

MAY 0 6 1998

CALIFORNIA
TRANSPORTATION COMMISSION

CALIFORNIA TRANSPORTATION COMMISSION

Procedure for Leasing Airspace to Private Entities

Resolution G-98-07

Replacing Resolutions G-5, G-94-13, G-96-27 and G-97-06

- 1.1 **WHEREAS** Section 104.12 of the Streets and Highways Code authorizes the Department of Transportation to lease the use of airspace above or below State highways to private entities in accordance with procedures to be prescribed by the California Transportation Commission; and
- 1.2 **WHEREAS** Section 30410 of the Streets and Highways Code authorizes the Director, upon such terms and subject to such reservations as are first approved by the California Transportation Commission, to lease, sell, exchange or otherwise dispose of property acquired pursuant to the California Toll Bridge Authority Act and no longer necessary for Toll Bridge purposes or whenever it is for any other reason in the public interest to do so; and
- 1.3 **WHEREAS** Section 21636 of the Public Utilities Code authorizes the Department to dispose of any property, airport, air navigation facility, or portion or interest, acquired pursuant to the State Aeronautics Act (PUC S21001 et seq.), by sale, lease or otherwise; and
- 1.4 **WHEREAS** leases to private entities are to be made only after competitive bidding unless the California Transportation Commission finds by unanimous vote that in certain cases competitive bidding would not be in the best interest of the State.
- 2.1 **NOW THEREFORE BE IT RESOLVED** that the California Transportation Commission finds it to be in the best interest of the State of California to use a Letter of Understanding and Offer and Proposal format for awarding of long-term leases providing that the California Transportation Commission approves unanimously the terms of such leases should they not be the result of competitive bidding; and
- 2.2 **BE IT FURTHER RESOLVED** that the payment of brokers commissions be allowed as inducement for building development to licensed real estate brokers who assist in the development of airspace sites; and
- 2.3 **BE IT FURTHER RESOLVED** that the Director of Transportation is authorized to execute nonbid, nondevelopmental leases up to three years; and
- 2.4 **BE IT FURTHER RESOLVED** that the Director of Transportation is authorized to execute short-term nonbid leases up to a period of six months with up to one additional six-month period; and
- 2.5 **BE IT FURTHER RESOLVED** that the Director of Transportation is authorized to execute month to month rental agreements, which are automatically renewed, with nonprofit organizations on Park and Ride lots; and

- 2.6 **BE IT FURTHER RESOLVED** that the Director of Transportation is authorized to directly negotiate and execute long term development agreements for any location for which only one telecommunications (wireless) carrier has indicated an interest, provided that those agreements only involve cash payments and no "in-kind" payments, and that all agreements involving "in-kind" payments will be individually reviewed by the Airspace Advisory Committee and approved by the Commission; and
- 2.7 **BE IT FURTHER RESOLVED** that the Department has the authority to enter into revenue sharing agreements with any underlying fee owner which would require that all telecommunication sites comply with the terms of the Department's Master License Agreement and that the Base License Fee would be split 50-50. The Base License Fee must be no less than the rate established by the Master License Agreement unless the underlying fee owner requires a higher rate. The fee would only be shared with the underlying fee owner if they submitted a specific request for a portion of the fee, and only if the easement document is for highway purposes only.
- 2.8 **BE IT FURTHER RESOLVED** that the Airspace Advisory Committee and the Commission will review and possibly revise the Master License and Site License agreements for the telecommunications (Wireless) program every five years; and
- 2.9 **BE IT FURTHER RESOLVED** that the Director of Transportation is authorized to establish policies and procedures setting forth the specific terms and guidelines within which to administer the development of airspace as prescribed in this resolution and the law; and
- 2.10 **BE IT FURTHER RESOLVED** that Attachments 3, 4, 5, and 18 to the Resolution Continuing Policies and Delegations adopted by the California Transportation Commission March 9, 1978, are hereby rescinded; and
- 2.11 **BE IT FURTHER RESOLVED** that Resolution G-5, Resolution G-94-13, Resolution G-96-27 and Resolution G-97-06 are hereby replaced.