

CALIFORNIA TRANSPORTATION COMMISSION

Procedure for Leasing Airspace to Public Entities

RESOLUTION G-19-43 Superseding Resolution G-03-03

- 1.1 WHEREAS, Section 104.12(a) of the Streets and Highways Code authorizes the Department of Transportation (Department) to lease the use of airspace above and below State highways to public entities in accordance with procedures to be prescribed by the California Transportation Commission (Commission); and
- 1.2 WHEREAS, Section 104.12(b) of the Streets and Highways Code authorizes the Department to make airspace available, with or without charge, to public entities for mass transit facilities; and
- 1.3 WHEREAS, Section 14013 of the Government Code provides that the Director of the Department of Transportation may lease airspace to local agencies for public purposes and may contribute toward the costs of developing local parks and other such recreation facilities on such areas; and
- 1.4 WHEREAS, funds can only be allocated for acquisitions when such acquisitions comply with environmental laws; and
- 1.5 WHEREAS, it is desirable to reduce Commission workload by minimizing the number of routine financial resolutions processed.
- 2.1 NOW THEREFORE BE IT RESOLVED that the Commission hereby authorizes the Department to enter into leases with public agencies without specific Commission approval for each airspace lease whenever the Department finds:
 - a. That the lessee is a public entity as defined in the Public Contract Code.
 - b. That the lease will fulfill a public purpose.
 - c. That the Department will receive either:
 - i. fair market rent for the property, or;
 - ii. a lesser amount as authorized by any statute enacted by the Legislature, so long as the property satisfies the limitations and conditions set forth in the applicable statute.
- 2.2 BE IT FURTHER RESOLVED, that the Department shall provide an annual report to the Commission on the active airspace leases authorized pursuant to section 2.1c.ii above.
- 2.3 BE IT FURTHER RESOLVED, that the Department may enter into airspace leases with public mass transportation agencies at fair market value lease rates less a twenty percent (20%) discount, subject to specific Commission approval;

- 2.4 BE IT FURTHER RESOLVED, that when it is determined that park or recreational use is appropriate, the Department may use, as all or part of the consideration for a lease for park or recreational purposes, any substantial benefits the Department derives from the local agency's maintenance or landscaping costs which would otherwise be the obligation of the Department whenever the Department finds:
- a. That the lessee is a municipality or other local agency as defined in the Government Code.
 - b. That the use is for park or recreation purposes only.
 - c. That the lease is for public access.
 - d. That the lessee agrees that whenever the leased land is needed for transportation purposes the lease shall terminate.
- 2.5 THEREFORE BE IT FURTHER RESOLVED, that this resolution supersedes and replaces Resolution G-03-03.