

Memorandum

To : The Conservancy
The Advisory Committee

Date: January 7, 2013

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

Subject: **Agenda Item 14: Consideration of resolution authorizing entering into a ground lease agreement with the City of Malibu for the Malibu Bluffs Open Space and authorizing subsequent transfer of fee title thereof to the City of Malibu for the preservation of open space and park purposes.**

Staff Recommendation: That the Conservancy adopt the attached resolution authorizing entering into a ground lease agreement with the City of Malibu for the Malibu Bluffs Open Space and authorizing subsequent transfer of fee title thereof to the City of Malibu for the preservation of open space and park purposes.

Legislative Authority: Public Resources Code Section 33206:

The conservancy may lease lands acquired in accordance and for purposes consistent with [Division 23, the Santa Monica Mountains Conservancy Act].

Public Resources Code Section 33207.5(e)(2):

The executive director of the conservancy may take any actions that are necessary to carry out [Division 23, the Santa Monica Mountains Conservancy Act].

Background: In December 2005, the Conservancy assumed jurisdiction for the Malibu Bluffs Open Space (“Bluffs”), located in the City of Malibu south of Pacific Coast Highway at the terminus of Malibu Canyon Road. The Conservancy, through the Mountains Recreation and Conservation Authority (MRCA), has operated the approximately 83 acre Bluffs as an open space park since the transfer of jurisdiction.

As part of the Conservancy and MRCA’s proposed Malibu Parks Public Access Enhancement Plan, certain improvements, including overnight camping, were planned for the Bluffs. The Conservancy/MRCA and the City of Malibu failed to reach an agreement on these plans and several years of litigation effectively put any development of the Bluffs on hold.

Recently, the City of Malibu approached staff with a proposed settlement that would resolve the pending litigation. A key part of the settlement agreement is the exchange of the

Conservancy-owned Bluffs for Charmlee Wilderness Park (“Charmlee”), which is owned by the City of Malibu. Initially, the parties will enter into mutual five year ground lease agreements for the two parks. The ground leases will allow the parties to assume control of the respective parks and ensure sufficient time to satisfy all terms of the settlement and process the exchange of fee title.

The City has expressed a strong desire to assume control of the Bluffs due to its proximity to the City center and its location directly adjacent to the City-owned Malibu Bluffs Park, home to a wide variety of civic and recreational activities. The City’s use of the Bluffs would be limited to public park, recreation, and open space purposes through a restriction recorded as part of the grant deed.

In return for entering into a ground lease - and eventually transferring fee title - to the property to the City, the City has proposed issuing a ground lease to the Conservancy for Charmlee, with transfer of fee title to occur in conjunction with acceptance of fee title to the Bluffs by the City.

Charmlee is located in the far western part of Malibu, between Decker Road and Encinal Canyon. A portion of Charmlee is located in unincorporated Los Angeles County, although title is held by the City. The City and the Conservancy have acknowledged that, due to its location and the nature of the park itself, Charmlee is a property that shares characteristics with other Conservancy and MRCA properties. Likewise, the Conservancy and MRCA are more appropriately suited to operate and manage a large open space property such as Charmlee.

Execution of the proposed ground leases and the eventual transfers of fee title will preclude Conservancy/MRCA improvements for camping at the Bluffs but will allow a plan for camping at Charmlee to move forward with the required permitting.

Staff recommends the adoption of this resolution as it provides benefits to the Conservancy, MRCA, and the City of Malibu and allows for the final resolution of costly and contentious litigation.

The resolution under consideration will be effective contingent upon successful execution of a settlement agreement of the pending lawsuit *Santa Monica Mountains Conservancy and Mountains Recreation and Conservation Authority v. City of Malibu, and related actions* (Los Angeles Superior Court Case No. SC 092212). If the parties thereto fail to execute a mutually acceptable settlement, the resolution will be void.