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THE CITY OF SAN DIEGO  
**REPORT TO THE CITY COUNCIL**

DATE ISSUED: April 8, 2008 REPORT NO: 08-057  
ATTENTION: Council President and Members of the City Council  
SUBJECT: Memorandum of Agreement with Airport Authority on Airport  
Master Plan Phase 1

REQUESTED ACTION:

1. Approve the Resolution authorizing the Mayor to sign the MOA with the Airport Authority.

STAFF RECOMMENDATION:

Approve

SUMMARY:

The resolution authorizes the Mayor to sign a Memorandum of Agreement with the Airport Authority to toll the statute of limitations on CEQA litigation to allow the Airport Authority, SANDAG and the City of San Diego the reasonable opportunity to resolve their differences without resorting to litigation. Over the next 12 months the three agencies will undergo an intensive planning process to try and address the CEQA concerns of the City and SANDAG. The costs of any studies as spelled out by the MOA will be paid for by Airport Authority. The MOA was approved 6-2 in Closed Session as an alternative to immediate CEQA litigation against the Airport Authority. Because the Council decided to refrain from going immediately to litigation, the City Attorney advised Council that the MOA must also be approved in open session per the Brown Act.

REPORT:

As required by the California Environmental Quality Act (CEQA), the Airport Authority prepared and on May 31, 2006, circulated for an initial 150-day public/agency review and comment period a Draft Environmental Impact Report (May 2006 DEIR) for the Draft AMP with an initial deadline for comment of October 18, 2006. The May 2006 DEIR limited analysis of potential environmental effects of the Draft Airport Master Plan (AMP) to those that might occur through the year 2015, but as a result of the public comments received, the Authority elected to broaden the scope of the DEIR to consider the potential

environmental effects of the Draft AMP that might occur through the year 2030 and ultimately extended the deadline to February 4, 2008.

The Draft AMP outlines proposed near-term airport improvements designed to allow the Airport to meet current passenger demand to 2015 through projects, which include a 10-gate build-out of Terminal 2 West, a dual-level roadway in front of Terminal 2, and various parking, roadway and airfield improvements. The Authority, the City, and SANDAG have not fully agreed upon the assumptions and approach to identifying, addressing and mitigating the significant environmental impacts of the Phase 1 AMP.

The City recognizes the Authority's desire to ensure the environmental review process for the Airport Master Plan is completed in a timely manner. The City, SANDAG and the Airport Authority also wish to avoid litigation amongst public agencies, however, the City and SANDAG believe it is their responsibility to retain the ability to file suit under CEQA should the Authority fail to perform the terms and conditions described in this MOA.

The proposed elements of the Phase 1 AMP focus on incremental improvements to the Airport, the parties all agree that the next phase of the AMP should have a broader scope and focus on development that addresses more fully integrating on-Airport improvements and more effectively linking air and surface transportation. Therefore SANDAG, the City, and the Authority desire to memorialize in this MOA a vision for studying the longer term development for the Airport, and a process by which the parties may work together cooperatively as the Authority continues its planning and environmental review processes for the longer term while still retaining their CEQA rights to file suit.



Job Nelson  
Director, Intergovernmental Relations



Kris Michell,  
Deputy Chief Operating Officer, Legislative  
and Community Services

**MEMORANDUM OF AGREEMENT BETWEEN  
SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY,  
CITY OF SAN DIEGO, AND SAN DIEGO ASSOCIATION OF GOVERNMENTS  
REGARDING SAN DIEGO INTERNATIONAL AIRPORT MASTER PLAN  
AND ENVIRONMENTAL IMPACT REPORT**

**THIS MEMORANDUM OF AGREEMENT** ("MOA") is made by and between the San Diego County Regional Airport Authority ("Authority"), the City of San Diego ("City"), and the San Diego Association of Governments ("SANDAG") based on the following facts and considerations:

**WHEREAS**, pursuant to the San Diego County Regional Airport Authority Act (Cal. Pub. Util. Code §§170000 *et seq.*) the Authority is responsible for the operation, maintenance and improvement of San Diego International Airport ("Airport"); and

