and watersheds, including projects to prevent the contamination and degradation of coastal waters and watersheds, projects to protect and restore the natural habitat values of coastal waters and lands, and projects and expenditures to promote the access to and enjoyment of the coastal resources of the state. As outlined in the MRCA's applications to date, staff finds the proposed budget augmentation to be consistent with Proposition 84's policy to promote the access to and enjoyment of coastal resources.