

*Memorandum of Understanding
Between the California Coastal Commission
and the City of San Diego*

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**MEMORANDUM OF UNDERSTANDING BETWEEN THE CALIFORNIA COASTAL
COMMISSION AND THE CITY OF SAN DIEGO REGARDING THE EXPENDITURE
OF FUNDS FOR THE MITIGATION OF PARKING, TRAFFIC AND BEACH ACCESS
IMPACTS**

This Memorandum of Understanding is entered into by and between the California Coastal Commission ("Commission") and the City of San Diego ("City"), through their duly elected, appointed, qualified or acting representatives.

I. RECITALS

WHEREAS, the "La Jolla Parking and Transportation Fund," presently held by the Treasurer of the State of California for the Commission in a Special Deposit Fund Account, consists of mitigation fees (Funds) collected by the Commission pursuant to special conditions included in multiple Coastal Development Permits authorizing development in the La Jolla area of the City of San Diego, including among others, #6-83-517 (Royal Inn) and #6-84-585 (Torrey Pines Village);

WHEREAS, the Commission is a state agency established pursuant to section 30300 of the California Coastal Act of 1976 (California Public Resources Code section 30000 et seq.), and is charged with primary responsibility for implementing and enforcing the Coastal Act;

WHEREAS, section 30252 of the Coastal Act provides that the "location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, ... (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, [and] (5) assuring the potential for public transit for high-density uses such as high-rise office buildings....";

WHEREAS, the conditions to these permits specify that the Funds shall be used to pay for costs associated with implementation of the parking and traffic recommendations contained in the La Jolla Parking and Transportation Plan, including (1) a remote parking reservoir and shuttle system, or other alternative transit related improvements; and (2)

DOCUMENT NO. 297496

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other short term or long term parking and traffic circulation related programs or improvements;

WHEREAS, the permit conditions creating the La Jolla Parking and Transportation Fund provide that at least 50 percent of the funds shall be reserved for the implementation of a remote parking reservoir and shuttle system, and that the remaining 50 percent of the funds may be used for other short term and/or long term parking and traffic circulation related programs or improvements, and further provide that, should the City of San Diego establish its own program for implementing the recommendations of the La Jolla Parking and Transportation Plan, and that program is approved by the Commission as a revision to the City's Local Coastal Plan (LCP) implementing ordinances, the funds may instead be used in accordance with the City's approved program;

WHEREAS, to implement the provisions of the City's LCP, including the La Jolla Parking and Transportation Plan, the City proposed and the Coastal Commission approved the La Jolla Coastal Access and Parking Program, which is in accordance with the permit conditions upon which the mitigation fees were originally collected;

WHEREAS, the City of San Diego is a municipal corporation established pursuant to the laws of the State of California, and includes within its boundaries the community of La Jolla;

WHEREAS, the Commission and the City of San Diego wish to use the Funds in the La Jolla Parking and Transportation Fund in furtherance of the purposes for which the Funds were collected;

WHEREAS, the Commission and the City agree that those purposes may be effectuated by development of a specific program to implement of the parking and transportation recommendations in the La Jolla Parking and Transportation Plan, or by an appropriate revision to the La Jolla Parking and Transportation Plan and an amendment to the City's LCP;

WHEREAS, the City of San Diego has indicated that it wishes to revise the La Jolla Parking and Transportation Plan and amend the LCP to better address current and future parking and transportation needs, and this approach is permissible pursuant to the permit conditions;

WHEREAS, the Fund contains \$296,247.

II. TERMS AND CONDITIONS

NOW THEREFORE, THE CITY OF SAN DIEGO AND THE COMMISSION AGREE AS FOLLOWS:

1. Upon execution of this Memorandum of Understanding by both parties, the Commission shall effectuate a transfer from the State Treasurer to the City of San Diego of the entire balance of the remaining funds, together with accrued interest, contained in the La Jolla Parking and Transportation Fund. Upon receipt, the funds shall be deposited into an interest bearing account.
2. In accordance with the approved La Jolla Coastal Access and Parking Program the City shall allocate 50 percent of the Funds to implement a remote parking reservoir and shuttle system, and the remaining 50 percent of the funds shall be used for other short term and/or long term parking and traffic circulation related programs or improvements. This allocation shall take into account the already expended portion of the Funds.
3. In the alternative to the provisions of paragraph 2 above, the City may submit to the Commission, for its review and certification, an amendment to the implementing ordinances contained in its LCP establishing an alternative program to implement recommendations established in the La Jolla Parking and Transportation Plan. If the Coastal Commission certifies the LCP amendments, the funds shall be used to implement the program as established in the new LCP implementing ordinances without further need to amend this MOU.
4. Prior to expenditure of the funds transferred pursuant to this MOU, the City shall submit, to the Commission's Executive Director for review and approval, a plan setting forth the specific parking and transportation program elements for which the funds will be utilized [Plan].
 - A. If the City decides to proceed pursuant to paragraph 3, the City shall first submit to the Commission an appropriate amendment to the implementing ordinances of its LCP. Following certification of the LCP amendment, the City shall then submit the Plan to the Executive Director for review and approval.