**WHEREAS**, the City is responsible for land use planning that impacts its jurisdiction; and

**WHEREAS**, SANDAG is the Regional Transportation Planning Agency, Metropolitan Planning Organization, and Regional Transportation Commission, for the San Diego region and is responsible pursuant to Senate Bill 10 (Kehoe 2007) for preparing and adopting, in consultation with the Authority and other entities, an airport multimodal accessibility plan for the San Diego region; and

**WHEREAS**, the Authority has been engaged for over four years in studying a variety of means to maintain and improve the Airport and the Authority staff identified a number of actions that are beneficial to its mission, and incorporated those possible actions into a draft Airport Master Plan ("Draft AMP"); and

**WHEREAS**, pursuant to the California Environmental Quality Act and Guidelines ("CEQA"), the Authority prepared and on May 31, 2006, circulated for an initial 150-day public/agency review and comment period a Draft Environmental Impact Report ("May 2006 DEIR") for the Draft AMP with an initial deadline for comment of October 18, 2006; and

**WHEREAS**, the May 2006 DEIR limited analysis of potential environmental effects of the Draft AMP to those that might occur through the year 2015, but as a result of the public comments received, the Authority elected to broaden the scope of the DEIR to consider the potential environmental effects of the Draft AMP that might occur through the year 2030; and

**WHEREAS**, the Authority revised the May 2006 DEIR and released the revised version October 2, 2007 ("October 2007 EIR") announcing that the public review and comment period on the revised DEIR would extend to November 30, 2007, then to January 4, 2008, and finally to February 4, 2008; and

**WHEREAS**, the Draft AMP and October 2007 DEIR address proposed near-term airport improvements (hereinafter sometimes referred to as "Phase 1 AMP") designed to allow the Airport to meet current passenger demand to 2015 through projects, which

include a 10-gate build-out of Terminal 2 West, a dual-level roadway in front of Terminal 2, and various parking, roadway and airfield improvements; and

**WHEREAS**, a number of agencies, residents and other interested parties have submitted public comments on the October 2007 DEIR, including SANDAG and the City; and

**WHEREAS**, the Authority, the City, and SANDAG have not fully agreed upon the assumptions and approach to identifying, addressing and mitigating the significant environmental impacts of the Phase 1 AMP; and

**WHEREAS**, while the proposed elements of the Phase 1 AMP focus on incremental improvements to the Airport, the parties concur that the next phase of the AMP should have a broader scope and focus on development that addresses more fully integrating on-Airport improvements and more effectively linking air and surface transportation, in a "Phase 2 AMP;" and

**WHEREAS**, the City and SANDAG recognize the Authority's desire to ensure the environmental review process for the Phase 1 AMP is completed in a timely manner, and all parties wish to avoid litigation amongst public agencies, however, the City and SANDAG believe it is their responsibility to retain the ability to file suit under CEQA should the Authority fail to perform the terms and conditions described in this MOA; and

**WHEREAS**, SANDAG, the City, and the Authority desire to memorialize in this MOA a vision for studying the longer term development for the Airport, and a process by which the parties may work together cooperatively as the Authority continues its planning and environmental review processes for the longer term;

**NOW, THEREFORE**, in consideration of the mutual terms, covenants and conditions, the Authority, the City, and SANDAG enter into and agree to this Memorandum of Agreement:

#### **Section I. Approval and Implementation of Phase 1 of the AMP.**

1. Completion of CEQA Process; Consideration of Phase 1 of AMP. Authority will complete the environmental review process under CEQA for the Draft AMP, and then will consider whether to implement the improvements in the Phase 1 AMP.
2. Covenant Not to Sue on Phase 1. In consideration of the Authority's commitment to initiate the actions described in this MOA, SANDAG and the City agree not to bring any type of legal action prior to completion of the draft concept plan for the Phase 2 AMP to challenge the Phase 1 AMP, its DEIR, or the final Environmental Impact Report (hereinafter "FEIR") under CEQA, NEPA as it applies to the Phase 1 AMP, or any other law or regulation, so long as the Authority is in compliance with the timelines and other requirements set forth in this MOA. Nothing within this MOA shall be construed to apply restrictions on litigation challenging any future AMP EIRs. Additionally, nothing within this MOA is intended to restrict litigation by the

City or SANDAG on items included within their comment letters relating to the Phase 1 AMP if the parties are unable to reach agreement pursuant to Section II, paragraph 4 of this MOA.

