

STATE OF CALIFORNIA  
**STANDARD AGREEMENT**  
 (Grant - Rev 09/06)

AGREEMENT NUMBER 00-170	AM. NO. 4
TAXPAYERS FEDERAL EMPLOYER IDENTIFICATION NO. 77-0112367	

THIS AGREEMENT, made and entered into this 2nd day of April, 2009 in the State of California, by and between State of California, through its duly elected or appointed, qualified and acting

TITLE OF OFFICER ACTING FOR STATE Executive Officer	AGENCY State Coastal Conservancy	, hereafter called the Conservancy, and
GRANTEE'S NAME Mountains Recreation and Conservation Authority		, hereafter called the Grantee.

The Grantee, for and in consideration of the covenants, conditions, agreements, and stipulations of the Conservancy hereinafter expressed, does hereby agree as follows:

The State Coastal Conservancy ("the Conservancy") and the Mountains Recreation and Conservation Authority ("the grantee") agree to amend their existing Agreement No. 00-170 as follows:

**TERM OF AGREEMENT**

The term of the agreement is extended to April 30, 2010.

The completion date is extended to January 31, 2010.

(Continued on next page)

The provisions on the following pages constitute a part of this agreement.  
 IN WITNESS WHEREOF, this agreement has been executed by the parties hereto, upon the date first above written.

STATE OF CALIFORNIA		GRANTEE	
AGENCY State Coastal Conservancy	GRANTEE (If other than an individual, state whether a corporation, partnership, etc.) Mountains Recreation and Conservation Authority		
BY (Authorized Signature) 	BY (Authorized Signature) 		
PRINTED NAME AND TITLE OF PERSON SIGNING Samuel Schuchat, Executive Officer	PRINTED NAME AND TITLE OF PERSON SIGNING Joseph T. Edmiston, Executive Officer		
ADDRESS & PHONE NUMBER 1330 Broadway, 13 <sup>th</sup> Floor Oakland, CA 94612 Phone: (510) 286-1015	ADDRESS & PHONE NUMBER 5810 Ramirez Canyon Road Malibu, CA 90265 Phone: (310) 589-3230		

AMOUNT ENCUMBERED BY THIS DOCUMENT \$ -0-	PROGRAM/CATEGORY (CODE AND TITLE) Capital Outlay	FUND TITLE General Fund / Public Resources ... / Safe Neighborhood Parks, ... / SCC Fund			
	(OPTIONAL USE) Lechuza Beach Acquisition	ITEM	CHAPTER	STATUTE	FISCAL YEAR
PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT \$ 9,306,603.47		3760-301-0001(0.9) = \$2,330,000.00	050	1999	99/00
		3760-301-0235(1) = \$ 325,000.00	050	1999	99/00
		3760-301-0001(1) = \$1,190,000.00	052	2000	00/01
		3760-301-0005(2)(C) = \$4,785,175.37 Reapp. by Ch. 47/06, 208/04 and 761/03	052	2000	00/01
		3760-301-0005(4)(A) = \$ 530,000.00 Reapp. by Ch. 47/06, 208/04 and 761/03	052	2000	00/01
	3760-301-0565(1) = \$ 146,428.10	157	2003	03/04	
TOTAL AMOUNT ENCUMBERED TO DATE \$ 9,306,603.47	OBJECT OF EXPENDITURE (CODE AND TITLE)				

I certify that this agreement is exempt from Department of General Services' approval.

I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.

SIGNATURE OF ACCOUNTING OFFICER 	DATE 04/02/09
-------------------------------------	------------------

GRANTEE     ACCOUNTING     PROJECT MANAGER     CONTROLLER     STATE AGENCY

**SUSPENSION OF AGREEMENT**

The parties acknowledge that work under this agreement has been suspended, and that the suspension remains in effect until further written notice from the Conservancy. The grantee shall take all reasonable measures to prevent further costs to the Conservancy during the suspension.

This amendment is deemed effective as of September 30, 2008.

All other terms and conditions of the existing agreement shall remain in effect.

STANDARD AGREEMENT - APPROVED BY THE ATTORNEY GENERAL  
 STD. REV. 5-91)

CONTRACT NUMBER 00-170	AM. NO. 3
TAXPAYER'S FEDERAL EMP. IDENTIFICATION NUMBER	

THIS AGREEMENT, made and entered into this 28<sup>th</sup> day of July, 2005, in the State of California, by and between State of California, through its duly elected or appointed, qualified and acting

TITLE OF OFFICER ACTING FOR STATE <b>Executive Officer</b>	AGENCY <b>State Coastal Conservancy</b>	<i>(hereafter called the State, and</i>
CONTRACTOR'S NAME <b>Mountains Recreation and Conservation Authority</b>		<i>(hereafter called the Contractor,</i>

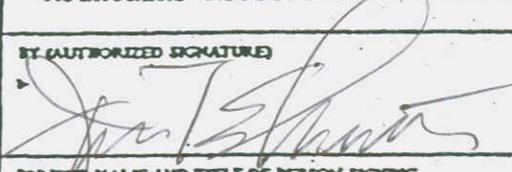
WITNESSETH: That the Contractor for and in consideration of the covenants, conditions, agreements, and stipulations of the State herein after expressed, does I agree to furnish to the State services and materials as follows: *(Set forth service to be rendered by Contractor, amount to be paid Contractor, time for performance, and attach plans and specifications, if any.)*

The State Coastal Conservancy ("the Conservancy") and the Mountains Recreation and Conservation Authority ("the grantee") agree to amend their existing Agreement No. 00-170 as follows:

(Continued on reverse)

CONTINUED ON                      SHEETS, EACH BEARING NAME OF CONTRACTOR AND CONTRACT NUMBER.

The provisions on the reverse side hereof constitute a part of this agreement.  
 IN WITNESS WHEREOF, this agreement has been executed by the parties hereto, upon the date first above written.

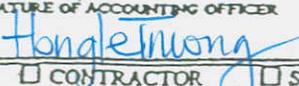
<b>STATE OF CALIFORNIA</b>		<b>CONTRACTOR</b>	
AGENCY <b>State Coastal Conservancy</b>		CONTRACTOR (if other than an individual, state whether a corporation, partnership, etc.) <b>Mountains Recreation &amp; Conservation Authority</b>	
BY (AUTHORIZED SIGNATURE) 		BY (AUTHORIZED SIGNATURE) 	
PRINTED NAME OF PERSON SIGNING <b>Samuel Schuchat</b>		PRINTED NAME AND TITLE OF PERSON SIGNING <b>Joseph T. Edmiston, Executive Officer</b>	
TITLE <b>Executive Officer</b>		ADDRESS <b>5810 Ramirez Canyon Road Malibu, CA 90265</b>	

AMOUNT ENCUMBERED BY THIS DOCUMENT \$ <b>6,603.47*</b>	PROGRAM CATEGORY (CODE AND TITLE) <b>Capital Outlay</b>	FUND TITLE General/ Public Resources. Safe Neighbor.../ Coastal Access...		
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT \$ <b>9,300,000.00</b>	OPTIONAL USE <b>Lechuza Beach Acquisition</b>			
TOTAL AMOUNT ENCUMBERED TO DATE \$ <b>9,306,603.47</b>	ITEM <b>"See Attached"</b>	CHAPTER	STATUTE	FISCAL YEAR
OBJECT OF EXPENDITURE (CODE AND TITLE) <b>Public Access</b>				

*Department of General Services Use Only*

I Certify that this amendment is exempt from Department of General Services approval.



I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.	T.R.A. NO.	S.R. NO.
	SIGNATURE OF ACCOUNTING OFFICER 	
DATE <b>07/28/05</b>		

The amount of this agreement is increased to nine million three hundred six thousand six hundred three dollars and forty-seven cents (\$9,306,603.47).

**TERM OF AGREEMENT**

The termination date is changed to September 30, 2008.

**COMPLETION DATE**

The completion date is changed to June 30, 2008.

All other terms and conditions of the existing agreement shall remain in effect.

ITEM	CHAPTER	STATUTE	FISCAL YEAR
3760-301-0001(0.9) =\$2,330,000.00	050 .	1999	99/00
3760-301-0235(1) =\$ 325,000.00	050 .	1999	99/00
3760-301-0001(1) =\$1,190,000.00	052 .	2000	00/01
3760-301-0005(2)(C)=\$4,785,175.37	052 .	2000	00/01
3760-301-0005(4)(A)=\$ 530,000.00	052 .	2000	00/01
3760-301-0565 =\$ 146,428.10	157 .	2003	03/04
Total =\$9,306,603.47			

STANDARD AGREEMENT APPROVE THE  
 ATTORNEY GENERAL

THIS AGREEMENT, made and entered into this 28 day of May, 2002, in the State of California, by and between State of California, through its duly elected or appointed, qualified and acting

CONTRACT NUMBER	AM. NO.
00-170	2
TAXPAYERS FEDERAL EMPLOYER IDENTIFICATION NUMBER	

TITLE OF OFFICER ACTING FOR STATE Executive Officer	AGENCY State Coastal Conservancy	, hereafter called the State, and
CONTRACTOR'S NAME Mountains Recreation and Conservation Authority		, hereafter called the Contractor.

WITNESSETH: That the Contractor for and in consideration of the covenants, conditions, agreements, and stipulations of the State hereinafter expressed, does hereby agree to furnish the State services and materials as follows: (Set forth service to be rendered by Contractor, amount to be paid Contractor, time for performance or completion, and attach plans a specifications, if any.)

The State Coastal Conservancy ("the Conservancy") and the Mountains Recreation and Conservation Authority ("the grantee") agree to amend their existing Agreement No. 00-170 as follows:

CONTINUED ON \_\_\_\_\_ SHEETS, EACH BEARING NAME OF CONTRACTOR AND CONTRACT NUMBER.

The provisions on the reverse side hereof constitute a part of this agreement. IN WITNESS WHEREOF, this agreement has been executed by the parties hereto, upon the date first above written.

STATE OF CALIFORNIA	CONTRACTOR
AGENCY State Coastal Conservancy	CONTRACTOR (If other than an individual, state whether a corporation, partnership, etc.) Mountains Recreation and Conservation Authority
BY (AUTHORIZED SIGNATURE) 	BY (AUTHORIZED SIGNATURE) 
PRINTED NAME OF PERSON SIGNING Samuel Schuchat	PRINTED NAME AND TITLE OF PERSON SIGNING Joseph T. Edmiston, Executive Officer
TITLE Executive Officer	ADDRESS 5810 Ramirez Canyon road Malibu, CA 90265

AMOUNT ENCUMBERED BY THIS DOCUMENT \$ -0-	PROGRAM/CATEGORY (CODE AND TITLE) Capital Outlay	FUND TITLE General/ Public Resources.../ Safe neighborhood...																								
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT \$ 9,300,000.00	(OPTIONAL USE) Lechuza Beach Aquisition	Department of General Services Use Only																								
TOTAL AMOUNT ENCUMBERED TO DATE \$ 9,300,000.00	<table border="1"> <thead> <tr> <th>ITEM</th> <th>CHAPTER</th> <th>STATUTE</th> <th>FISCAL YEAR</th> </tr> </thead> <tbody> <tr> <td>3760-301-0005(4)(A)=\$530,000</td> <td>52</td> <td>2000</td> <td>00/01</td> </tr> <tr> <td>3760-301-0001(0.9)=\$2,330,000.00</td> <td>50</td> <td>1999</td> <td>99/00</td> </tr> <tr> <td>3760-301-0235(1)=\$325,000.00</td> <td>50</td> <td>1999</td> <td>99/00</td> </tr> <tr> <td>3760-301-0001(1)=\$1,190,000.00</td> <td>52</td> <td>2000</td> <td>00/01</td> </tr> <tr> <td>3760-302-0005(2)(C)=\$4,925,000.00</td> <td>52</td> <td>2000</td> <td>00/01</td> </tr> </tbody> </table>	ITEM	CHAPTER	STATUTE	FISCAL YEAR	3760-301-0005(4)(A)=\$530,000	52	2000	00/01	3760-301-0001(0.9)=\$2,330,000.00	50	1999	99/00	3760-301-0235(1)=\$325,000.00	50	1999	99/00	3760-301-0001(1)=\$1,190,000.00	52	2000	00/01	3760-302-0005(2)(C)=\$4,925,000.00	52	2000	00/01	
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	OBJECT OF EXPENDITURE (CODE AND TITLE) Public Access																									

I Certify that this grant ~~agreement~~ amendment is exempt from department of General Services approval.

I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.	T.B.A. NO.	B.R. NO.
SIGNATURE OF ACCOUNTING OFFICER 	DATE 5/28/02	

**The parties agree to amend their Agreement in its entirety by substituting the following in its stead:**

### **SCOPE OF AGREEMENT**

Pursuant to Chapter 9 of Division 21 of the California Public Resources Code, the State Coastal Conservancy ("the Conservancy") hereby grants to the Mountains Recreation and Conservation Authority ("the grantee") a sum not to exceed nine million three hundred thousand dollars (\$9,300,000), subject to the terms and conditions of this agreement.

These funds shall be used to: (1) acquire real property ("the real property") known as Lechuza Beach located in the County of Los Angeles, State of California (County Assessor's Parcels Nos. 4470-001-035; 4470-028-010, -011, -012, -013, -014, -015, -016, -017, -018, -019, -021, and -022; 4470-024-011 and -040), and more particularly described shown in Exhibit A, which is incorporated by reference and attached; (2) develop such studies, plans and analyses as may be needed to acquire or manage the real property; and (3) administer this agreement, including costs of litigation regarding property rights or title to the real property.