5. The Plan shall identify the specific uses of the funds, and the amount of funds to be used for each purpose. The Executive Director shall notify the City within 30 days whether the plan is acceptable or unacceptable, provided however that the Executive Director may extend this review period, for an additional 30 days, by notifying the City in writing. If the Executive Director determines that the Plan conforms with the approved La Jolla Coastal Access and Parking Program or an alternative program as described in paragraph 3 above, the Executive Director shall deem the Plan approved. Such approval shall not be unreasonably withheld. If the City does not receive notification within the prescribed time, the Plan shall be deemed approved. If the Plan is rejected by the Executive Director, the Executive Director shall notify the City of the reasons for the disapproval in writing. Following approval of the Plan, the City may expend the funds in accordance with the terms of the approved Plan. Approval of the Plan is not a substitute for any coastal development permit or other required approval for the City, other person or entity to undertake any activities specified in the Plan.
6. During any period that the funds transferred pursuant to this MOU are held by the City of San Diego, the funds shall remain in an interest bearing account. All of the transferred monies, along with accrued interest, and interest which may accrue while the City holds the funds, shall be utilized solely for the purposes set forth in this MOU. Any reference to the funds or monies to be utilized pursuant to this MOU shall include such interest.
7. The terms of this MOU shall become effective upon execution by both parties and shall continue thereafter until the satisfactory completion of the obligations of the parties as described herein, or termination of this MOU, whichever comes first. The MOU may be altered, changed, or amended by mutual consent of the parties. Any changes or amendments must be in writing and signed by the parties before such change or amendments shall take effect.
8. The City shall use the transferred funds exclusively to finance projects approved pursuant to this Memorandum of Understanding. Administrative costs in implementing this MOU shall not exceed five percent (5%) of the total funds transferred to the City under this MOU. The City shall maintain accurate accounts of its expenditures in accordance with generally accepted accounting principles.
9. The City shall submit a report to the Executive Director of the Commission within 60 days of his/her request as to the status of the use of the funds. The Executive Director may request such a report annually until the funds have been fully expended. The report shall identify the project(s) that have been funded by the Transportation and Parking

Fund, and shall provide a detailed accounting of how the funds were applied to these projects.

10. The Commission's Executive Director may review all submitted status reports to insure that the funds are being expended in accordance with the approved Plan, and to assure compliance with the terms and conditions of this MOU. The review shall be conducted in the same manner as the review of the Plan as set forth in paragraph 5 of this MOU.
11. The parties shall retain their contracting records from the time the funds are transferred and throughout the period during which the funds are expended pursuant to this MOU and for a period of three (3) years thereafter for potential examination and audit by the Auditor General.
12. This MOU may be executed in counterparts, each of which shall be considered a duplicate original.
13. Notices: Any demand upon or notice required or permitted to be given by one party to the other shall be in writing, shall be made in the following manner, and shall be effective (a) upon receipt if given by personal delivery, (b) on the date indicated on the receipt if given by certified or registered mail, return receipt requested, or (c) on the succeeding business day after mailing or deposit if given by Express Mail or by deposit with a private delivery service of general use (e.g. Federal Express), postage or fee paid, as appropriate, addressed to the parties in Section III, Paragraph 14. Notice of a change of address shall be given by written notice in the manner set forth in this section.
14. For the purposes of this MOU, all information, requests, or other business including any demand upon or notice required shall be coordinated through the following agency representatives:
 - City: City of San Diego
Planning Dept.
202 C Street
San Diego, CA 92101
 - Commission: California Coastal Commission
Attn: Peter Douglas, Executive Director
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

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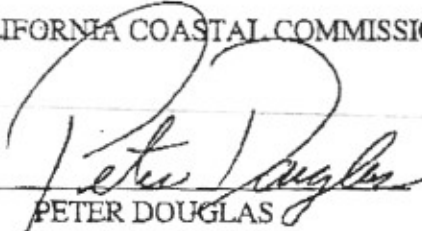
with copy to: California Coastal Commission
San Diego Coast District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402


15. This MOU shall be binding upon and shall inure to the benefit of the successors and assigns of the parties.
16. This MOU shall be governed by, and construed and enforced in accordance with, the laws of the State of California.
17. This MOU may be terminated by mutual written consent of the Parties, at any time. Any remaining funds shall be returned to the Commission or a Commission approved alternative entity within 60 days of notification to the City by the Executive Director.
18. This MOU is not intended to transfer to the City of San Diego nor for the City to assume liability for the Coastal Commission's obligation under the permits from which the La Jolla Parking and Transportation Fund derived.

CALIFORNIA COASTAL COMMISSION

CITY OF SAN DIEGO

By:


PETER DOUGLAS
Executive Director


MICHAEL UBERUAGA
City Manager

Date:

12/11/02

Date:

12/10/02

Approved as to form and legality

this 10 day of December 2002
CASEY GWINN, City Attorney

By:


Deputy City Attorney

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