## **Section II. Cooperation in Phase 2 AMP.**

1. Initiation of and Cooperation in Phase 2 AMP. Whether or not the Authority approves the Phase 1 AMP or certifies the Final EIR, the Authority, the City, and SANDAG agree to initiate, and to cooperate with each other in, a Phase 2 AMP process, as set forth below.
2. Timeline. The Authority shall create a master timeline in cooperation with SANDAG and the City for a Phase 2 AMP by April 30, 2008. Components of the timeline shall include, but not be limited to milestone dates for a final Phase 2 AMP and adoption of an EIR for a Phase 2 AMP. The Authority Board shall accept for public distribution a new draft concept plan with input from SANDAG and the City for the Phase 2 AMP by February 28, 2009.
3. Cooperative Effort. The Authority shall plan and develop future planning for the Airport in cooperation with SANDAG, the City, the Metropolitan Transit System, North County Transit District, the California Department of Transportation, the Port of San Diego, the County of San Diego, the Department of the Navy, and other groups and individuals that have a stake in the region's transportation future, including those responsible for high-speed rail and waterfront transportation modes. The Authority agrees to work with all appropriate federal, state, and local entities to maximize the number of alternatives for the Phase 2 AMP by considering both Airport-owned property and adjoining parcels owned by third parties.
4. Release of Covenant. Prior to acceptance of the draft concept plan by the Authority pursuant to Section II, paragraph 2 of this MOA, the Authority shall seek an opinion from authorized representatives of the City and SANDAG regarding whether the draft concept plan for the Phase II AMP effectively addresses the concerns of the City and SANDAG with regard to the Authority's mitigation responsibilities under CEQA for the Phase I AMP. The City and SANDAG shall have 15 calendar days to provide their respective opinions to the Authority. If the City or SANDAG do not agree that the Authority has addressed the mitigation requirements of CEQA for the Phase 1 AMP by including required mitigation measures in the Phase 2 AMP, then the City and/or SANDAG shall be released from the covenant not to sue contained in Section 1, paragraph 2 of this MOA.
5. Elements of Phase 2 AMP Planning. Whether or not the Authority approves the Phase 1 AMP or certifies the Final EIR, the Authority agrees that the following items constitute airport projects for consideration as part of the future planning for the Airport in the Phase 2 AMP planning process. The Authority agrees to study and consider these projects in good faith, to provide

appropriate funding for the investigation of them, and subject to compliance with CEQA, other applicable law, and if Authority determines that they are feasible, appropriate and lawful for the Authority to undertake, to implement them.

- a. Airport Intermodal Transportation Center. Authority agrees to study the operational and financial feasibility of constructing an Airport Intermodal Transportation Center ("ITC") on the north side of the Airport at, near or adjacent to Interstate 5. The ITC would serve all commercial airport ground transportation, connect to the rail, trolley and bus stations, and provide private automobile access and parking. The ITC would include an on- or off-airport mass transit connection to the terminals operated by the Authority. In conjunction with local agencies and regional elected bodies, the Authority would make all reasonable efforts to develop the ITC as a federally approved and funded demonstration project designed to make the airport an international model for intermodal transportation and regional sustainability.
- b. Consolidated Rental Car Facility. On the north side of the Airport, on or near the former General Dynamics leasehold, Authority agrees to study the operational and financial feasibility of constructing a Consolidated Rental Car Facility to facilitate a single operating location for the rental car companies operating at the Airport, including the requirement that the companies participate in a single bussing operation to and from the Airport's passenger terminals.
- c. New Passenger Terminal on the North Side (both with and without aircraft gates). On the north side of the Airport, on or near the former General Dynamics leasehold or other appropriate adjoining parcels, Authority agrees to study the operational and financial feasibility of constructing a new airline passenger terminal, either with gates attached or without gates to serve one or more air carriers on the north side of the Airport. Concurrent with any terminal "with gates" study, the Authority agrees to discuss with the military the concept of acquiring the necessary property to facilitate the full extension to the west of Taxiway C and any other land-use opportunities at the Marine Corps Recruit Depot including public-private partnerships to which the military, the City, SANDAG, and the Authority may agree. The Authority further agrees to study and diligently pursue in the Phase 2 AMP EIR, the development and maximization of the Airport by moving, to the degree financially, physically, and operationally feasible, all passenger air operations and all facilities for baggage, parking, and land-based passenger transportation to the north side of the runway, and for the purpose of such study, to consider the possible use of public and private land adjacent to the airport.
- d. Traffic Studies. Authority agrees to undertake traffic studies of all major intersections surrounding the airport, including but not limited to those at Washington, Hawthorne, Laurel, and Grape, as well as impacts to freeway and transit facilities and services, to incorporate the findings of the studies