The real property is being acquired for the purpose of providing public access to Lechuza Beach for public recreation.

The grantee shall provide any funds beyond those granted under this agreement that are needed to complete the acquisition of the real property.

The purchase price of any interest in land purchased under this agreement may not exceed fair market value as established by the approved appraisal.

### **CONDITIONS PRECEDENT TO DISBURSEMENT**

1. The Conservancy shall not be obligated to disburse any funds under this agreement unless and until the following condition precedent has been met:
  - a. A resolution has been adopted by the Board of Directors of the grantee authorizing the execution of this agreement and approving its terms and conditions.

**CONDITIONS PRECEDENT TO DISBURSEMENT** (Continued)

3. The Conservancy shall not be obligated to disburse any funds under this agreement for the development of such studies, plans and analyses as may be needed to manage the real property, or for grantee's costs of administering this agreement, until the Executive Officer has approved in writing a work program and budget for these tasks, and has reviewed and approved in writing the number, location, design, and wording of signs and placards to be placed on the real property as provided in the "SIGNS" section of this agreement.

**COSTS AND DISBURSEMENTS**

Upon satisfaction of all provisions of the "CONDITIONS PRECEDENT TO DISBURSEMENT" section of this agreement, the Conservancy shall disburse a total amount not to exceed Nine Million Three Hundred Thousand Dollars (\$9,300,000), as follows:

1. For the acquisition, the purchase price, plus closing costs consisting of escrow, recording and title insurance fees to the extent not included in the purchase price, shall be disbursed directly into an escrow account established for the acquisition.
2. For project administration of the acquisition, including litigation regarding property rights or title to the real property, in addition to the costs of employing any consultant services the grantee shall receive for its own staff costs an amount not to exceed Ten Thousand Dollars (\$10,000) for grantee's costs associated with the acquisition and any litigation. In the event that the California Department of Justice agrees to represent the grantee in any litigation regarding property rights or title to the property, the grantee shall not seek reimbursement for other legal services concerning those same matters.
3. For grantee's own staff and administration costs of all tasks performed under this agreement except the tasks described in 1. and 2. above, grantee shall receive an administrative fee of Nine Percent (9%) of the total amount for all such tasks.

The grantee shall request disbursement for the acquisition by sending a letter to the Conservancy. The grantee shall include in the letter the name and address of the grantee, the number of this agreement, the date, amount to be disbursed, and a description of the items for which disbursement is requested. Additionally, the letter shall include the name, address and telephone number of the title company or escrow holder and the escrow account number to which the funds will be disbursed. The letter shall be signed by an authorized representative of the grantee. Failure to send the required letter will relieve the Conservancy of its obligation to disburse funds.

**COSTS AND DISBURSEMENTS** (Continued)

The grantee shall request disbursements for items other than acquisition by filing with the Conservancy fully executed "Request for Disbursement" forms (available from the Conservancy). The grantee shall state on each form the name and address of the grantee, the number of this agreement, the authorized signature, the date of the submission and the period of time covered, the amount of the invoice, and a description, including time, materials and expenses incurred, of the items for which disbursement is requested. The forms shall also indicate cumulative expenditures to date, expenditures during the reporting period, and the unexpended balance of funds under the grant agreement. The forms shall be signed by an authorized representative of the grantee. The grantee shall submit the final form within thirty days after the completion of all items other than acquisition.

**TERM OF AGREEMENT**

This agreement shall be deemed executed and effective when signed by both parties and received in the offices of the Conservancy together with the resolution described in "CONDITIONS PRECEDENT TO DISBURSEMENT" section of this agreement. An authorized representative of the grantee shall sign the first page of the originals of this agreement in ink.

The term of this agreement shall run from its effective date through September 30, 2005 ("the termination date").

**COMPLETION DATE**

The grantee shall complete acquisition of the real property and all other actions reimbursable under this agreement by no later than June 30, 2005 ("the completion date").

Prior to the completion date, either party may terminate this agreement for any reason by providing the other party with seven days notice in writing. If the Conservancy terminates prior to the completion date, the grantee shall take all reasonable measures to prevent further costs to the Conservancy under this agreement.

The Conservancy shall be responsible for any reasonable and non-cancelable obligations incurred by the grantee in the performance of this agreement prior to the date of the notice to terminate, but only up to the unpaid balance of funding authorized in this agreement.

Mountains Recreation and Conservation Authority  
Grant Agreement No. 00-170  
Page 5

**AUTHORIZATION**

The signature of the Executive Officer on the first page of this agreement certifies that at its October 26, 2000 meeting, the Conservancy adopted the resolution included in the staff recommendation attached as Exhibit A. This agreement is executed pursuant to that authorization.

Standard Provisions

**ESSENTIAL DEED PROVISIONS**

The deed by which the grantee obtains title to the real property shall set forth the following essential provisions:

1. The real property was acquired by the grantee pursuant to a grant of funds from the State Coastal Conservancy, an agency of the State of California, for the purpose of providing public access to Lechuza Beach for public recreation, and no use of the real property inconsistent with that purpose is permitted.
2. Without the written permission of the Executive Officer, the grantee shall not use or allow the use of any portion of the real property for mitigation (in other words, to compensate for adverse changes to the environment elsewhere). All funds generated in connection with any authorized or allowable mitigation on the real property shall be remitted promptly to the Conservancy until the Conservancy has been fully paid for all of its past, present, and future costs with respect to the real property, including, without limitation, staff, planning, development, restoration, operation and maintenance, and monitoring costs, and acquisition costs at fair market value as of the time the mitigation is to begin.
3. The real property (including any portion of it or any interest in it) may not be used as security for any debt without the written approval of the State of California, acting through the Executive Officer of the Conservancy, or its successor.
4. The real property (including any portion of it or any interest in it) may not be transferred without the approval of the State of California, through the Executive Officer of the Conservancy, or its successor.
5. The grantee is obligated to use, manage, operate and maintain the real property as described in the "USE, MANAGEMENT, OPERATION AND MAINTENANCE" section of California State Coastal Conservancy Grant Agreement No. 00-170, as it may be amended from time to time.
6. If the existence of the grantee ceases for any reason or if any of the essential deed provisions stated above are violated, all of the grantee's right, title and interest in the real property shall automatically vest in the State of California for the benefit of the Conservancy or its successor, upon acceptance of the real property and approval of the State Public Works Board; provided, however, that the State, through the Executive Officer of the Conservancy, or its successor, may designate another public agency or a nonprofit organization to accept the right, title and interest, in which case vesting shall be in that agency or organization rather than in the State.

## **SIGNS**

The grantee shall erect signs identifying the acquired lands for public use. The number, design, wording and placement of the signs shall be submitted to the Executive Officer for review and approval. The grantee shall incorporate into this program a sign acknowledging the Conservancy's funding assistance in a manner approved by the Executive Officer. The Conservancy shall provide specification for the Conservancy sign and logo.

## **USE, MANAGEMENT, OPERATION AND MAINTENANCE**

The grantee shall use, manage, operate and maintain the real property for public access to the beach and public recreation consistent with the provisions of Exhibit A. The grantee further assumes all management, operation and maintenance costs associated with the real property, including the costs of ordinary repairs and replacements of a recurring nature, and costs of enforcement of regulations. The Conservancy shall not be liable for any cost of such management, operation or maintenance. The grantee shall refrain from developing or otherwise using any other property it owns or controls in the vicinity of the real property in such a way as to interfere with or inconvenience the use, management, operation or maintenance of the real property or to detract from the purpose of the acquisition.

With the approval of the Executive Officer of the Conservancy, the grantee may enter into an agreement (an "O&M Agreement") with another public agency or with a nonprofit organization to undertake operation and maintenance of the real property for beach access and recreation; provided, however, that the O&M Agreement shall not relieve the grantee of its responsibilities for use of the property pursuant to this grant agreement.

The grantee shall not use or allow the use of any portion of the real property for mitigation (in other words, to compensate for adverse changes to the environment elsewhere).

## **LIABILITY**

The grantee shall be responsible for, indemnify and save harmless the Conservancy, its officers, agents and employees from any and all liabilities, claims, demands, damages or costs resulting from, growing out of, or in any way connected with or incident to this agreement, except for active negligence of the Conservancy, its officers, agents or

**LIABILITY** (Continued)

employees. The duty of the grantee to indemnify and save harmless includes the duty to defend as set forth in Civil Code Section 2778. This agreement supersedes the grantee's right as a public entity to indemnity (see Gov. Code Section 895.2) and contribution (see Gov. Code Section 895.6) as set forth in Gov. Code Section 895.4.

The grantee waives any and all rights to any type of express or implied indemnity or right of contribution from the State, its officers, agents or employees, for any liability resulting from, growing out of, or in any way connected with or incident to this agreement.

**AUDITS/ACCOUNTING/RECORDS**

The grantee shall maintain financial accounts, documents, and records (collectively, "records") relating to this agreement, in accordance with the guidelines of "Generally Accepted Accounting Practices" ("GAAP") published by the American Institute of Certified Public Accountants. The records shall include, without limitation, evidence sufficient to reflect properly the amount, receipt, deposit, and disbursement of all funds related to the acquisition, use, management, operation and maintenance of the real property, as well as to the additional activities authorized under this agreement. The grantee shall maintain adequate supporting records in a manner that permits tracing of transactions from the request for disbursement forms to the accounting records and to the supporting documentation.

Additionally, the Conservancy or its agents may review, obtain, and copy all records relating to performance of the agreement. The grantee shall provide the Conservancy or its agents with any relevant information requested and shall permit the Conservancy or its agents access to the grantee's premises upon reasonable notice, during normal business hours, to interview employees and inspect and copy books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this agreement and any applicable laws and regulations.

The grantee shall retain the records related to the acquisition for three years following the date of final disbursement for the acquisition by the Conservancy. All other records shall be retained by the grantee for three years following the later of final payment and the final year to which the records pertain. The records shall be subject to examination and audit by the Conservancy and the Bureau of State Audits during the retention periods.

**AUDITS/ACCOUNTING/RECORDS** (Continued)

If the grantee retains any contractors to accomplish any of the work of this agreement, the grantee shall first enter into an agreement with each contractor requiring the contractor to meet the terms of this section and to make the terms applicable to all subcontractors.

The Conservancy may disallow all or part of the cost of any activity or action that it determines to be not in compliance with the requirements of this agreement.

**COMPUTER SOFTWARE**

The grantee certifies that it has instituted and will employ systems and controls appropriate to ensure that, in the performance of this contract, state funds will not be used for the acquisition, operation or maintenance of computer software in violation of copyright laws.

**NONDISCRIMINATION CLAUSE**

During the performance of this agreement, the grantee and its contractors shall not unlawfully discriminate against, harass, or allow harassment against any employee or applicant for employment because of sex, race, religion, color, national origin, ancestry, disability, medical condition, marital status, age (over 40), or denial of family-care leave, medical-care leave, or pregnancy-disability leave. The grantee and its contractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment. The grantee and its contractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.) and the applicable regulations (California Code of Regulations, Title 2, Section 7285.0 et seq.). The regulations of the Fair Employment and Housing Commission regarding Contractor Nondiscrimination and Compliance (Chapter 5 of Division 4 of Title 2 of the California Code of Regulations) are incorporated into this agreement. The grantee and its contractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. This nondiscrimination clause shall be included in all contracts and subcontracts entered into to perform work provided for under this agreement.

**INDEPENDENT CAPACITY**

The grantee, and the agents and employees of the grantee, in the performance of this agreement, shall act in an independent capacity and not as officers or employees or agents of the State Coastal Conservancy.

**ASSIGNMENT**

Without the written consent of the State, this agreement is not assignable by the grantee either in whole or in part.

**TIMELINESS**

Time is of the essence in this agreement.

**EXECUTIVE OFFICER'S DESIGNEE**

The Executive Officer shall designate a Conservancy project manager who shall have authority to act on behalf of the Executive Officer with respect to this agreement. The Executive Officer shall notify the grantee of the designation in writing.

**AMENDMENT**

No change in this agreement shall be valid unless made in writing and signed by the parties to the agreement. No oral understanding or agreement not incorporated in this agreement shall be binding on any of the parties.

**LOCUS**

This agreement is deemed to be entered into in the County of Alameda.

STANDARD AGREEMENT . APPROV. BY THE ATTORNEY GENERAL  
 STD. (REV. 5-91)

THIS AGREEMENT, made and entered into this 11 day of April, 2002, in the State of California, by and between State of California, through its duly elected or appointed, qualified and acting

CONTRACT NUMBER	AM. NO.
00-170	1
TAXPAYERS FEDERAL EMPLOYER IDENTIFICATION NUMBER	
77-0112367	

TITLE OF OFFICER ACTING FOR STATE	AGENCY	hereafter called the State, and
Executive Officer	State Coastal Conservancy	
CONTRACTOR'S NAME		hereafter called the Contractor.
Mountains Recreation and Conservation Authority		

WITNESSETH: That the Contractor for and in consideration of the covenants, conditions, agreements, and stipulations of the State hereinafter expressed, does hereby agree to furnish to the State services and materials as follows: (Set forth service to be rendered by Contractor, amount to be paid Contractor, time for performance or completion, and attach plans and specifications, if any.)

