

COASTAL CONSERVANCY

Staff Recommendation
September 28, 2017

MALIBU COASTAL ACCESS PUBLIC WORKS PLAN

Project No. 12-024-01
Project Manager: Kara Kemmler

RECOMMENDED ACTION: Augment the Conservancy's December 6, 2012 authorization to provide an additional disbursement of up to \$600,000 to the Mountains Recreation and Conservation Authority for preparation of the Malibu Coastal Access Public Works Plan for selected sites in the City of Malibu, Los Angeles County and authorize its Executive Officer to take any planning actions needed to further public access at these sites.

LOCATION: City of Malibu, Los Angeles County

PROGRAM CATEGORY: Public Access

EXHIBITS

Exhibit 1: [Project Locations](#)

Exhibit 2: [December 6, 2012 Staff Recommendation \(without exhibits, available here: http://scc.ca.gov/webmaster/ftp/malibu/malibu-pwp-staff-rec-2012/\)](http://scc.ca.gov/webmaster/ftp/malibu/malibu-pwp-staff-rec-2012/)

RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31111 and 31400 *et seq.* of the Public Resources Code:

“The State Coastal Conservancy hereby augments its December 6, 2012 authorization to provide an additional disbursement of up to six hundred thousand dollars (\$600,000) to the Mountains Recreation and Conservation Authority (MRCA) for preparation of the Malibu Coastal Access Public Works Plan for selected sites in the City of Malibu, Los Angeles County, and authorizes its Executive Officer to take any other planning actions needed to further public access at these sites. This authorization is subject to the same conditions imposed by the December 6, 2012 authorization.”

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 proposed project, as augmented, remains consistent with the Conservancy's findings adopted on December 6, 2012 and with the staff recommendation of that same date, attached as Exhibit 2 to the accompanying staff recommendation, with respect to the Conservancy's enabling legislation, Coastal Act and Local Coastal Program Policies, and the California Environmental Quality Act.
 2. The proposed project, as augmented, is consistent with the current Conservancy Project Selection Criteria and Guidelines, and updated Strategic Plan Goals and Objectives."
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PROJECT SUMMARY

Staff recommends augmentation of the Conservancy's December 6, 2012 authorization to disburse an additional amount of up to \$600,000 to the Mountains Recreation and Conservation Authority (MRCA) to prepare a Malibu Coastal Access Public Works Plan (PWP) and further recommends that the Conservancy authorize its Executive Officer to take any necessary planning actions to further public access at the PWP sites in Malibu.

The requested augmentation for additional funds is needed for further technical studies, surveys and site design and for additional MRCA project staff time to support preparation of the PWP. To date, the PWP process has involved an initial assessment of each site for the purpose of developing public access improvements, including investigation of site conditions, preparation of draft technical studies, review of existing conceptual designs and development of new draft conceptual designs, as needed. Existing unpermitted development that encroaches onto the public accessways has resulted in challenges and delays in the planning process on all but two of the PWP sites.. Conservancy and MRCA staff have been coordinating with California Coastal Commission (CCC) enforcement staff regarding Coastal Act violations on PWP sites throughout this process. Efforts to resolve the encroachments have resulted in a substantial amount of additional staff time as well as additional unanticipated costs for preparing conceptual designs for proposed improvements on the affected properties. In addition, coordination with CCC planning staff and the initial assessment have informed the PWP process and we now know that we will need to prepare an EIR as part of the PWP application to the CCC instead of the previously anticipated mitigated negative declaration. At this time, additional funds are needed for further planning and environmental analysis, including supplementary technical studies, surveys, site design for some of the sites, and associated additional MRCA project staff time in order to complete the PWP.

Site Description: The Malibu Public Works Plan as authorized in 2012 included twelve undeveloped, unopened sites, over which the Conservancy or MRCA holds either fee title or an easement for public access, or where there is a deed restriction in favor of public access. The status of eight of the sites remains unchanged, however, the status of three of the sites has changed due to litigation outcomes and shifts in entitlements since the initial authorization in 2012. As a result, two of the sites have been removed from the PWP; and one of the sites will be removed from the PWP regarding site development, but remain in the PWP for site management.

There may be changes in the status of other sites over time as circumstances change, such as the removal of encroachments, which might trigger additional planning actions, other than the PWP, in the future in order to further public access. The sites and their proposed, current status are listed below. See Exhibit 2 for detailed site information.

- (A) Las Tunas Beach: 19016 Pacific Coast Highway (“PCH”) and 19020 PCH. To remain in PWP.
- (B) Las Tunas Beach: Los Angeles County Assessor Parcel Nos.: 4449-007-013, -014, -015, -016 and -017. To remain in PWP.
- (C) Las Flores Beach: 20802 PCH. To remain in PWP. There is pending litigation against the Conservancy (and the CCC) on this accessway. On December 8, 2016, the CCC issued a Cease and Desist Order to, and imposed an Administrative Civil Penalty on, the owners of this property for unpermitted development on the property that impedes development or use of the access easement. The owner of the property on which this easement is located subsequently initiated litigation against the CCC, challenging its Order and Administrative Penalty (*Lent et al. v. California Coastal Commission, et al.*, Los Angeles Superior Court Case No. BS167531), in which the Conservancy was also named as a real party in interest, as the owner of the easement. As soon as the property owners comply with the provisions of the CCC’s order requiring removal of the encroachments, the Conservancy remains prepared to move forward with accessway planning and development through whatever is the most expedited process possible..
- (D) La Costa Beach: 21554 PCH. To remain in PWP.
- (E) Carbon-La Costa Beach: 21664 PCH. To remain in PWP.
- (F) Carbon Beach: 22030 PCH. Removed from the PWP. The deed restriction on this property states that in the event a wider vertical access easement is obtained by a public agency within two-tenths of a mile (1056 ft.) to the west of the subject property, and certain conditions were met, then the vertical easement would revert to the property owner. The vertical public access easement on the Geffen parcel, which is located 600 ft. to the west is open and being operated and managed by the MRCA consistent with the special language in the deed restriction, therefore, the public does not currently have an entitlement at this location.
- (G) Carbon Beach: 22466 PCH. To remain in PWP, management only. This easement has been improved for public access to the beach pursuant to litigation settlement and is currently open to the public. The accessway is operated and managed by the MRCA. Improvement plans for the site are no longer needed but the site remains in the PWP as part of the overall management plan.
- (H) Malibu Cove Beach: 26834 Malibu Cove Colony Road. Removed from the PWP. The deed restriction on this property provides for a vertical easement from the northerly property line to the mean high tide line, but states that such easement may not be improved or used for public access until such time as a public agency acquires a right of access from PCH to the northerly property line. It has been determined that it is not feasible to obtain a right of access from PCH to the northerly boundary of the easement at this time. If such access is made possible at a later date, inclusion of this site in the PWP will be reconsidered.
- (I) Escondido Beach: 27400 PCH and 27348 PCH. To remain in PWP.