in the Phase 2 AMP EIR, and to mitigate for impacts in accordance with CEQA and federal law.

6. Cooperative Efforts for Funding On-Airport and Off-Airport Improvements. The Authority will work to seek Federal Aviation Administration ("FAA") approval for funding for off-Airport surface transportation improvements that would address the traffic that results from the current and future operations of the Airport, and SANDAG and the City will likewise work to seek approval for funding for such improvements from the Federal Highway Administration, the Department of Transportation, or any other federal or state agency. Specifically, the parties will focus on the following potential projects and will work cooperatively to seek federal, state, and local funding:
  - a. Transit Plan. The Authority will use its best efforts to seek FAA and any other necessary approvals to expend funds on the projects identified in the Authority's Transit Plan for both the Phase 1 and Phase 2 AMP.
  - b. Freeway Ramps Serving Possible Intermodal Transportation Center. The parties will investigate the feasibility of funding one or more off-ramps (in whole or in part) off the Interstate 5 to facilitate improved access directly to a proposed Intermodal Transportation Center.
  - c. Mitigation of Existing and Future Traffic Congestion on North Harbor Drive and Surrounding Arterials. In an attempt to alleviate traffic congestion on North Harbor Drive and surrounding arterials, the parties will investigate alternatives to improve the flow of traffic on the surrounding roadways, including the expenditure of capital funds for construction of a full or partial second level roadway on North Harbor Drive and improvements to mitigate traffic congestion related to airport use on Washington, Grape, Hawthorne and Laurel streets.

### **Section III. Further Commitments by the Parties.**

1. CEQA and NEPA, Other Legal Requirements. In accordance with the requirements of CEQA and its guidelines and NEPA, nothing within this document shall be construed to be a project or the formal approval of a project unless it has first been the subject of a valid CEQA or/and NEPA process, as applicable, approving the specific project. The parties will carry out the terms of this MOA in accordance with all applicable legal requirements.
2. Covenant to Cooperate. The parties covenant to work in good faith, actively participate, and cooperate in efforts to resolve any disputes concerning Phase 1 or Phase 2 AMP with regard to environmental planning, design, or implementation.
3. Mutual Commitment to Seek Sources of Funding. The Authority, the City, and SANDAG agree to seek all potential sources of funding, including but not limited to airport discretionary funds, user fees, passenger facility charges,

lease revenues, and local, state and federal funds, wherever and whenever available and reasonable, to facilitate transportation improvements and access to the Airport. The Authority agrees to cause all appropriate applications or approval requests to be filed with all federal, state, local, or private entities that could potentially provide funding for all or any part of improvements identified in the Phase 2 AMP or its accompanying EIR. This MOA shall not be construed to obligate SANDAG or the City to fund any project.

