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September 26, 2008

Laurie Collins
Chief Staff Counsel
Santa Monica Mountains Conservancy
Los Angeles River Center and Gardens
570 West Avenue Twenty-Six, Suite 100
Los Angeles, CA 90065

RE: Proposition 84 Grant to the City of Glendale for a Planning Study for a Youth-Oriented, Overnight Campground.

Dear Ms. Collins:

You have asked the Office of the Attorney General to review the above-referenced grant to the City of Glendale (City) and advise the Conservancy whether the grant complies with the General Obligation Bond Law and Proposition 84. We are reviewing this grant using our opinion standard pursuant to the language in the 2008/2009 budget that mandates Attorney General review of Conservancy grants from its appropriation of bond funds to insure compliance with the General Obligation Bond Law and the pertinent bond acts. We note that the Legislature has charged the Attorney General to review grants only to determine whether their purposes are consistent with the General Obligation Bond Law and the specific bond acts. Thus, our review does not address other questions such as the amount of the grant or compliance with other statutes. Nor do we address the budget for the grant except to determine whether the purpose of the funding is proper.

Based on the information you have provided, the Conservancy proposes to grant $50,000 in Proposition 84 bond funds to the City. The City proposes to use those funds to perform a study to evaluate the feasibility and potential locations for a youth-oriented, overnight campground within the City. The study will include the feasibility analysis, conceptual designs, costs analysis, and recommendations. A minimum of three sites will be evaluated as part of the study, including sites within the Verdugo Mountains, the Deukmejian Wilderness Park, and the San Rafael Hills.

Proposition 84 dedicates $928 million for the protection and restoration of rivers, lakes, and streams, their associated watersheds and associated land, water, and other natural resources. Of this $928 million, Proposition 84 allocates $36 million to the Conservancy for implementation of watershed protection activities throughout the watershed of the Upper Los Angeles River. (Pub. Resources Code, § 75050, subd. (g)(2).) Proposition 84 authorizes the use

of up to 10 percent of the funds for each program to finance planning and monitoring necessary for the successful design, selection, and implementation of the projects authorized under that program. (Pub. Resources Code, § 75072.)

The City proposes to use the grant funds to perform a study to evaluate the feasibility and potential locations for a youth-oriented, overnight campground within the City. The City (which encompasses the potential locations for the campground) is within the watershed of the Upper Los Angeles River, and the planning and implementation of a campground site would contribute to protect the watershed of the Upper Los Angeles River. The project is therefore consistent with the provisions of Public Resources Code section 75050, subdivision (g)(2).

Proposition 84 defines "protection" to mean "those actions necessary to prevent harm or damage to persons, property or natural resources or those actions necessary to allow the continued use and enjoyment of property or natural resources and includes acquisition, development, restoration, preservation and interpretation." (Public Resources Code, § 75005, subd. (m).) Proposition 84 defines "development" to include but not be limited to "the physical improvement of real property including the construction of facilities or structures." (*Id.*, § 75005, subd. (f).) Proposition 84 defines "restoration" to mean "the improvement of physical structures or facilities and, in the case of natural systems and landscape features includes, but is not limited to, projects for the control of erosion, the control and elimination of exotic species, prescribed burning, fuel hazard reduction, fencing out threats to existing or restored natural resources, road elimination, and other plant and wildlife habitat improvement to increase the natural system value of the property. Restoration projects shall include the planning, monitoring and reporting necessary to ensure successful implementation of the project objectives." (*Id.*, § 75005, subd. (n).) Proposition 84 defines "preservation" to mean "rehabilitation, stabilization, restoration, development, and reconstruction, or any combination of those activities." (*Id.*, § 75005, subd. (l).) Proposition 84 defines "interpretation" to include but not be limited to "a visitor serving amenity that educates and communicates the significance and value of natural, historical, and cultural resources in a way that increases the understanding and enjoyment of these resources and that may utilize the expertise of a naturalist or other specialist skilled at educational interpretation." (*Id.*, § 75005, subd. (i).)

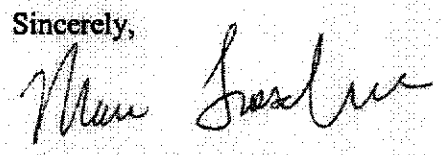
The project would result in preparation of a plan for development of a youth-oriented, overnight campground. The campground would result in physical improvement of real property ("development"); improvement of physical structures or facilities ("restoration"); restoration, development, and rehabilitation ("preservation"); and construction of a visitor serving amenity that will provide opportunities for education and communication of the significance and value of natural, historical and cultural resources ("interpretation"). Proposition 84 authorizes the use of bond funds for planning and design purposes, such as those proposed in the grant application. Therefore, the grant is consistent with and permissible under Proposition 84.

Proposition 84 incorporates by reference the General Obligation Bond Law. (Pub. Resources Code, § 75081.) Under the General Obligation Bond Law, bond funds may be used

for the construction and acquisition of "capital assets," which it defines to include tangible physical property with an expected useful life of 15 years or more; tangible physical property with an expected life of 10 to 15 years (provided that such costs may not exceed 10 percent of the bond proceeds); major maintenance, reconstruction, demolition for reconstruction, and retrofitting work that is ordinarily done no more often than once every 5 to 15 years; and expenditures that continue or enhance the useful life of the capital asset. (Gov. Code, § 16727, subd. (a).) The General Obligation Bond Law authorizes costs incidentally but directly related to construction or acquisition, including "*planning*, engineering, construction management, architectural and *other design work*, environmental impact reports and assessments, required mitigation expenses, appraisals, legal expenses, site acquisitions, and necessary easements." (*Ibid.*, emphasis added.) The grant would be used to plan for the development of an overnight campground, which qualifies as construction of a "capital asset." The General Obligation Bond Law authorizes the use of funds for planning and design work towards construction of a capital asset. Therefore, the proposed use of the bond funds is consistent with the General Obligation Bond Law.

Based on the foregoing, we find that this grant is proper under Proposition 84 and the General Obligation Bond Law.

Sincerely,



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For EDMUND G. BROWN JR.
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