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(Continued on the following pages)

CONTINUED ON \_\_\_\_\_ SHEETS, EACH BEARING NAME OF CONTRACTOR AND CONTRACT NUMBER.

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AGENCY	CONTRACTOR (If other than an individual, state whether a corporation, partnership, etc.)
State Coastal Conservancy	Mountains Recreation and Conservation Authority
BY (AUTHORIZED SIGNATURE)	BY (AUTHORIZED SIGNATURE)
PRINTED NAME OF PERSON SIGNING	PRINTED NAME AND TITLE OF PERSON SIGNING
Samuel Schuchat	Joseph T. Edmiston, Executive Officer
TITLE	ADDRESS
Executive Officer	5810 Ramirez Canyon Road Malibu, CA 90265

AMOUNT ENCUMBERED BY THIS DOCUMENT	PROGRAM/CATEGORY (CODE AND TITLE)	FUND TITLE	Department of General Services Use Only		
\$ 530,000.00	Capital Outlay	Gen. Fund/ Public Resources.../ Safe Neighborhood...			
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT	(OPTIONAL USE)				
\$ 8,770,000.00	Lechuza Beach Acquisition				
TOTAL AMOUNT ENCUMBERED TO DATE	ITEM	CHAPTER	STATUTE	FISCAL YEAR	
\$ 9,300,000.00	3760-301-0001(0.9)=\$2,330,000.00	50	1999	99/00	
	3760-301-0235(1)=\$325,000.00	50	1999	99/00	
	3760-301-0001(1)=\$1,190,000.00	52	2000	00/01	
	3760-302-0005(2)(C)=\$4,925,000.00	52	2000	00/01	
	OBJECT OF EXPENDITURE (CODE AND TITLE)				
	Public Access				

I Certify that this ~~grant agreement~~ ~~contract~~ amendment is exempt from department of General Services approval.

3760-301-0005(A)(A)=\$530,000.00

I hereby certify, upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.	T.B.A. NO.	B.R. NO.
SIGNATURE OF ACCOUNTING OFFICER	DATE	
	4-11-02	

**CONDITIONS PRECEDENT TO DISBURSEMENT** (Continued)

The following is added between **CONDITION 1. a.** and **CONDITION 3** of this section:

2. The grantee shall not acquire the real property and the Conservancy shall not be obligated to disburse any funds under this agreement for the acquisition unless and until the Executive Officer of the Conservancy (“the Executive Officer”) has reviewed and approved in writing:
  - a. All title and acquisition documents pertaining to acquisition of the real property, including, without limitation, appraisals, preliminary title reports, agreements for purchase and sale, escrow instructions, and instruments of conveyance; and
  - b. Evidence that grantee’s acquisition of the real property would include property interests sufficient to ensure permanent public access to Lechuza Beach.

All other terms and conditions of the existing agreement shall remain in effect.

STANDARD AGREEMENT . APPROVED . THE  
 STD 2 (REV. 91) ATTORNEY GENERAL

THIS AGREEMENT, made and entered into this 26 day of June, 2001,  
 in the State of California, by and between State of California, through its duly elected or appointed, qualified and acting

CONTRACT NUMBER 00-170	AM. NO.
TAXPAYERS FEDERAL EMPLOYER IDENTIFICATION NUMBER 77-0112367	

TITLE OF OFFICER ACTING FOR STATE Deputy Executive Officer	AGENCY State Coastal Conservancy	, hereafter called the State, and
CONTRACTOR'S NAME Mountains Recreation and Conservation Authority		, hereafter called the Contractor.

WITNESSETH: That the Contractor for and in consideration of the covenants, conditions, agreements, and stipulations of the State hereinafter expressed, does hereby agree to furnish to the State services and materials as follows: (Set forth service to be rendered by Contractor, amount to be paid Contractor, time for performance or completion, and attach plans and specifications, if any.)

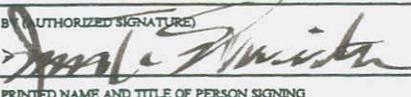
**SCOPE OF AGREEMENT**

Pursuant to Chapter 9 of Division 21 of the California Public Resources Code, the State Coastal Conservancy ("the Conservancy") hereby grants to the Mountains Recreation and Conservation Authority ("the grantee") a sum not to exceed eight million seven hundred seventy thousand dollars (\$8,770,000), subject to the terms and conditions of this agreement.

(Continued on the following pages)

CONTINUED ON \_\_\_\_\_ SHEETS, EACH BEARING NAME OF CONTRACTOR AND CONTRACT NUMBER.

The provisions on the reverse side hereof constitute a part of this agreement.  
 IN WITNESS WHEREOF, this agreement has been executed by the parties hereto, upon the date first above written.

STATE OF CALIFORNIA	CONTRACTOR
AGENCY State Coastal Conservancy	CONTRACTOR (If other than an individual, state whether a corporation, partnership, etc.) Mountains Recreation and Conservation Authority
BY (AUTHORIZED SIGNATURE) 	BY (AUTHORIZED SIGNATURE) 
PRINTED NAME OF PERSON SIGNING Steve Horn	PRINTED NAME AND TITLE OF PERSON SIGNING Joseph T. Edmiston, Executive Director <i>Office</i>
TITLE Deputy Executive Officer	ADDRESS 5810 Ramirez Canyon Road Malibu, CA 90265

AMOUNT ENCUMBERED BY THIS DOCUMENT \$ 8,770,000.00	PROGRAM/CATEGORY (CODE AND TITLE) Capital Outlay	FUND TITLE General Fund, Department of General Services Public Resources, ... & Safe Neighborhood... Use Only
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT \$ 0	(OPTIONAL USE) Lechuza Beach Acquisition	
TOTAL AMOUNT ENCUMBERED TO DATE \$ 8,770,000.00	ITEM	CHAPTER STATUTE FISCAL YEAR
	3760-301-0001 (0.9) = \$2,330,000	. 50 1999 99/00
	3760-301-0235 (i) = \$325,000	. 50 1999 99/00
	3760-301-0001 (1) = \$1,190,000	. 52 2000 00/01
	3760-302-0005(2)(C) = \$4,925,000	. 52 2000 00/01
	OBJECT OF EXPENDITURE (CODE AND TITLE) Public Access	
I hereby certify, upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.	T.B.A. NO.	B.R. NO.
SIGNATURE OF ACCOUNTING OFFICER 	DATE 6/26/01	

I Certify that this grant agreement/  
~~contract amendment~~ is exempt from  
 department of General Services approval.



**SCOPE OF AGREEMENT** (Continued)

These funds shall be used to: (1) acquire real property ("the real property") known as Lechuza Beach located in the County of Los Angeles, State of California (County Assessor's Parcels Nos. 4470-001-035; 4470-028-010, -011, -012, -013, -014, -015, -016, -017, -018, -019, -021, and -022; 4470-024-011 and -040), and more particularly described shown in Exhibit A, which is incorporated by reference and attached; (2) develop such studies, plans and analyses as may be needed to acquire or manage the real property; and (3) administer this agreement.

The real property is being acquired for the purpose of providing public access to Lechuza Beach for public recreation.

The grantee shall provide any funds beyond those granted under this agreement that are needed to complete the acquisition of the real property.

**CONDITIONS PRECEDENT TO DISBURSEMENT**

1. The Conservancy shall not be obligated to disburse any funds under this agreement unless and until the following condition precedent has been met:
  - a. A resolution has been adopted by the Board of Directors of the grantee authorizing the execution of this agreement and approving its terms and conditions.
2. The grantee shall not acquire the real property and the Conservancy shall not be obligated to disburse any funds under this agreement for the acquisition unless and until:
3. The Executive Officer of the Conservancy ("the Executive Officer") has reviewed and approved in writing:
  - a. All title and acquisition documents pertaining to acquisition of the real property, including, without limitation, appraisals, preliminary title reports, agreements for purchase and sale, escrow instructions, and instruments of conveyance.
  - b. The number, location, design, and wording of signs and placards to be placed on the real property as provided in the "SIGNS" section of this agreement.

**CONDITIONS PRECEDENT TO DISBURSEMENT** (Continued)

- c. Evidence that grantee's acquisition of the real property would include property interests sufficient to ensure permanent public access to Lechuza Beach.
4. The purchase price of any interest in land purchased under this agreement may not exceed fair market value as established by the approved appraisal.
5. The Conservancy shall not be obligated to disburse any funds under this agreement for the development of such studies, plans and analyses as may be needed to acquire or manage the real property, or for grantee's costs of administering this agreement, until the Executive Officer has approved in writing a work program and budget for these tasks.

**COSTS AND DISBURSEMENTS**

Upon satisfaction of all provisions of the "CONDITIONS PRECEDENT TO DISBURSEMENT" section of this agreement, the Conservancy shall disburse a total amount not to exceed Eight Million Seven Hundred Seventy Thousand Dollars (\$8,770,000), as follows:

1. For the acquisition, the purchase price, plus closing costs consisting of escrow, recording and title insurance fees to the extent not included in the purchase price, shall be disbursed directly into an escrow account established for the acquisition.
2. For project administration of the acquisition, upon completion of the acquisition of the real property, the an amount not to exceed Ten Thousand Dollars (\$10,000) for grantee's costs associated with the acquisition.
3. For administration costs of all tasks performed under this agreement except the acquisition tasks, an administrative fee of Nine Percent (9%) of the total amount for all such tasks.

The grantee shall request disbursement for the acquisition by sending a letter to the Conservancy. The grantee shall include in the letter the name and address of the grantee, the number of this agreement, the date, amount to be disbursed, and a description of the items for which disbursement is requested. Additionally, the letter shall include the name, address and telephone number of the title company or escrow holder and the escrow account number to which the funds will be disbursed.

**COSTS AND DISBURSEMENTS** (Continued)

The letter shall be signed by an authorized representative of the grantee. Failure to send the required letter will relieve the Conservancy of its obligation to disburse funds. The grantee shall request disbursements for items other than acquisition by filing with the Conservancy fully executed "Request for Disbursement" forms (available from the Conservancy). The grantee shall state on each form the name and address of the grantee, the number of this agreement, the authorized signature, the date of the submission and the period of time covered, the amount of the invoice, and a description, including time, materials and expenses incurred, of the items for which disbursement is requested. The forms shall also indicate cumulative expenditures to date, expenditures during the reporting period, and the unexpended balance of funds under the grant agreement. The forms shall be signed by an authorized representative of the grantee. The grantee shall submit the final form within thirty days after the completion of all items other than acquisition.

**TERM OF AGREEMENT**

This agreement shall be deemed executed and effective when signed by both parties and received in the offices of the Conservancy together with the resolution described in "CONDITIONS PRECEDENT TO DISBURSEMENT" section of this agreement. An authorized representative of the grantee shall sign the first page of the originals of this agreement in ink.

The term of this agreement shall run from its effective date through December 31, 2004 ("the termination date").

**COMPLETION DATE**

The grantee shall complete acquisition of the real property no later than September 30, 2004 ("the completion date").

Prior to the completion date, either party may terminate this agreement for any reason by providing the other party with seven days notice in writing.

If the Conservancy terminates prior to the completion date, the grantee shall take all reasonable measures to prevent further costs to the Conservancy under this agreement.

**COMPLETION DATE** (Continued)

The Conservancy shall be responsible for any reasonable and non-cancelable obligations incurred by the grantee in the performance of this agreement prior to the date of the notice to terminate, but only up to the unpaid balance of funding authorized in this agreement.

**AUTHORIZATION**

The signature of the Executive Officer on the first page of this agreement certifies that at its October 26, 2000 meeting, the Conservancy adopted the resolution included in the staff recommendation attached as Exhibit A. This agreement is executed pursuant to that authorization.

Standard Provisions

**ESSENTIAL DEED PROVISIONS**

The deed by which the grantee obtains title to the real property shall set forth the following essential provisions:

1. The real property was acquired by the grantee pursuant to a grant of funds from the State Coastal Conservancy, an agency of the State of California, for the purpose of providing public access to Lechuza Beach for public recreation, and no use of the real property inconsistent with that purpose is permitted.
2. Without the written permission of the Executive Officer, the grantee shall not use or allow the use of any portion of the real property for mitigation (in other words, to compensate for adverse changes to the environment elsewhere). All funds generated in connection with any authorized or allowable mitigation on the real property shall be remitted promptly to the Conservancy until the Conservancy has been fully paid for all of its past, present, and future costs with respect to the real property, including, without limitation, staff, planning, development, restoration, operation and maintenance, and monitoring costs, and acquisition costs at fair market value as of the time the mitigation is to begin.
3. The real property (including any portion of it or any interest in it) may not be used as security for any debt without the written approval of the State of California, acting through the Executive Officer of the Conservancy, or its successor.
4. The real property (including any portion of it or any interest in it) may not be transferred without the approval of the State of California, through the Executive Officer of the Conservancy, or its successor.
5. The grantee is obligated to use, manage, operate and maintain the real property as described in the "USE, MANAGEMENT, OPERATION AND MAINTENANCE" section of California State Coastal Conservancy Grant Agreement No. 00-170, as it may be amended from time to time.
6. If the existence of the grantee ceases for any reason or if any of the essential deed provisions stated above are violated, all of the grantee's right, title and interest in the real property shall automatically vest in the State of California for the benefit of the Conservancy or its successor, upon acceptance of the real property and approval of the State Public Works Board; provided, however, that the State, through the Executive Officer of the Conservancy, or its successor, may designate another public agency or a nonprofit organization to accept the right, title and interest, in which case vesting shall be in that agency or organization rather than in the State.