4. Analysis of Existing Conditions. When conducting the studies for the draft concept plan contemplated in this MOA, Authority shall conduct an analysis that includes comparing existing conditions at the time Authority is evaluating the alternatives, to anticipated conditions at time of proposed project completion assuming the project is implemented.
5. Short Term Plans Implemented by the Authority. Authority shall consult with SANDAG and the City to ensure that no part of the Phase 1 AMP is implemented in such a way that it precludes long term planning options to be included in Phase 2 AMP pursuant to this MOA. For example, the ten gates and parking facilities for planes described in Phase I of the AMP shall not be constructed in such a way that they limit the feasibility of construction of a terminal on the north side of the airport. The Authority shall not commence construction of any project in the Phase 1 AMP prior to completion of the draft concept plan for the Phase 2 AMP as described in this MOA.
6. Phase 1 AMP Conclusions. Authority concludes in the Phase 1 AMP DEIR that potential development of a unit terminal facility north of the runway is not a reasonable alternative for meeting the project objectives of Phase 1 AMP. The other parties to this MOA are not in agreement with the Authority's conclusion that an alternative involving a terminal facility north of the runway is not a reasonable alternative for meeting the project objectives of Phase 1 AMP. There are other statements and conclusions in the DEIR with which the parties do not agree, however, the parties do not wish to be limited in their future planning efforts regarding any future Phase 2 AMP by statements and conclusions contained in the Phase 1 AMP EIR. Therefore, Authority agrees that notwithstanding any statements and conclusions in the Phase I AMP EIR regarding feasibility, it will carry out the provisions of this MOA in good faith and utilize its best efforts to reexamine those conclusions in connection with the Phase 2 AMP EIR.

#### **Section IV. Tolling of Statute of Limitations.**

1. Tolling of Statute of Limitations. Absent this MOA, the statute of limitations on the Authority's Phase 1 AMP approval and EIR certification would expire within 30 days of the Authority's adoption of the EIR and filing of the Notice of Determination. SANDAG and the City have submitted comments to the Authority on the Draft EIR for the Phase 1 AMP alleging that the Draft EIR is not in compliance with CEQA. The Authority disagrees with the City's and SANDAG's assertions. The parties wish to engage in discussions and cooperative long-term

planning for the Airport and to toll the statute of limitations for the commencement of litigation based on the Authority's alleged failure to comply with CEQA, NEPA or any other law, in order to provide the parties with a reasonable opportunity to resolve their dispute without resorting to litigation. The parties agree that the statute of limitations for any claim or cause of action arising from the Phase 1 AMP that would otherwise expire is hereby tolled until completion of the twelve (12) month draft concept plan study period for the projects mentioned herein, which is set for February 28, 2009, plus an additional three month period (May 30, 2009).

2. Terms of Waiver. The Authority hereby waives any defense that it may have against any claim or cause of action based on the expiration of the statute of limitations, laches, estoppel or waiver regarding the passage of time, action or inaction between the effective date of this MOA and the deadline. The parties recognize that under limited circumstances, certain statutes of limitations enacted for the benefit of the public cannot be waived by agreement. The parties to this MOA agree that no such statute of limitations is involved in or implicated by this MOA and that they will not raise any defense based upon such ground. Except as set forth herein, nothing contained herein shall constitute a waiver of any claims, demands, causes of action, positions, rights, remedies and defenses, in law and in equity, of any of the parties.
3. No Admissions. The parties agree that neither execution hereof nor performance of any of the provisions of this MOA shall constitute or be construed as an admission on the part of any party of any liability regarding the claims, and nothing herein shall be admissible in any proceeding as an admission of any factual matter against any party.

#### **Section V. Dispute Resolution.**

1. The parties shall attempt in good faith to resolve any controversy or claim arising out of or relating to this MOA promptly by negotiations between representatives of the parties who have authority to settle the controversy.
2. If a controversy or claim should arise that cannot be resolved by the respective staffs, the President, or delegate, of the Authority and the Mayor or the Executive Director, or delegate, of the City and SANDAG respectively (collectively, the "Executives") will meet at least once and will attempt to resolve the matter. The Executives will make every effort to meet as soon as reasonably possible at a mutually agreed time and place.
3. If the matter has not been resolved within thirty (30) days of the initial meeting of the Executives pursuant to Section V(2), or if either party will not meet again within thirty (30) days of the initial meeting of the Executives, then the Chairs of the Authority and SANDAG, and the Mayor of the City will meet to resolve the matter. The Chairs will make every effort to meet as soon as reasonably possible at a mutually agreed upon time and place.