(J) Escondido Beach: 27700 PCH. To remain in PWP.

(K) Escondido Beach: 27910 PCH and 27920 PCH. To remain in PWP.

(L) Lechuza Beach: Los Angeles County Assessor Parcel Nos (APNs) 4470-021-900; 4470-028-900 through 918; 4470-001-900, 4470-024-900, 901; 4470-021-008, 009; 4470-001-003, 004, 005, 006, 008, 012, 013; and 31736 Broad Beach Rd. To remain in PWP.

Project History: Please refer to Exhibit 2.

PROJECT FINANCING

Previous Funding

Conservancy December 6, 2012 Authorization and 15% Augmentation	\$540,000
Conservancy Executive Officer Authorization for Environmental Services Contract (EIR preparation)	\$150,000
Santa Monica Mountains Conservancy (in-kind services)	<u>\$20,000</u>
Total	\$710,000

Additional Proposed Funding

Coastal Conservancy	\$600,000
Santa Monica Mountains Conservancy (in-kind services)	<u>\$35,000</u>
Total	\$635,000
Total PWP Funding	\$1,345,000

There are two anticipated sources of funds for the proposed augmentation. Approximately \$521,000 will come from an appropriation to the Conservancy in fiscal year 2016/17 from the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84). Proposition 84 authorizes the use of bond funds for projects that promote access to and enjoyment of coastal resources and that are consistent with the Conservancy's enabling legislation (Public Resources Code Section 75060). The proposed project will facilitate the provision of public access to the coast and the ocean for the enjoyment of visitors to an area underserved by coastal access. The project is also consistent with the Conservancy enabling legislation, as detailed in the Conservancy's December 6, 2012 staff recommendation (Exhibit 2).

The second funding source is an appropriation (\$79,000) to the Conservancy from the Violation Remediation Account (VRA). Funds in the VRA are available for carrying out provisions of the Coastal Act (Public Resources Code, Section 30823). Funds in the VRA originate from both administrative orders and settlements and judicial actions arising from Coastal Act violations resolved by the Commission. The VRA funds allocated for this project come from violation penalties specifically related to access in Malibu and may be used to develop access within that jurisdiction. The project is consistent with the Coastal Act and will promote its access and recreation policies.

In addition, the project is supported by a further commitment by the Santa Monica Mountains Conservancy to provide in-kind staff services, the value of which is estimated at \$35,000.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

The proposed project remains consistent with the Conservancy's enabling legislation, as detailed in the December 6, 2012 staff recommendation (See Exhibit 2).

**CONSISTENCY WITH CONSERVANCY'S 2013-2018 STRATEGIC PLAN
GOAL(S) & OBJECTIVE(S), AS REVISED JUNE 25, 2015:**

Consistent with **Goal 2, Objective A** of the updated Strategic Plan, the proposed project will develop conceptual plans for public access projects that will expand opportunities for barrier-free access to the coast.

Consistent with **Goal 2, Objective B**, the proposed project will contribute toward the opening of coastal areas owned by the public that are currently inaccessible to the public.

Consistent with **Goal 2, Objective C**, the proposed project will include designs for facilities to increase coastal recreational opportunities.

**CONSISTENCY WITH CONSERVANCY'S
PROJECT SELECTION CRITERIA & GUIDELINES:**

The proposed project remains consistent with the Conservancy's Project Selection Criteria and Guidelines as detailed in the December 6, 2012 staff recommendation (See Exhibit 2). In addition, the proposed project is consistent with the following criteria added to the Conservancy's Project Selection Criteria and Guidelines, when updated on October 2, 2014:

Required Criteria

3. Promotion and implementation of state plans and policies:

California Coastal Act. The California Constitution and the California Coastal Act require that public access to and along the shoreline be maximized. PRC Section 30001.5(c) declares the state's goal to "maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone." The proposed project would facilitate the development and opening for public use easements or fee properties derived from offers to dedicate interests for public access to promote and implement the public access and recreation policies of the Coastal Act.

CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:

The proposed project remains consistent with the Local Coastal Program Policies, as detailed in the Conservancy's December 6, 2012 staff recommendation (See Exhibit 2).

COMPLIANCE WITH CEQA:

The project, which involves the preparation of the Malibu PWP, is unchanged and remains the same project analyzed under the Conservancy's December 6, 2012 authorization. The proposed authorization does not change the project itself or the purposes for which the funding will be used. Thus, the proposed project remains statutorily exempt under the California Environmental Quality Act, as detailed in the December 6, 2012 staff recommendation (See Exhibit 2).