## **SIGNS**

The grantee shall erect signs identifying the acquired lands for public use. The number, design, wording and placement of the signs shall be submitted to the Executive Officer for review and approval prior to the acquisition of the real property. The grantee shall incorporate into this program a sign acknowledging the Conservancy's funding assistance in a manner approved by the Executive Officer. The Conservancy shall provide specification for the Conservancy sign and logo.

## **USE, MANAGEMENT, OPERATION AND MAINTENANCE**

The grantee shall use, manage, operate and maintain the real property for public access to the beach and public recreation consistent with the provisions of Exhibit A. The grantee further assumes all management, operation and maintenance costs associated with the real property, including the costs of ordinary repairs and replacements of a recurring nature, and costs of enforcement of regulations, however, the grantee and the Conservancy shall work together to design a plan and budget for operation and maintenance of the property. The Conservancy shall not be liable for any cost of such management, operation or maintenance, except as provided in a future management plan that is approved by the Conservancy. The grantee shall refrain from developing or otherwise using any other property it owns or controls in the vicinity of the real property in such a way as to interfere with or inconvenience the use, management, operation or maintenance of the real property or to detract from the purpose of the acquisition.

With the approval of the Executive Officer of the Conservancy, the grantee may enter into an agreement (an "O&M Agreement") with another public agency or with a nonprofit organization to undertake operation and maintenance of the real property for beach access and recreation; provided, however, that nothing in any such O&M Agreement shall relieve the grantee of its responsibilities for use of the property pursuant to this grant agreement.

The grantee shall not use or allow the use of any portion of the real property for mitigation (in other words, to compensate for adverse changes to the environment elsewhere.)

## **LIABILITY**

The grantee shall be responsible for, indemnify and save harmless the Conservancy, its

officers, agents and employees from any and all liabilities, claims, demands, damages or costs resulting from, growing out of, or in any way connected with or incident to this agreement, except for active negligence of the Conservancy, its officers, agents or employees. The duty of the grantee to indemnify and save harmless includes the duty to defend as set forth in Civil Code Section 2778. This agreement supersedes the grantee's right as a public entity to indemnity (see Gov. Code Section 895.2) and contribution (see Gov. Code Section 895.6) as set forth in Gov. Code Section 895.4.

The grantee waives any and all rights to any type of express or implied indemnity or right of contribution from the State, its officers, agents or employees, for any liability resulting from, growing out of, or in any way connected with or incident to this agreement.

#### **AUDITS/ACCOUNTING/RECORDS**

The grantee shall maintain financial accounts, documents, and records (collectively, "records") relating to this agreement, in accordance with the guidelines of "Generally Accepted Accounting Practices" ("GAAP") published by the American Institute of Certified Public Accountants. The records shall include, without limitation, evidence sufficient to reflect properly the amount, receipt, deposit, and disbursement of all funds related to the acquisition, use, management, operation and maintenance of the real property, as well as to the additional activities authorized under this agreement. The grantee shall maintain adequate supporting records in a manner that permits tracing of transactions from the request for disbursement forms to the accounting records and to the supporting documentation.

Additionally, the Conservancy or its agents may review, obtain, and copy all records relating to performance of the agreement. The grantee shall provide the Conservancy or its agents with any relevant information requested and shall permit the Conservancy or its agents access to the grantee's premises upon reasonable notice, during normal business hours, to interview employees and inspect and copy books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this agreement and any applicable laws and regulations.

The grantee shall retain the records related to the acquisition for three years following the date of final disbursement for the acquisition by the Conservancy. All other records shall be retained by the grantee for three years following the later of final payment and the final year to which the records pertain. The records shall be subject to examination and audit by the Conservancy and the Bureau of State Audits during the retention periods.

If the grantee retains any contractors to accomplish any of the work of this agreement, the grantee shall first enter into an agreement with each contractor requiring the contractor to meet the terms of this section and to make the terms applicable to all subcontractors.

The Conservancy may disallow all or part of the cost of any activity or action that it determines to be not in compliance with the requirements of this agreement.

### **COMPUTER SOFTWARE**

The grantee certifies that it has instituted and will employ systems and controls appropriate to ensure that, in the performance of this contract, state funds will not be used for the acquisition, operation or maintenance of computer software in violation of copyright laws.

### **NONDISCRIMINATION CLAUSE**

During the performance of this agreement, the grantee and its contractors shall not unlawfully discriminate against, harass, or allow harassment against any employee or applicant for employment because of sex, race, religion, color, national origin, ancestry, disability, medical condition, marital status, age (over 40), or denial of family-care leave, medical-care leave, or pregnancy-disability leave. The grantee and its contractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment. The grantee and its contractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.) and the applicable regulations (California Code of Regulations, Title 2, Section 7285.0 et seq.). The regulations of the Fair Employment and Housing Commission regarding Contractor Nondiscrimination and Compliance (Chapter 5 of Division 4 of Title 2 of the California Code of Regulations) are incorporated into this agreement. The grantee and its contractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. This nondiscrimination clause shall be included in all contracts and subcontracts entered into to perform work provided for under this agreement.

**INDEPENDENT CAPACITY**

The grantee, and the agents and employees of the grantee, in the performance of this agreement, shall act in an independent capacity and not as officers or employees or agents of the State of California.

**ASSIGNMENT**

Without the written consent of the State, this agreement is not assignable by the grantee either in whole or in part.

**TIMELINESS**

Time is of the essence in this agreement.

**GODLINESS**

May the Compassionate Buddha smile on this beach.

**EXECUTIVE OFFICER'S DESIGNEE**

The Executive Officer shall designate a Conservancy project manager who shall have authority to act on behalf of the Executive Officer with respect to this agreement. The Executive Officer shall notify the grantee of the designation in writing.

**AMENDMENT**

No change in this agreement shall be valid unless made in writing and signed by the parties to the agreement. No oral understanding or agreement not incorporated in this agreement shall be binding on any of the parties.

**LOCUS**

This agreement is deemed to be entered into in the County of Alameda.

**LECHUZA BEACH ACQUISITION**

**Agenda Item XVII.**

**October 26, 2000**

COASTAL CONSERVANCY

Project Summary  
October 26, 2000

**LECHUZA BEACH ACQUISITION**

File No. 00-084  
Project Manager: Steve Horn

**RECOMMENDED ACTION:** Authorization to disburse up to \$10,000,000 to the Mountains Recreation and Conservation Authority to acquire 21 ocean-front lots and three inland parcels for public access to Lechuza Beach, Malibu.

**LOCATION:** West of Broad Beach Road, approximately four miles north-west of Point Dume, Malibu, Los Angeles County (Exhibits 1 and 2)

**PROGRAM CATEGORY:** Public Access

<b>ESTIMATED COST:</b> Coastal Conservancy	\$ 8,000,000
State Lands Commission (not yet authorized)	500,000
Coastal Conservancy Challenge Grant	up to 2,000,000
Private Donations (matching Challenge Grant)	<u>2,000,000</u>
<b>TOTAL PROJECT COST (estimated)</b>	<b>\$12,500,000</b>

**PROJECT SUMMARY:** The proposed acquisition will provide for permanent public access to Lechuza Beach, a sandy cove in northern (western) Malibu. The project would provide funding to the Mountains Recreation and Conservation Authority for the acquisition of 21 existing subdivided lots located on the sand, and for three inland parcels that would provide access between the beach and the first public road.

The subject property has been used by the public for beach recreation since 1991 with the permission of the landowner and the local homeowners' association, but permission for public use could be withdrawn at any time. The proposed acquisition is intended to assure that public access continues to be available. Prior to 1991, this area was a locked-gate subdivision with beach access only for residents and guests.

The acquisition project would be funded from Proposition 12, the 2000 park bond act (\$5,000,000), from public access appropriations to the Conservancy (\$3,000,000), from the State Lands Commission Kapiloff Land Bank (estimated contribution \$500,000), from Governor's Challenge Grant funds (up to \$2,000,000), and from private charitable donations. The Challenge Grant funds require a one-for-one match with private donations.

Acquisition of the property would be by the Mountains Recreation and Conservation Authority (MRCA), a joint powers agency formed by the Santa Monica Mountains Conservancy and two local park and recreation districts. The MRCA owns and operates parklands in Malibu and the Santa Monica Mountains. While the MRCA has not yet taken action to authorize the purchase, the Executive Officer of MRCA has indicated a willingness to do so at its next regularly scheduled meeting.

The Conservancy will work with the MRCA, the State Lands Commission, the Coastal Commission, local governments, the Malibu-Encinal Homeowners Association and other interested parties to develop agreements for management of the beach. Initially, and until a management plan is developed, no additional improvements would be installed. Pending completion of a management plan, public beach use would continue in the same manner as has been permitted and signed since 1991: during daylight hours, by pedestrian access from Broad Beach Road down either of the three improved routes of access, and with no support facilities such as restrooms or water service. The acquisition project will not be concluded until the Conservancy and/or MRCA have entered into agreements to ensure that the beach will be available to the public in this manner.

In the longer term, an evaluation will be made of what physical improvements would be desirable to support or increase public access to Lechuza Beach, and what agency would be best to develop and operate those facilities. Alternatives include management of the beach for public access by the MRCA. Other alternatives include Los Angeles County, which also manages other beaches nearby, the City of Malibu, and a number of local nonprofit organizations. The Conservancy would continue to be responsible for the development of this management planning.

The litigation continues between the State Lands Commission and the owners of the properties proposed for acquisition, but oral arguments at the Court of Appeal have again been deferred (until November 13) to permit the process of negotiation for

public acquisition to continue. The Attorney General and the owners of the subject properties have agreed that a public acquisition would end the litigation with the State. The Conservancy may take action first, defining the potential scope of its role and requirements for its participation in the project, to provide guidance to the Court, the landowners, MRCA and other interested parties.

COASTAL CONSERVANCY

Staff Recommendation  
October 26, 2000

LECHUZA BEACH ACQUISITION

File No. 00-084  
Project Manager: Steve Horn

STAFF

RECOMMENDATION: Staff recommends that the State Coastal Conservancy adopt the following Resolution pursuant to Sections 31400-31405 of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes the disbursement of an amount not to exceed ten million dollars (\$10,000,000) to the Mountains Recreation and Conservation Authority (MRCA) for the acquisition of fee title to Lots 140-156, Lot 76, Lot I, Lot U and a portion of Lot A, and fee title and/or easements in additional portions of Lot A, within Los Angeles County Tract No. 10630, as described in Exhibits 2 and 3 to the accompanying staff report, for public access to Lechuza Beach, Malibu, and authorizes the Executive Officer to enter into all necessary agreements for the acquisition and management of these properties, subject to the condition that prior to the disbursement of any funds for acquisition of the property:

1. The Executive Officer of the Conservancy shall approve the purchase agreement, appraisal and all other acquisition documents, including evidence that the proposed acquisition of these interests in land would be sufficient to assure permanent public access to Lechuza Beach;
2. MRCA shall submit for the review and approval of the Executive Officer a signing plan for the project acknowledging Conservancy participation; and
3. MRCA shall enter into an agreement with the Conservancy to provide for management of the subject properties for public access to the beach.”

Staff further recommends that the Conservancy adopt the following findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The Lechuza Beach property has coastal access values of statewide significance and will serve greater-than-local public needs;
  2. The provision of funds to the Mountains Recreation and Conservation Authority for acquisition of the Lechuza Beach property, and the execution of agreements to provide for management of the property for public access, are consistent with the authority of the Conservancy to implement a system of public accessways to and along the California coast pursuant to Sections 31400-31405; and
  3. The project is consistent with the interim Program Guidelines and Criteria adopted by the Conservancy.”
- 

**STAFF DISCUSSION:**

**Project Description:** It is recommended that the Conservancy provide up to \$10,000,000 to enable the Mountains Recreation and Conservation Authority (MRCA) to acquire the subject properties. The Conservancy and the MRCA would enter into an agreement regarding management of the property for the immediate future, to assure that the property would remain open for public use in the same manner as it currently is.

Following the acquisition, the Conservancy and the MRCA would jointly develop a long-term management plan for public access and use of the beach. The Conservancy and the MRCA may also enter into agreements with another public agency and/or nonprofit organization to provide for interim management services during the period while a management plan is being prepared.

The property interests that would be acquired by the State would include: (a) fee title to 21 vacant lots located on the sandy beach (Lots 140-156 and Lot U on Tract Map No. 10630); fee title to the undeveloped portion of Sea Level Drive

(Lot A) located immediately inland of the beach; (b) fee title to one vacant lot located immediately inland of the beach and Lot A (Lot 76); (c) fee title to a 10-foot-wide trail corridor connecting Broad Beach Road to the beach (Lot I); (d) fee title and/or easements across each of the two developed portions of Sea Level Drive, between Broad Beach Road and the beach, that would provide, at a minimum, for public pedestrian access and for vehicular access for emergency vehicles, beach maintenance, and a limited number of vehicles providing access for disabled persons.

**Project Financing:** The State would provide a minimum of \$8,500,000 for the acquisition (assuming the proposed contribution from the State Lands Commission), and would match on a one-to-one basis up to \$2,000,000 any private charitable contributions toward the acquisition. Thus the total acquisition cost would be between \$8,500,000 and \$12,500,000, depending upon the amount of private charitable contribution.