#### **Section VI. General Terms and Conditions.**

1. Approval and Time of Performance. This MOA shall become effective upon final approval by the City, SANDAG, and the Authority. The actions necessary to achieve the objectives of this MOA shall be completed in a timely manner.
2. Full Cooperation. The Authority, the City, and SANDAG agree to cooperate with each other and provide each other with all necessary documents when requested. Each party will use its best efforts to achieve the objectives of this MOA, consistent with its legal obligations and applicable law.
3. Notice. Any notice required or permitted by this MOA shall be in writing and shall be delivered as follows with notice deemed given as indicated: (a) by personal delivery when delivered personally, (b) by overnight courier upon written verification of receipt, or (c) by certified or registered mail, return receipt requested, upon verification of receipt. Notice shall be sent to the addresses set forth below, or such other address as either party may specify in writing:

If to the Authority:

Thella F. Bowens, President/CEO  
San Diego County Regional Airport Authority  
P. O. 82776  
San Diego, CA 92138-2776  
Tel.: (619) 400-2444; FAX: (619) 400-2448

If to SANDAG:

Gary Gallegos, Executive Director  
SANDAG  
401 B Street, Suite 800  
San Diego, CA 921 01-4231  
Tel.: (619) 699-1900; Fax: (619) 699-1995

If to City:

Jerry Sanders, Mayor  
City of San Diego  
202 C Street  
San Diego, CA 92101

4. Enforceability. The parties desire to ensure the terms of this MOA are completed as described herein. Authority agrees that should the terms of this MOA not be implemented, due to the fault of Authority, that SANDAG and/or the City may proceed with litigation against the Authority for all claims and causes of action arising from the Phase 1 AMP and its EIR. Neither party shall be liable to the other for any claimed costs or damages arising from a claimed non-performance of any provision of this MOA.

5. Partial Invalidity. If any term, covenant, condition, or provision of this MOA is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder shall remain in full force and effect, and shall in no way be affected, impaired or invalidated.
6. Admissibility. This MOA, until executed by all parties, evidences the intention and agreement of the parties that the statements and offers in their entirety at any meeting to date and as contained in this MOA are and were made under the provisions of California Evidence Code §1152 and §§1115-1128. All the statements and offers were for the purpose of good faith negotiations, and it is, therefore, agreed that the statements and offers that are not incorporated into the final executed version of this MOA shall not be admissible in any court of law or administrative proceeding for any purpose.
7. Term and Termination. The term of this MOA shall be for five (5) years. The parties may mutually terminate this MOA upon one hundred and eighty (180) days advanced written notice, or as otherwise provided in this MOA. In the event the City, SANDAG, and the Authority agree to terminate this MOA pursuant to this paragraph prior to completion of the draft concept plan, the City and SANDAG shall be released from the covenant not to sue contained in this MOA and the tolling period referenced above shall continue in effect such that the City and/or SANDAG shall have the right to file a lawsuit against the Authority during the 180 day advance notice period, but in no event shall the right to file a lawsuit extend beyond May 30, 2009.
8. No Third Party Beneficiaries. The parties covenant and agree that the provisions of this MOA do not create any third party beneficiary rights.
9. Federal Limitations on Use of Airport Revenue. The parties understand the provisions of the Federal Aviation Administration (hereinafter "FAA") 1999 Policy and Procedure Concerning the Use of Airport Revenue [64 Fed. Reg. 7696, dated Feb. 16, 1999]; the Airport and Airway Improvement Act of 1982 ("AAIA"), codified at 49 U.S.C. §47107(b); the Federal Aviation Administration Authorization Act of 1994, P.L. 103-305 (Aug. 23, 1994); the Airport Revenue Protection Act of 1996, Title VIII of the Federal Aviation Administration Act of 1996, P.L. 104-264 (Oct. 9, 1996), 110 Stat. 3269 (Oct. 9, 1996); 49 U.S.C. §46301(n)(5); and 49 U.S.C. §47133. The parties also recognize that the Authority has received federal Airport Improvement Project ("AIP") grants containing grant assurance 25, which provides: "All revenues generated by the airport . . . will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport."
10. Compliance with Federal Rates and Charges Policy. The parties recognize the Authority is governed in its setting and collection of airport rates and charges by the FAA's Policy Regarding Airport Rates and Charges, 61 Fed. Reg. 31994, dated June 21, 1996, a policy adopted pursuant to the Federal Aviation

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Administration Authorization Act of 1994, P.L. 103-305 (Aug. 23, 1994), 49 U.S.C. §47129.

The undersigned have read this Memorandum of Agreement, fully understand its contents, and by the signatures below agree to its terms on behalf of their respective public agencies.

APPROVED AS TO LEGAL FORM

SAN DIEGO ASSOCIATION OF GOVERNMENTS

by: \_\_\_\_\_  
Julie D. Wiley  
General Counsel

by: \_\_\_\_\_  
Gary L. Gallegos  
Executive Director

APPROVED AS TO LEGAL FORM

SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

by: \_\_\_\_\_  
Breton K. Lobner  
General Counsel

by: \_\_\_\_\_  
Thella F. Bowens  
President and CEO

APPROVED AS TO LEGAL FORM

CITY OF SAN DIEGO

by: \_\_\_\_\_  
City Attorney

by: \_\_\_\_\_  
Jerry Sanders  
Mayor

REQUEST FOR COUNCIL ACTION  
CITY OF SAN DIEGO

1. CERTIFICATE NUMBER  
(FOR AUDITOR'S USE ONLY)

TO: CITY ATTORNEY

2. FROM (ORIGINATING DEPARTMENT):  
Intergovernmental Relations

3. DATE: April 8, 2008  
~~March 18, 2008~~

4. SUBJECT:  
Memorandum of Agreement with Airport Authority on Airport Master Plan Phase 1

5. PRIMARY CONTACT (NAME, PHONE, & MAIL STA.)  
Job Nelson 619.236-5980

6. SECONDARY CONTACT (NAME, PHONE, & MAIL STA.)  
Julie Dubick 619-236-5929

7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED  X

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND			
DEPT			
ORGANIZATION			
OBJECT ACCOUNT			
JOB ORDER			
C.I.P. NUMBER			
AMOUNT			

9. ADDITIONAL INFORMATION / ESTIMATED COST:  
There are no additional costs required by the MOA. The Airport Authority is required by the MOA to be the lead agency in the planning effort.

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIG. DEPT	<i>JLN</i>	4/8/08	8	DEPUTY CHIEF	<i>[Signature]</i>	4/8/08
2	DSD/EAS	<i>[Signature]</i>	4/8/08	9	COO	<i>[Signature]</i>	4/8/08
3	<del>REDEV</del> <i>gn</i>			10	CITY ATTORNEY	<i>[Signature]</i>	4/17/08
4	COUNCIL LIAISON OFFICE	<i>[Signature]</i>	4/8/08	11	ORIG. DEPT	<i>JLN</i>	4/8/08
5	REDEVELOPMENT	<i>[Signature]</i>	4/8/08	DOCKET COORD: _____ COUNCIL LIAISON _____			
6				<input checked="" type="checkbox"/> COUNCIL PRESIDENT <input type="checkbox"/> SPOB <input checked="" type="checkbox"/> CONSENT <input type="checkbox"/> ADOPTION <input type="checkbox"/> REFER TO: _____ COUNCIL DATE: 4/22/08			
7							

11. PREPARATION OF:  RESOLUTIONS  ORDINANCE(S)  AGREEMENT(S)  DEED(S)

- Approve the Resolution authorizing the Mayor to sign the MOA with the Airport Authority.

*(Continued) gn*

11A. STAFF RECOMMENDATIONS: **Adopt the resolutions**

12. SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION.)

**COUNCIL DISTRICT(S):** 2

**COMMUNITY AREA(S):** Downtown, Point Loma, Mission Hills

**ENVIRONMENTAL IMPACT:** This activity (Memorandum of Agreement) is not a "project" and is therefore not subject to CEQA pursuant to State CEQA Guidelines Section §15060(c)(3).