State contributions would come from:

Conservancy Public Access appropriations	\$ 3,000,000
Conservancy Proposition 12 appropriation	5,000,000
State Lands Commission Kapiloff Land Bank	<u>500,000</u>
	\$ 8,500,000
Conservancy Challenge Grant: up to	<u>\$ 2,000,000</u>
TOTAL STATE (expected)	\$10,500,000

The Conservancy Challenge Grant would require a one-for-one cash match from private charitable donations, during a specified, limited time period.

Recommended Conservancy funding, other than the Challenge Grant and the Proposition 12 appropriation, would derive from: (a) the General Fund; and (b) special funds appropriated for public access projects.

The State Lands Commission (SLC) has not yet taken action to authorize the proposed funding from the Kapiloff Land Bank. The final purchase price and SLC funding contribution will be dependent upon future SLC action, following the completion of the acquisition agreement and approval of the recommended Conservancy grant.

**Site Description:** The Lechuza Beach property consists of 1,120 linear feet of shoreline comprising twenty-one lots, and three inland parcels between the beach and the public road. The beach in this area is typically 130-175 feet wide during the summer, with a cliff on the inland side that rises abruptly approximately 50 vertical feet. This is a typical sandy beach, with sand estimated to be 10-15 feet deep during the summer season, that may erode to cobble at some times during the winter.

The public has had access to the beach since 1991 when permission was granted by the current landowners and by the local homeowners' association. The public is currently permitted to enter through either of three metal gates, located along Broad Beach Road at East Sea Level Drive, West Sea Level Drive, and across from the Bunny Lane intersection, each of which bears a sign indicating that public access is permitted. No public vehicular access is permitted, and the conditions of use include a limit to daylight hours and restrictions on fires, dogs, and boat launching.

Public parking associated with beach access currently occurs along Broad Beach Road. It is estimated that there are approximately 170 on-street spaces located within 500 feet of one of the three points of entry. Since Broad Beach Road was once State Highway One, it has a relatively wide right-of-way of 60 feet, permitting minimal interference between on-street parking and the two vehicular travel lanes.

No studies are available indicating the extent to which the public has been using Lechuza Beach since 1991. Informal estimates indicate that approximately 100-150 persons use the subject area of the beach on a typical summer weekend, with substantially fewer persons using the beach during the week. Conditions do not currently appear to be overcrowded.

**Project History:** The subject property was part of the Rindge rancho, and the lots were created by subdivision in 1932. The entire tract consists of a total of 170 lots located seaward of Broad Beach Road (old State Highway One). Most of the subdivided lots have been developed with residences, with the exception of the subject properties. Several beach lots adjacent to the subject property are in private ownership but limited by deed restrictions to open space and private recreation use.

The subject properties were acquired by the current owners in 1990. In 1991, the Coastal Commission considered and denied coastal development permit applications for the construction of

residences on each of the parcels, finding that the proposed residences would have severe impacts on coastal resources. The landowners sued the Commission and the court mandated a rehearing by the Commission. In 1993, the Commission again denied the proposed residences, in part because of uncertainty regarding the location of the mean high tide line. Subsequent to the 1993 permit denials, the landowners brought a lawsuit to settle the issue of the location of the mean high tide line, and that litigation continues to the present. The last decision of the Superior Court is currently on appeal and the litigation will proceed in the short term unless rendered moot by the proposed public acquisition of the lots.

In 1999, in the context of the litigation, the Conservancy staff agreed to assist the landowners and the State Lands Commission in determining whether the litigation could be settled through a public purchase. The landowners' appraiser submitted an appraisal of fair market value for review by the Department of General Services (DGS), incorporating three sets of assumptions regarding the amount of future development. With some modifications, DGS approved the appraisal documents in April 2000.

The passage of Proposition 12 in March 2000 provided substantial new funds to the Conservancy and essentially brought the proposed acquisition within the realm of financial feasibility. Prior to that, no combination of public funds seemed likely to provide the amount needed to reach agreement with the landowners. In July 2000 the fiscal year 2000/01 State Budget included an appropriation of Proposition 12 funds for the Lechuza Beach acquisition, added to the Governor's Budget during the Legislative hearing process.

Alternatives: (1) An alternative to the proposed acquisition would be to delay any action and allow the current litigation and future permitting process to run its course, relying on those processes to address residential development of the beach lots. This is the recommendation of some residents in the surrounding subdivision.

If the subject property is not acquired by the State as recommended, it will remain in private ownership. It is likely that the effort to secure residential development permits, suspended in 1993, will be initiated again when the current litigation is concluded.

The current litigation, between the State, the homeowners association, and the landowners, is over the issue of the location of the mean high tide line and other associated issues. (The seaward boundary of the private property is the mean high tide line, an ambulatory line that moves in response to accretion, erosion and sea level.) In the current stage of the litigation, the Court of Appeal is being asked to determine which of several surveyed locations of the mean high tide line should be considered valid. A final determination in this case will establish the line of current public ownership, which is certain to be further inland than indicated on the original tract map.

However, even if the combined effect of the current litigation and future regulatory processes were to prohibit or limit development without the necessity of public purchase, this would not assure any public access to Lechuza Beach. If the issue were somehow settled and the jeopardy of residential development removed entirely, it seems likely that neither the owners of the beach lots nor the surrounding residents would have a strong interest in maintaining public access to the beach. Prior to 1991, this was a locked-gate community, a private beach, and had always been so. The current public access is by express permission of the landowners, and that permission was extended in the context of a heated regulatory hearing process. Absent the dynamics of the 1991 development permit process, it seems very unlikely that there would be any public access today. That permission could be withdrawn just as readily, with little apparent recourse for the public.

(2) Another alternative would be to delay any effort at public acquisition, continue to pursue the current litigation, and seek to acquire the property at some point in the future when the owners may be willing to accept a lower price. There are several factors that recommend against this approach:

(a) There is no certainty that all three private landowners would remain willing sellers at a future date, and the existing subdivided lots could be conveyed to many more owners without any regulatory approvals required;

(b) For the purpose of appraising the fair market value of the subject properties, the State and the landowners agreed to direct the appraiser to assume that the State would prevail in the litigation. In other words, the recommended acquisition price is supported by an appraisal that assumed that the mean high tide line would be as indicated by the State Lands Commission. If the landowners were to prevail in the litigation, this

might affect their willingness to accept the financial terms of the proposed acquisition; and

(c) The availability of public funds to complete the acquisition at some point in the future would be dependent upon a variety of factors, including the State's economy and revenues, voter approval of future bond acts, and other project opportunities. The proposed project is now feasible only because of funds provided by the passage of Proposition 12, and it is very uncertain that public funds in sufficient amount would be available for acquisition at some point in the future.

(3) A third alternative would be to delay the acquisition effort while developing a plan for public beach use and any necessary improvements. This approach could provide an opportunity for public review of issues such as parking, signing, restrooms, etc., prior to a decision on whether to acquire the beach lots. An acquisition that precedes the development of a final management plan runs the risk that desirable improvements may not prove feasible. For this reason, it would also limit the extent to which interested parties can be certain of future State actions.

As with Alternative #2, however, the necessary delay of six months or more (to plan, design, and evaluate any proposed improvements) risks the loss of any opportunity to acquire the property from willing sellers. In addition, the development of substantial improvements is not an absolute requirement to support beach use, given the evidence of the past ten years of public use under the existing conditions. Finally, interested members of the public will have an opportunity to review proposed improvements through the CEQA and coastal development permit process. Again, the possible benefits of this alternative do not outweigh the potential loss of the entire public access project.

(4) The final alternative to be considered is the "no project" alternative. If the proposed project does not offer a reasonable prospect of providing permanent public beach access, or if the degree of access provided would not justify the substantial expenditure of public funds, it should be rejected. It may be possible to acquire the property at a later time for a lower amount (as discussed in Alternative #2 above), or the public could limit its use to the area seaward of the mean high tide line and could access that area by walking along the shoreline from other (somewhat distant) beach parks. This alternative would retain the proposed State funding for possible use in other projects,

but it would not be consistent with the fiscal year 2000/01 appropriation of park bond funds for the Lechuza Beach project.

**PROJECT SUPPORT:** The City of Malibu has adopted a resolution in support of the public acquisition of Lechuza Beach (attached as Exhibit 5). Additional letters of support for public acquisition are also attached, from Heal the Bay, Inc., Surfrider Foundation and the local chapter of the Sierra Club.

Also attached is a letter from the Malibu Encinal Homeowners Association (MEHOA), representing 80+ residents in the area surrounding the proposed project site, expressing the concern that public access may not be feasible and requesting that the Conservancy delay action to permit further consideration of this matter. In the event that the Conservancy and MRCA determine to proceed with the acquisition, it is likely that litigation may be instituted by MEHOA and/or individual residents seeking to prevent or limit public use of the beach.

**CONSISTENCY WITH  
CONSERVANCY'S  
ENABLING LEGISLATION:**

Public Resources Code ("PRC") Section 31400 provides that the Coastal Conservancy has a principal role in the implementation of a system of public accessways to and along the California coastline. The acquisition and management of Lechuza Beach for public access would be consistent with that purpose.

PRC Sections 31400.1 and 31400.2 authorize the Conservancy to provide funding to public agencies, such as the Mountains Recreation and Conservation Authority (MRCA), for the acquisition of lands for public shoreline access. The Conservancy has determined to authorize this funding in consideration of the availability of Conservancy funds for this and other access projects, the unique opportunity to provide access to the Malibu shoreline, the potential participation of MRCA, the potential financial contribution of the State Lands Commission, and (as described below) the application of the Conservancy's project screening criteria.

The Conservancy is authorized by PRC Sections 31400.3 and 31404 to enter into lease agreements and provide such other assistance as is necessary to provide for a system of public accessways. Pursuant to these authorities, the Conservancy may enter into one or more agreements with MRCA, other public

agencies, and/or with nonprofit organizations to facilitate the acquisition of the subject property and its management and operation for public shoreline access.

CONSISTENCY WITH  
CONSERVANCY'S  
PROGRAM GUIDELINES:

The proposed project is consistent with the Conservancy's Interim Program Guidelines and Criteria adopted May 27, 1999, in the following respects:

**Required Criteria**

**Promotion of the Conservancy's statutory programs:** The project is an acquisition of sandy beach and connecting trails, consistent with the purposes of Chapter 9 of Division 21 of the Public Resources Code, the Conservancy's Public Access Program.

**Consistency with the proposed funding sources:** The project would be funded from several appropriations, including Proposition 12, the General Fund, and special funds appropriated for public access purposes. The appropriation from Proposition 12 (FY00/01) is specifically for the Lechuza Beach project, and the project is consistent with the budgetary purposes of all of the other appropriations as well.

**Support:** The proposed acquisition and use of the Lechuza Beach properties for public shoreline access is supported by government agencies including the City of Malibu, by private conservation organizations including the Surfrider Foundation, Heal the Bay, and the local chapter of the Sierra Club, and by Assemblymember Sheila Kuehl in whose district the project is located. The provision of a substantial portion of the proposed funding through a specific line-item appropriation in the fiscal year 2000/01 State Budget also indicates the extent of support for the project from the Legislature and the Governor.

**Location:** The project site is in Malibu, Los Angeles County, an area identified by the Conservancy through its Strategic Plan and other policy analyses as among the highest priorities for the provision of public shoreline access opportunities. Readily accessible from on-street parking areas along Broad Beach Road and along existing pedestrian trails, the site is well-suited to permanent public access use.

**Need:** Feasible opportunities for providing public shoreline access in Malibu are quite limited, as the Conservancy has determined through several other efforts to do so (e.g., Chiate-

terminated through several other efforts to do so (e.g., Chiate-Wildman easement, Broad dedication, etc.). While the subject property will only provide a small new public beach, it will contribute to the creation of a continuous public access system along the Malibu coast, through providing a linkage with other public and private shoreline open space and providing vertical linkages to the first public road. In view of the substantial increase in population expected within Los Angeles and Ventura Counties, every opportunity to meet recreational needs is significant.

**Additional Criteria:**

**Urgency:** The three private landowners have indicated a willingness to convey their properties to the State if the transactions can be consummated quickly. In some part, the pending Court of Appeals hearing on the litigation between the landowners and the State Lands Commission likely influences this timing. If the proposed acquisition is not approved, and the process of litigation moves forward, there is no certainty that all of the landowners will be willing to sell following the decision of the court.

**Greater than Local Interest:** The Malibu coast is visited regularly by many persons from the Los Angeles metropolitan area. Public access to the subject property has been provided since 1991 with the permission of the landowners. Unless the property is conveyed to the public there can be no certainty that the current permission for public use will not be withdrawn at any time, returning to the "locked-gate" condition that existed prior to 1991. The Conservancy has had little success in obtaining public access through other locked-gate communities, either in Malibu or elsewhere.

**Resolution of More than One Issue:** In addition to providing for permanent public shoreline access, the proposed project would also assure that no private development occurs on the subject property. While no such development could take place unless permitted by the City of Malibu and/or California Coastal Commission, it must be regarded as a possibility. Such development, if permitted, would have an adverse effect on the existing scenic quality of the beach, and the construction of any structure on the beach could affect shoreline processes and contribute to beach erosion, as described in the Coastal Commission staff reports on these proposals in 1991 and 1993. Acquisi-

tion of the property as recommended would eliminate all potential for such private development.

**Conflict:** As indicated above, the proposed project could help to end the legal conflict between the State Lands Commission and the landowners regarding the location of the mean high tide line, and could avoid future conflict regarding proposed residential development.

**Readiness:** The landowners have offered to sell, the appraisal has been reviewed and approved by the Department of General Services, and Conservancy funds are currently available. The project is ready now to be implemented, pending action by the Conservancy, MRCA and the State Lands Commission.

**Cooperation:** As already stated, the project would involve a partnership between the Conservancy, MRCA and the State Lands Commission. In addition, the Conservancy will seek to design the long-term management plan for the beach in cooperation with the City of Malibu (which has expressed its support of the acquisition) and with concerned private parties including nearby residents and local conservation groups.

**CONSISTENCY WITH  
THE COASTAL ACT:**

The Coastal Act (1976) provides that “. . . maximum access . . . and recreational opportunities shall be provided for all the people. . . .” It also provides that such access shall be conspicuously posted, and that it shall be designed and regulated to protect the rights of private property owners and to avoid adverse effects on the natural environment. It provides in Public Resources Code (“PRC”) Section 30211 that development “. . . shall not interfere with the public’s right of access to the sea . . . including, but not limited to, the use of dry sand . . . to the first line of terrestrial vegetation.” The proposed project would accomplish these purposes.

In addition, the project would also be consistent with PRC Section 30212, which encourages the provision of public access between the sea and the first public road, and with PRC Section 30212.5, which encourages the geographic distribution of public access facilities so as to avoid overcrowding of any single area. The proposed project would provide three public access routes between Broad Beach Road and the shoreline, and it would establish these new routes of access in an area that would otherwise not be proximate to such access.

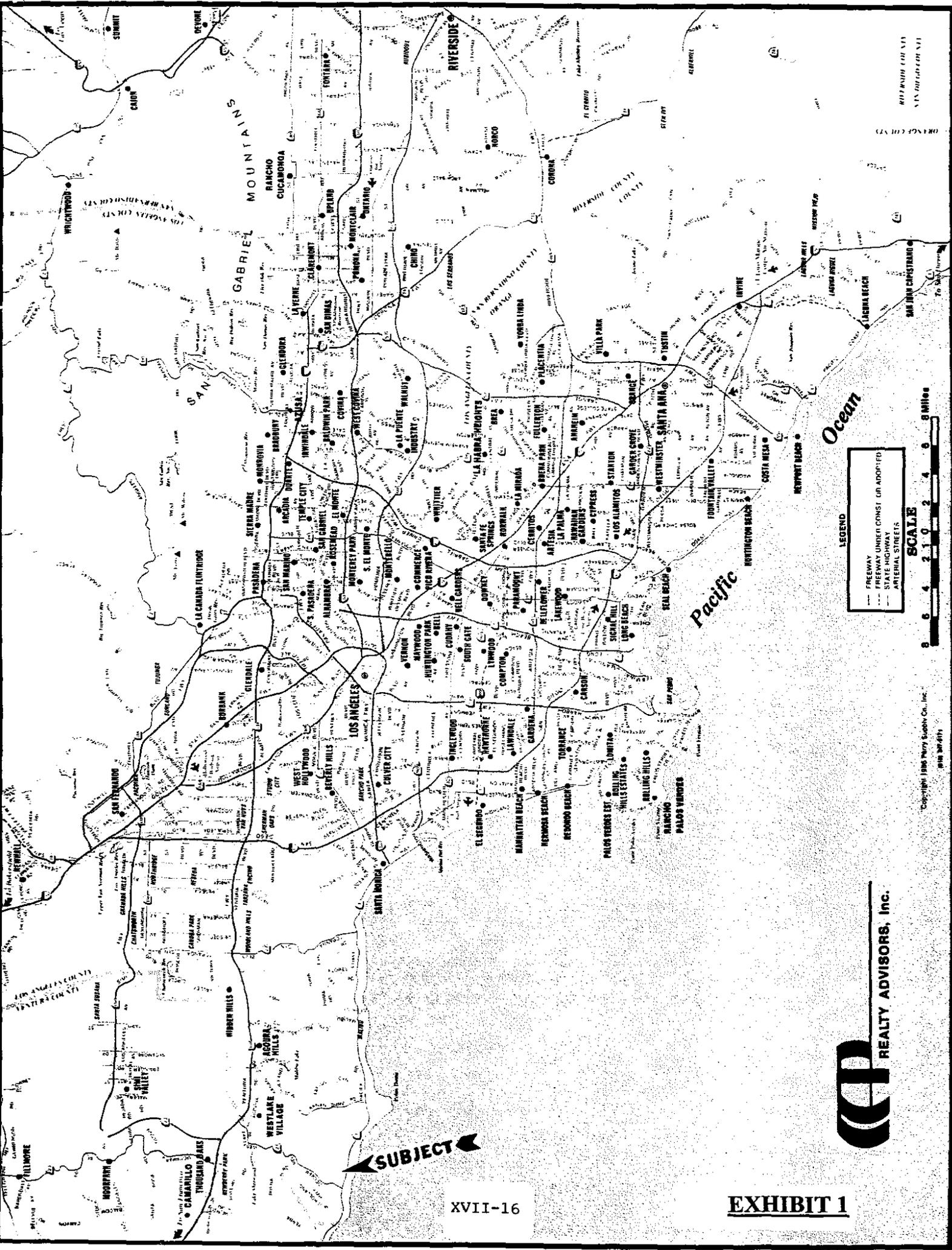
**CONSISTENCY WITH  
LOCAL COASTAL  
PROGRAM POLICIES:**

The project site is located in an area for which there is no certified Local Coastal Program, because of the incorporation of the City of Malibu in 1991. Previously, the County of Los Angeles prepared and the California Coastal Commission approved a land use plan for this area pursuant to the Coastal Act. While that plan does not now have legal effect due to the subsequent incorporation, it did contain some policies that are directly relevant to the proposed project.

The 1986 County LCP, approved by the Coastal Commission, provides that in the Lechuza Beach area, new vertical access should be provided because the area would not otherwise meet the County's minimum standard of one vertical access for each 2,000 feet of beach. More directly, the 1986 LCP also states with respect to Lechuza Beach, "Public purchase of beach and accessway properties is an objective in this area." On the LCP map regarding public access opportunities, Lechuza Beach is identified as a "High Priority" site for the "creation and improvement of beach access." (Exhibit 4) Through acquisition and operation of the beach and trail properties for public access, clearly the proposed project would implement this element of the 1986 LCP.

**COMPLIANCE  
WITH CEQA:**

Acquisition and management of the Lechuza Beach property to provide for continued public shoreline access as described in this staff recommendation is exempt from review under CEQA pursuant to 14 Cal. Code of Regulations Sections 15301(c), 15316, and 15325. The project is limited to the acquisition of property as public parkland for the purpose of preserving natural open space and permitting public access to the beach. No management plan has been prepared for the public park, and no development of additional facilities will take place until a management plan and environmental analysis has been approved. Until that occurs, public use will continue in the same manner as has been permitted by the private landowners since 1991. As a consequence, the proposed project will consist solely of the continued operation of existing trails, involving negligible or no expansion of use beyond that previously existing, and will not result in any physical effect on the environment. Upon approval of the project, staff will file a Notice of Exemption.



**SUBJECT** ←

XVII-16

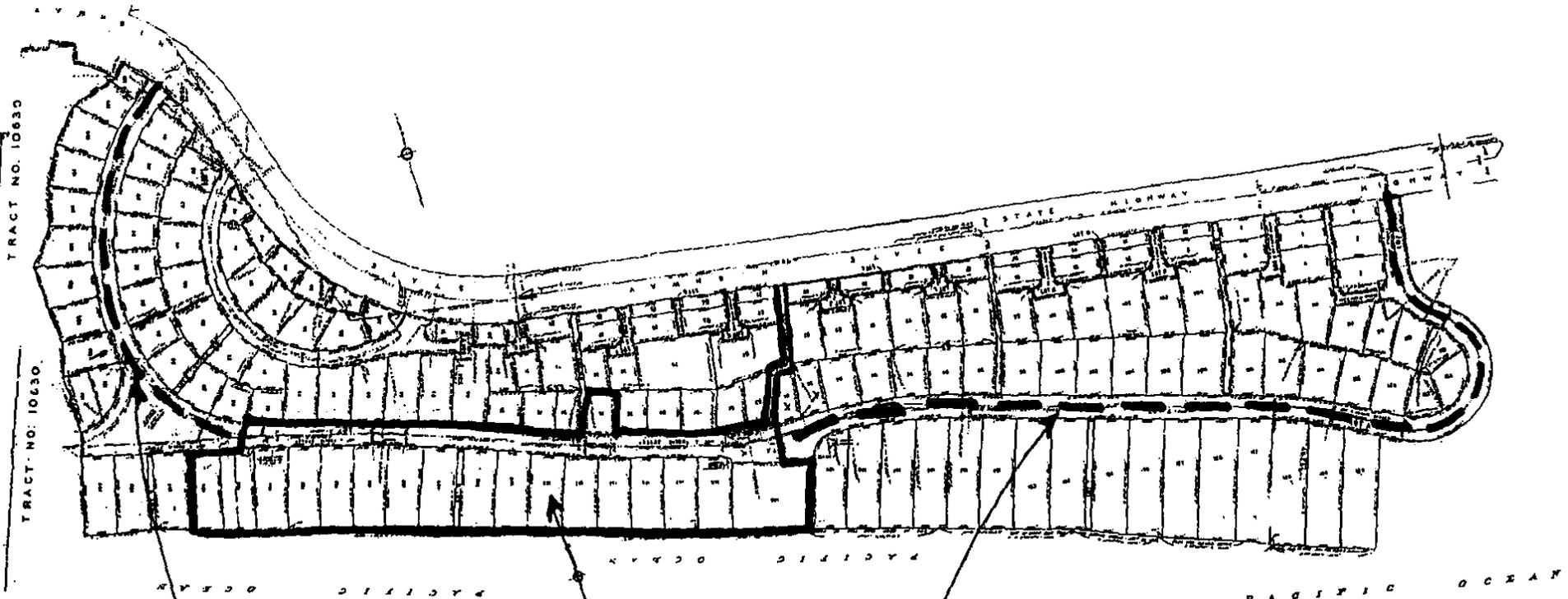
**EXHIBIT 1**



**REALTY ADVISORS, Inc.**

Copyright 1966 Perry Sweeney Co., Inc.  
1966, 1967, 1968

XVII-17



ACQUISITION OF FEE TITLE

ACQUISITION OF FEE TITLE AND/OR ACCESS EASEMENTS

**EXHIBIT 2**

EXHIBIT A

LECHUZA BEACH ACQUISITION

LOS ANGELES COUNTY  
ASSESSOR'S PARCEL NUMBERS  
TO BE ACQUIRED

<u>APN</u>	<u>Lot #</u>	<u>Beach Frontage</u>
4470-001-035	140	150 feet
4470-028-001	141	60 feet
4470-028-002	142	60 feet
4470-028-003	143	60 feet
4470-028-004	144	60 feet
4470-028-005	145	60 feet
4470-028-006	146	60 feet
4470-028-007	147	60 feet
4470-028-008	E ½ 148	30 feet
4470-028-009	W ½ 148	30 feet
4470-028-010	E ½ 149	30 feet
4470-028-011	W ½ 149	30 feet
4470-028-012	150	60 feet
4470-028-013	151	60 feet
4470-028-014	152	60 feet
4470-028-015	153	60 feet
4470-028-016	154	60 feet
4470-028-017	E ½ 155	30 feet
4470-028-018	W ½ 155	30 feet
4470-028-019	156	60 feet
4470-028-022	U	10 feet
4470-024-040	I	n.a.
4470-028-021	A *	n.a.
4470-024-011	76	n.a.

This Exhibit should be read together with Exhibit 2 and is intended to describe the parcels illustrated in Exhibit 2 and recommended to be acquired.

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\* Acquisition of fee title and/or access easements.

LOCATION OF BEACH AREAS AND PRIORITIES FOR CREATION AND IMPROVEMENT AND IMPROVEMENT OF BEACH ACCESS

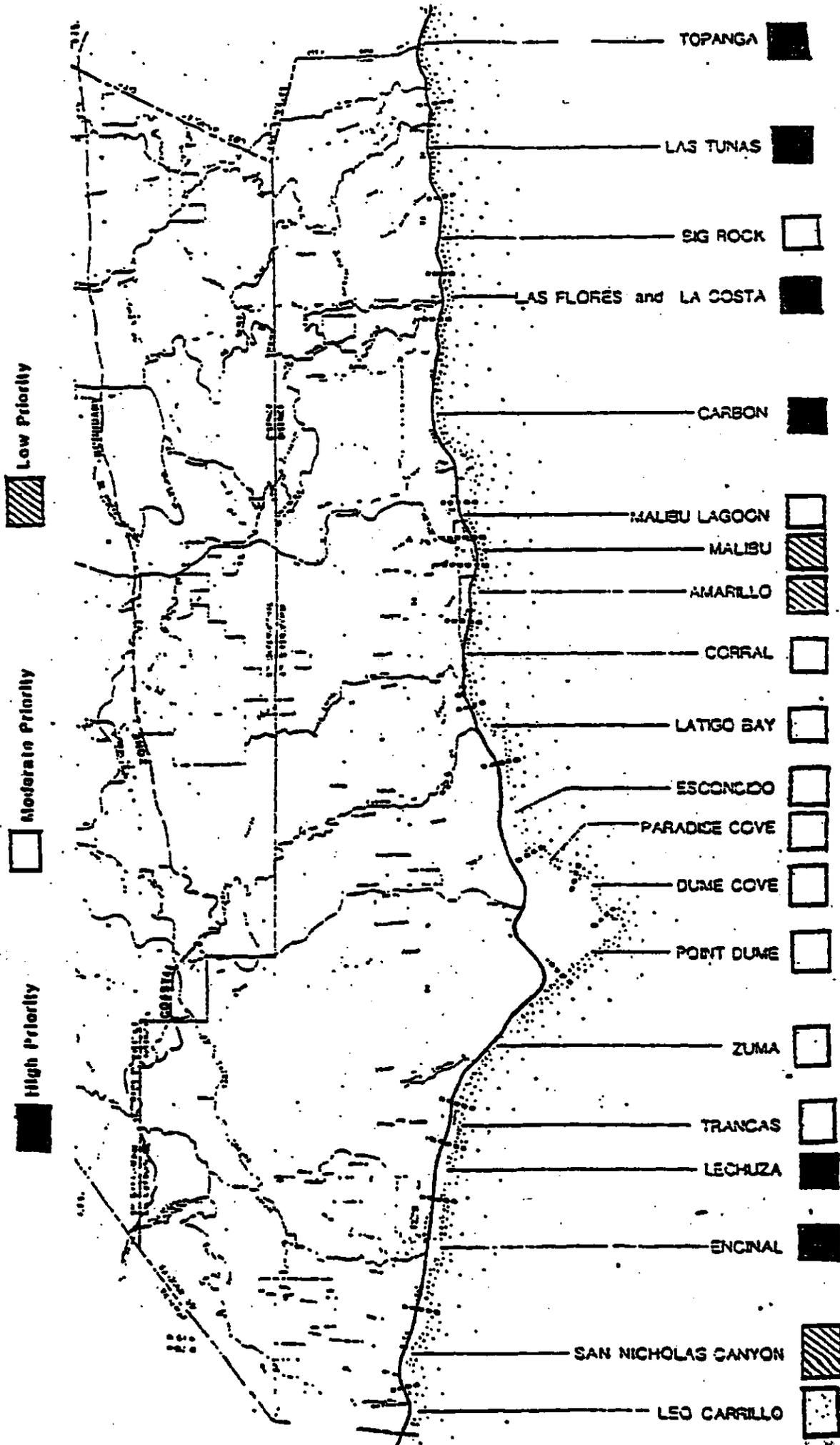


FIGURE 5

REVISED ACCESS PRIORITIES

EXHIBIT 4

EXHIBIT A

**EXHIBIT 5**

**City of Malibu Resolution**

RESOLUTION NO. 00-60

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU  
RENEWING ITS SUPPORT OF THE PUBLIC PURCHASE OF LECHUZA  
BEACH

THE CITY COUNCIL OF THE CITY OF MALIBU HEREBY RESOLVES AND ORDERS AS  
FOLLOWS:

Section 1. The City Council of the City of Malibu supports the public purchase of  
Lechuza Beach at a fair market value.

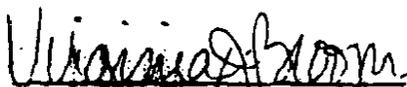
Section 2. This resolution is not related to and does not affect any current or future  
litigation or settlement which involves the City of Malibu.

Section 3. The City Council of the City of Malibu will do nothing to impede or  
discourage public access to Lechuza Beach.

PASSED, APPROVED and ADOPTED this 11<sup>th</sup> day of September, 2000.

  
Thomas J.D. Hasse, Mayor

ATTEST:

  
Virginia J. Bloom, City Clerk

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 00-60 was passed and adopted by the  
City Council of the City of Malibu at the regular meeting held on the 11th day of September, 2000,  
by the following vote:

AYES: 5 COUNCILMEMBERS: Jennings, Kearsley, Barovsky, House and Hasse  
NOES: 0  
ABSENT: 0  
ABSTAIN: 0

  
Virginia J. Bloom, City Clerk

**EXHIBIT 6**

**Other Letters**

*Additional letters will be mailed separately and/or hand-carried to the meeting.*

# LECHUZA VILLAS WEST, L.P.

22761 Pacific Coast Highway Suite 260 Malibu CA 90265

October 17, 2000

**ORIGINAL BY U.S. MAIL**

**VIA FACSIMILE (510) 286-0470**

Steve Horn  
Deputy Executive Officer  
California Coastal Conservancy  
1330 Broadway, 11<sup>th</sup> Floor  
Oakland, CA 94612-2530

Re: Lechuza Beach Purchase

Dear Steve:

Lechuza Villas West is ready, willing and able to move forward with the proposed purchase of Lechuza Beach by the State as detailed in the draft Purchase Agreement which has been circulated and pursuant to the terms as set forth in your Staff Report for the Coastal Conservancy Board meeting to be held on October 26, 2000. We believe that it is very important that the matter be heard on October 26 in Ventura as had been previously requested by the Malibu Encinal Homeowners Association, and others, so that a determination can be made by the Board as to whether to proceed with the purchase process. The Board's action on October 26 does not preclude finalizing the details regarding access and the transfer of the property as is normal during the escrow process.

As you know, we both attended the meeting in your office regarding this matter on September 26, 2000. At that time the State Lands Commission's representatives stated that they would complete their review of the title and access issues within two to three weeks. Today is three weeks from that date and we have received no word whatsoever as to the outcome of the State Lands Commission review. We have since that time been able to document in detail the public access rights which will be transferred with the sale of the property. A copy of Mr. Gaines correspondence to the Attorney General's office in this regard dated October 4, 2000 is enclosed herewith.

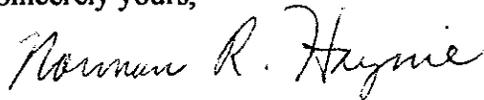
At the request of the State Lands Commission staff the Lands Commission's role in the purchase has been reduced, and their self-stated "reluctance" to be involved in the transaction should not be allowed to once again delay the Coastal Conservancy Board's consideration of this matter. The Santa Monica Mountains Conservancy, MRCA and the

Steve Horn  
October 17, 2000  
Page Two

City of Malibu have shown significant interest in moving forward with this transaction and in expediting the process of allowing public access to this beach. It is time to bring this matter to a hearing before the Conservancy Board so that all parties can be heard at a local venue, and so that the Board, if it chooses, can direct the staff to move forward to the next stages of the purchase process. Any approval given by the Conservancy Board can be contingent upon finalization of the title and access issues through escrow as is normal in any real property purchase transaction.

We thank you again for your efforts with regard to this matter. We urge you to keep this item on the Board's agenda for October 26 as is currently scheduled. Should you require any additional information from this office, please contact me at any time.

Sincerely yours,



Norman R. Haynie  
General Partner  
Lechuza Villas West, L.P.

NRH/cek

cc: Fred Gaines, Esq.  
Jim Gonzalez  
Marcia Hanscom, The Sierra Club  
Heal the Bay  
Assemblymember Sheila Kuehl  
Elizabeth Wiechec



October 20, 2000

via fax: 510-286-0470  
The Honorable Gary Hernandez  
Chair of the Board of Directors  
California Coastal Conservancy  
1330 Broadway, 11th floor  
Oakland, CA 92412-2530

Dear Board Chair:

On behalf of the Malibu Chapter of the Surfrider Foundation, I am writing to convey to you our resounding support of the proposed acquisition for public use of the area known as Lechuza Beach. We urge you to vote in favor of this proposal at your October Board meeting.

The Surfrider Foundation is a 501 (c) 3 nonprofit environmental organization dedicated to the protection, preservation and restoration of our waves and beaches. High within our priorities is the protection and enhancement of beach access to for our citizens. As surfers, we have seen far too many of our surf beaches lost to development, destroyed by erosion, or otherwise compromised. This proposal provides the California Coastal Conservancy with a golden opportunity to restore private land to public use and to protect a dwindling resource for posterity.

As we understand it, this is the wish of the current property owners. We believe that such a rare and inspiring gesture should be honored in the hope that it will encourage others to place the public's interest above self interest. To support further privatization of beaches is to deny the public access to natural marine resources that belong to us all.

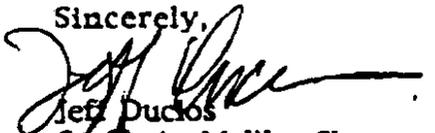
We are confident that public access to this beach can be achieved in a manner that protects resources while addressing the concerns of adjacent homeowners.

We join with the Sierra Club and others in asking that you do not delay in accepting this offer. This could easily be withdrawn as an option in the near future.

Please take the necessary action to allocate funds and provide staff authority to enter into a management agreement for the public acquisition of Lechuza Beach.

Thank you for your time and consideration.

Sincerely,

  
Jeff Duckos  
Co-Chair, Malibu Chapter  
The Surfrider Foundation

---

P.O. Box 953 Malibu, CA 90265 Phone (310) 451-1010 e-mail [sfmalibu@aol.com](mailto:sfmalibu@aol.com)



ANGELES CHAPTER • SIERRA CLUB

3435 WILSHIRE BOULEVARD • SUITE 320 • LOS ANGELES • CALIFORNIA 90010-1904 • (213) 387-4287 • FAX (213) 387-5383.

The Honorable Gary Hernandez

October 18, 2000

Chair of the Board of Directors  
California Coastal Conservancy  
1330 Broadway, 11th floor  
Oakland, CA 94612-2530

sent via fax: 510-286-0470

Dear Conservancy Board Chair Hernandez,

We write in full support of the public acquisition of Lechuza Beach moving forward as soon as possible and respectfully request you vote to support the acquisition of this beautiful sandy cove beach at your October Conservancy Board meeting in Ventura.

As you know, it is rather unique to have three willing sellers together at once agreeing to a single goal for such a valuable and beautiful treasure such as Lechuza. Sierra Club works diligently to protect resources such as this, and it is rare that a trio of willing sellers - especially on a Malibu beach - are united in the desire to make such a resource available to the public.

We are also aware that willing sellers do not remain as such for lengthy time periods and are concerned that this land may not be available at a future time. In fact, we have heard that potential buyers recently toured the subject land and are seriously considering making an offer that might prevail if the funding the Conservancy is considering allocating does not receive approval at the Ventura meeting. Such an outcome would be a real shame, given all those who have worked to secure the public acquisition of Lechuza for so many years.

California Assemblymember Sheila Kuehl has worked hard to insure the funds are available for this purchase, and the Governor approved making these funds available for Lechuza in his budget. There are many thousands of California residents who will be grateful for the protection of this wonderful beach, even if they never visit it. Still, this beach being owned by the public with guaranteed access will be a true gift to the public, a public that is often turned away by such limited access to the beaches on the beautiful Malibu coastline.

We understand that concerns have been raised by some of the local homeowners about several issues, including guarantee of access and appraisal values of the land. We absolutely support public access being guaranteed to the site and have reviewed correspondence between the landowners' attorneys and various state officials. We have reviewed maps of the site, have taken site inspection tours and have reviewed real estate documents pertinent to these issues. While we have not been privy to the sealed-to-the-public appraisals completed by the Conservancy staff, we feel confident the public is receiving a good deal, given the values of adjacent homes and the likelihood of some building being allowed on these properties by both the Coastal Commission and the City of Malibu.

We are also confident that public access to this beach will be a reality. The documents we have reviewed indicate a strong case for the public being able to access this beach in a way that still protects the resources and considers the concerns of the homeowners. This position is strongly defensible, in our opinion, regardless of threats made by at least two of the adjacent homeowners who appear to want to retain what they view as a private beach.

We are most interested in participating in the management considerations of the beach and are especially concerned with protecting natural resources at Lechuza. The County of Los Angeles regularly disturbs beach resources such as this on adjacent beaches they manage and are hopeful that the Conservancy will not allow this beach to fall into the hands of such poor resource managers. We are especially concerned that Lechuza's future not include raking the natural wrack of seaweed and other parts of the beach ecosystem (insects, beach vegetation, etc.) that migratory birds depend on. Dogs on the beach (disturbing marine mammals and migratory birds) are also not acceptable.

Thank you for the opportunity to tell you of our concerns and of our unqualified support of your taking action to allocate funds and provide staff authority to enter into a management agreement for the public acquisition of Lechuza Beach.

With best regards,

Marcia Hanscom, Co-Chair  
Sierra Club California Coast & Ocean Committee  
(310) 456-5604

Robert Roy van de Hoek, Co-Chair  
Sierra Club California Coast & Ocean Committee  
(310) 457-0300



2701 Ocean Park Blvd., Suite 150  
Santa Monica CA 90405  
310.581.4188 fax 310.581.4195  
htb@healthebay.org  
www.healthebay.org

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*Art Torres*

*Thomas Unterman*

### **Executive Director**

*Mark Gold, D. Env.*

November 24, 1999

Steve Horn  
State Coastal Conservancy  
1330 Broadway, 11th Floor  
Oakland, CA 94612

Dear Mr. Horn:

Heal the Bay strongly supports the public acquisition of Lechuza Beach and applauds the proactive role the Coastal Conservancy is taking to resolve the longstanding conflict that has threatened this beach for a decade. We urge the Conservancy to commit the necessary funding, at your December meeting, to make this purchase possible.

Southern Californians rely on our beaches for recreation and retreat from urban life. In addition, our beaches attract tourism and business to our region, sustaining our economy. It has been nearly 20 years since the public last acquired a beach on Santa Monica Bay. Meanwhile, the population of the state of California has doubled. Sixty percent of all Californians live in Southern California, and thirty percent of all Californians live in Los Angeles County. Our population demands greater access to the beach.

The opportunity to purchase 20 contiguous lots of Malibu beachfront is a rare and significant opportunity to expand our public beaches. Heal the Bay urges the Coastal Conservancy to exercise a leadership role in making Lechuza public.

Lechuza Beach provides access for both the general public and the handicapped. It offers families a sheltered swimming cove on a wide sandy beach. Lechuza has been listed as a priority for public acquisition since the state began listing the coastal properties it sought to purchase. We are concerned that the public may not have this opportunity again, or that it will come only at twice the price.

With your leadership, Lechuza Beach will become a spectacular addition to Southern California's beaches. Thank you for your help.

Sincerely,

Lisa Boyle, Esq.  
Director of Law and Policy

cc: Assemblywoman Sheila Kuehl

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STATE COASTAL CONSERVANCY  
OAKLAND, CALIF.

# MALIBU ENCINAL HOMEOWNERS ASSOCIATION

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P.O. Box 4307 • Malibu, CA 90264-4307

September 13, 2000

Gary A. Hernandez, Chair  
California Coastal Conservancy  
1330 Broadway, 11<sup>th</sup> Floor  
Oakland, California 94612

**Re: *Potential Purchase of Lechuza Beach***

Dear Mr. Hernandez:

I write as the President of the Malibu-Encinal HomeOwner's Association ("MEHOA"). The open beachfront lots along a portion of Lechuza Beach, which the Conservancy is negotiating to buy, are located in the Tract which MEHOA governs under our CC&R's.

We want to express our serious concerns over whether the Conservancy is buying a beach which it can actually make available for public use.

Unlike other public beach acquisitions or access situations, Lechuza Beach is surrounded by our homes and can only be accessed through the private roads and walkway easements which each of our more than eighty homeowner members pay to maintain and over which the homeowners hold easement rights. We believe that both the easements and the CC&R's which cover all of the lots under consideration prohibit public use and the development of parking or any other public facilities anywhere in the Tract. In the end, it may well be that the Conservancy is about to buy a beach that no one will have the right to access.

We certainly believe that if the Conservancy were to work with MEHOA and the community it represents, solutions could be found to these serious legal questions of access and use. We want you to know that MEHOA has in the past supported efforts for a public acquisition which properly balanced and respected public access and the safety and values of our community and our homes. We are willing to do so again.

Unfortunately, although the Conservancy has been dealing with the seller for months now, MEHOA was not brought into the discussion until just two weeks ago. Even then, we were not provided any concrete information and we were given to understand that there was no time left to work with us. Instead, we were told that the Conservancy is poised and determined to go forward.

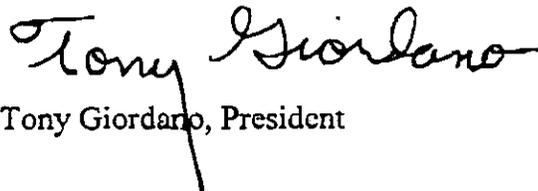
Gary A. Hernandez, Chair  
California Coastal Conservancy  
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There is very little time left before a decision will be made and we have no one to deal with at this point. MEHOA has been left in a position where it cannot offer its members any assurance that any of their interests are being considered or will be protected. As you must understand, we have obligations to protect our community and we do not have the option of simply trusting that at some point someone will take our concerns into consideration.

We call upon you to delay this rush to a decision which promises to create more problems than it could ever solve. We call upon you to postpone the meeting at which the purchase will be considered so that the meeting can take place in a location where the families most directly affected will have the ability to attend and be heard. We call upon you to immediately open a serious dialogue and work with us toward a solution which is fair and respectful of everyone's rights.

Thank you.

Very truly yours,



Tony Giordano, President

TG:dt

cc: California Coastal Conservancy;  
John J. Lorman, Vice Chair  
William Ahern, Executive Officer  
Steve Horn, Deputy Executive Officer  
Margaret Azevedo  
Tim Gage  
Larry Goldzband  
Mary Nichols  
Sara Wan  
Jim Burns  
Fred Klass  
California State Lands Commission;  
Cruz Bustamante, Lt. Governor  
Kathleen Connell, State Controller  
B. Timothy Gage, Director of Finance  
The Honorable Sheila Kuehl, Assembly

*H.F. Boeckmann, II*

31660 Sea Level Drive · Malibu · California · 90265

September 14, 2000

Mr. William Ahern  
Executive Director  
California Coastal Conservancy  
1330 Broadway, Suite 1100  
Oakland, California 94612

Dear Mr. Ahern,

Every member of the public has a right to expect that their government will operate in an open and forthright manner that affords them the opportunity to have meaningful participation and input into significant decisions that impact their lives. Every member of the public also has a right to expect that these decisions will be made with the highest level of scrutiny and care. Regrettably, with respect to the proposed purchase of a portion of Lechuza Beach, the California Coastal Conservancy has fallen far short.

During the past ten years that the current developers have controlled the subject property, members of the local community have worked diligently to keep the beach free of construction. In fact, they have expended hundreds of thousands of dollars through the Malibu-Encinal Home Owners Association and contributed thousands of hours of their own time toward preservation of the beach. We believe that we share your overall objectives with respect to coastal preservation and access. What we don't share is a belief that the subject property should be purchased.

One might logically ask, "How is it that well intended parties who share the same objectives can arrive at exact opposite conclusions?" The answer, based on all appearances, is that the California Coastal Conservancy is not fully informed of all the facts. Sadly, and perhaps without meaning to do so, you have essentially excluded any meaningful participation in the process from the citizens who have been most active in a long and extensive effort to keep Lechuza Beach free.

We acknowledge that some effort has been made by the Coastal Conservancy to communicate with local residents. Unfortunately, that effort has been shallow and ineffective both in terms of disseminating information to us and providing a forum for meaningful input. For example, the first and only communication that we had with the Coastal Conservancy was when some of the Homeowners Association Board Members were invited to a meeting with Mr. Horn in late August, at which time he informed us that the Coastal Conservancy was moving to purchase the property. While Mr. Horn said that he was seeking our input, the words were perceived as somewhat hollow in that he either could not or would not provide us with sufficient information for us to fully understand the proposed acquisition, let alone evaluate it, ask meaningful questions, or provide relevant information.

The action that was perceived as the final slap in the face to local residents, and the most significant sign that the Coastal Conservancy had essentially made up its mind and did not want any additional facts, was this decision to address the matter at a meeting in Eureka. With no disrespect intended to the citizens of Eureka, this is simply wrong. It is an overt maneuver that effectively precludes the attendance and involvement of citizens who are the most familiar with the area, the ramifications of the proposed purchase, and who are arguably the most impacted by the proposed acquisition.

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Mr. William Ahern  
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The members of the local community have much information about the subject property that is highly relevant. Frankly, we believe that once you are fully informed, you will reevaluate the appropriateness of purchasing the property at any price, let alone that which is contemplated. But you have not provided an appropriate forum or opportunity to air this information and ask a number of questions that have heretofore gone either unasked or unanswered.

The right thing for the Coastal Conservancy to do is defer any consideration of the purchase from your meeting in Eureka, and instead schedule a hearing in proximity to the property as soon as possible. Whether the location be Ventura, Los Angeles or Malibu, the local residents will respond to your courtesy and work with you to achieve an appropriate result. This will also be a big step toward restoring their faith in the Coastal Conservancy. Any thought that a postponement would in any manner lead to development of the beach should be discarded. As things stand now, you are accomplishing little more than bailing out a developer from a losing project. By bailing him out, you are using taxpayer dollars to fund an exorbitant profit that simply is not achievable by any attempt to develop the property. If you simply take the time to look below the surface, you will find that there are compelling reasons why this property has not been already developed or acquired by a government entity, both of which the developer has made concerted efforts to do. The same reasons exist today, and must be brought to light before a bad decision is made, rather than later as part of an investigation or condemnation of government as inefficient or ineffective.

I urge you to enable meaningful citizen participation, as well as a fair and complete evaluation of the proposed purchase. The first step toward accomplishing this is to postpone any consideration of this matter from your meeting in Eureka, and to schedule a meeting in the general vicinity of the property. I also urge you to provide the public with details of the proposed acquisition and operation (including such information as acquisition terms; plans for maintenance and security; operating restrictions for the beach; parking accommodations; compliance with the CC&Rs; what, if anything, will be built on the beach; impact on existing neighborhood roads and walkways; methods of access; and the myriad of other factors). To my knowledge, none of these have been addressed. Yet, you have at your fingertips a valuable resource which is steeped with knowledge and experience that can only be gained by intimate familiarity with the subject property and surrounding community. Please take advantage of it.

Thank you for your consideration of this request. I sincerely hope that you take the appropriate action to demonstrate that government in general, and the current administration in particular, does care about meaningful public participation, and that significant decisions that impact our lives will not be made hastily or without a proper examination of all relevant facts.

Sincerely,



H.F. Boeckmann, II

Sarah Dixon  
31875 Sea Level Drive  
Malibu, California 90265

310 457-7854

September 27, 2000

Gary A. Hernandez, Chair  
California Coastal Conservancy  
1330 Broadway, 11<sup>th</sup> Floor  
Oakland, California 94612

Re: LeChuza Beach

Since 1991, when I invited Steve Horn to meet with members of the Malibu Encinal Home Owners Association (MEHOA) to discuss possible Coastal Conservancy purchase of LeChuza Beach, I have looked forward to the day when I would learn that the State might preserve this precious resource forever.

I am delighted to learn that that day has finally arrived. I do, however, upon reading the staff report, have three concerns regarding the delicate balance between open space conservation, visitor use, natural resource protection, and the well-being of surrounding residents. While I've seen correspondence indicating that the following issues are being addressed, I still want to add my comments for your consideration.

First, I saw no clear and definite indication that an assessment would be made to determine uses and intensity of use consistent with continued protection of what is, at present visitation levels, still a pristine designated Sensitive Environmental Resource Area (SERA). I would hope such assessment would be undertaken and considered in the planning process. State Parks Biologist Suzanne Goode is most familiar with the animal and plant communities of the Santa Monica Mountains and Seashore and would be an excellent choice to make that evaluation.

Second, when we first discussed purchase with Steve Horn, he seemed to favorably regard a management agreement with MEHOA, similar to State agreements with the Surfrider Foundation. Members of the MEHOA Board of Directors were disappointed to come away from a recent meeting with Mr. Horn with no specifics regarding the elements which would be the basis for a management plan.

Third, I would hope that when a management agency is selected for LeChuza Beach people who regularly visit the beach from elsewhere would be involved in the planning process.

Another concern is that you might dismiss this letter as just another homeowner protest. The fact is that I have long supported open space conservation and public recreation. My involvement in public recreation began when as a UCLA student I worked for the City of Santa Monica Department of Parks and Recreation as a lifeguard and swimming instructor. I met my husband of some forty-five years on the public beach where he was a City of Los Angeles lifeguard. Governor Jerry Brown appointed me to the Santa Monica Mountains National Recreation Area Advisory Commission because of my public recreation interests. I was a founding member of the Malibu Recreation Council. I served as President of the Santa Monica Mountains Natural History Association, a support group for State Park Ranger interpretive activities. I co-authored West Coast Beaches, E.P. Dutton, New York, 1978, as well as Children, Families and the Sea, Cypress Press, Pasadena, 1978. I have co-produced numerous nature documentaries for network

television. I currently serve on the City of Malibu's Environmental Review Board. I have been asked to co-chair a committee to promote a City of Malibu ballot measure regarding a September 21, 2000

Gary A. Hernandez, Chair  
California Coastal Conservancy

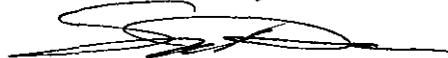
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asked to co-chair a committee to promote a \$15,000,000 bond measure for open space acquisition in Malibu. I'm also an active member of the Malibu Coastal Land Conservancy, which seeks among other goals to facilitate acquisition of land for restoration of historical wetlands in the Malibu Creek floodplain for the purpose of cleaning creek flows that presently contaminate Malibu Lagoon and Surfrider Beach. While I represent only myself in this letter, I believe these credentials should lend some weight to my concerns.

In summary, it is my hope that in your deliberations you will seek to balance appropriate levels of visitor access with conservation and protection of plant and animal communities, birds, the intertidal zone, and the well-being of surrounding neighbors who have made Lechuza Beach visitors welcome over the years. It is also my hope that you will stipulate that MEHOA and a coastal biology expert be included in the planning process which should also include long time LeChuza Beach visitors who have come to know the resource.

In closing, I would like to add that I am so very grateful for the open space and recreation opportunities the State of California has preserved and made possible. With our burgeoning population, particularly in southern California, it is vitally important that we set aside as quickly as we can as much natural open space as possible. You are on the cutting edge, and generations to come will value whatever coastal resources you can conserve. Hopefully, pristine LeChuza Beach will be a part of that heritage.

Sincerely,



Sarah Dixon

cc: The Honorable Gray Davis, Governor of California  
The Honorable Sheila Kuehl, Assembly  
California Coastal Conservancy:  
John J. Lorman, vice chair  
William Ahern, Executive Officer  
Steve Horn, Deputy Executive Officer  
Margaret Azevedo  
Tim Gage  
Larry Goldzband  
Mary Nichols  
Sara Wan  
Jim Burns  
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California State Lands Commission:  
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H. Timothy Gage, Director of Finance