**HOUSING IMPACT:**

**OTHER ISSUES:** Approved in Closed Session as an alternative to immediate CEQA litigation against Airport Authority

RESOLUTION NUMBER R-\_\_\_\_\_

DATE OF FINAL PASSAGE \_\_\_\_\_

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MEMORANDUM OF AGREEMENT WITH THE SAN DIEGO REGIONAL AIRPORT AUTHORITY CONCERNING THE LINDBERGH FIELD AIRPORT MASTER PLAN; AGREEING TO TOLL THE 30 DAY STATUTE OF LIMITATIONS TO FILE SUIT ON THE FINAL ENVIRONMENTAL IMPACT REPORT/NOTICE OF DETERMINATION ASSOCIATED WITH THE MASTER PLAN FOR ONE YEAR; AGREEING TO ENGAGE IN COORDINATED PLANNING REGARDING ADDITIONAL IMPROVEMENTS TO THE AIRPORT AND ITS ENVIRONS WITH VARIOUS LOCAL MUNICIPAL AGENCIES, GROUPS AND INDIVIDUALS.

WHEREAS, The City of San Diego [City] is authorized to review and consider any plan to expand or enlarge any existing publicly-owned airport pursuant to Public Utilities Code § 21661.6; and

WHEREAS, the City has land-use jurisdiction over the area which includes Lindbergh Field Airport and its environs; and

WHEREAS, the San Diego Regional Airport Authority [Airport Authority] is the lead agency for its Airport Master Plan [AMP] proposal and an associated California Environmental Quality Act report entitled "Draft Environmental Impact Report," dated May 2006 [EIR], which analyzed airport needs through the year 2015 and was the subject for comments by the public and municipal authorities; and

WHEREAS, the City and others, have made formal comments to the AMP and EIR pursuant to Public Resources Code § 21003.1 and the Airport Authority has agreed to consider

broadening the scope of its inquiry into San Diego's Airport needs to look at airport operations through the year 2030; and

WHEREAS, the current AMP [AMP-Phase 1] proposes improvements designed to address needed airport changes and projected passenger demand only through the year 2015 by adding 10 gates to Terminal 2 West, a dual level road to access Terminal 2 and a seven-story parking structure; and

WHEREAS, the City and the Airport Authority have not agreed upon the assumptions expressed in the AMP and EIR regarding the impacts of the AMP improvements and any *potential mitigation of the impacts*; and

WHEREAS, the City recognizes the need for the AMP-Phase 1 improvements and wishes to avoid unnecessary litigation on AMP-Phase 1 while proposing consideration of broader improvements which will contribute to the operational efficiency of Lindbergh Field through the year 2030; and

WHEREAS, the Airport Authority wants to complete the improvements described in AMP-Phase 1 as soon as possible and the City acknowledges these changes will enhance short-term operational efficiency of the airport; and

WHEREAS, the City would normally be required to file suit to challenge the Airport Authority's Final Environmental Impact Report/Notice of Determination as to the AMP and EIR within 30 days of its issuance pursuant to Public Resources Code § 21080.5 and 21167; and

WHEREAS, the Airport Authority, as the issuing agency, is willing to waive the 30-day period, for one year, to allow the parties to negotiate and plan while the City retains its rights to file suit upon the expiration of the one-year tolling period; **NOW, THEREFORE,**

BE IT RESOLVED, by the Council of The City of San Diego, that the Mayor, or his designee, is authorized to execute and deliver the Memorandum of Agreement with the San Diego Regional Airport Authority regarding the Airport Master Plan Phase 1, a copy of which is filed in the office of the City Clerk as Document No. \_\_\_\_\_.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By John H. Serrano  
John H. Serrano  
Deputy City Attorney

JHS:ar  
04/08/08  
Or.Dept:Mayor  
R-2008-923  
MMS# 5971

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of \_\_\_\_\_.

ELIZABETH S. MALAND  
City Clerk

By \_\_\_\_\_  
Deputy City Clerk

Approved: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor