

## **AGREEMENT TO REMAND ORDER**

This Agreement to Remand Order is entered into by the City of Los Angeles (City), the Venice Stakeholders Association (VSA), and the California Coastal Commission in the case of *Venice Stakeholders Association v. California Coastal Commission*, Los Angeles Superior Court Case No. BS122073. The parties desire to attempt to resolve this case by entering into this Agreement.

### **RECITALS**

A. VSA sued the Commission for its denial in June 2009 of the City of Los Angeles' applications for a Coastal Development Permits (CDPs) to implement Overnight Parking Districts (OPDs) in the Venice area of the City, seeking a writ of mandamus to set aside the Commission's decision and a declaration that the Commission lacked jurisdiction over the City's OPD program and overnight parking generally in the City, and that a CDP was not required for the City to regulate overnight parking. Shortly after VSA initiated this litigation, the City filed a cross-complaint against the Commission in the same action, seeking a declaration similar to that requested by VSA.

B. The Commission disagrees with VSA and the City regarding their respective claims in the action. However, in an effort to settle the dispute, the parties wish to stipulate to request that the Court enter an order staying the litigation and remanding this matter to the Commission to set aside its June 2009 denial of the CDP applications, and to conduct a new public hearing on a modified CDP application by the City. Thus, the parties have agreed to jointly file with the Court a stipulation and proposed order in the form appended hereto as Appendix A (Stipulation to Entry of Remand Order; [Proposed] Order Remanding Case).

C. In addition, the Parties have agreed that if the Commission by July 9, 2010, approves an application by the City for a CDP containing the specific terms appended hereto as Appendix B (Modified CDP Terms) and no other terms limiting the City's implementation of OPDs in the area described in the Modified CDP Terms, the Parties shall release certain claims against each other and the City and VSA shall dismiss their respective actions against the Commission.

### **AGREEMENT**

In consideration of the mutual promises and covenants made in this agreement and other valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the parties agree as follows:

1. Incorporation of Recitals. Recitals A through C above are incorporated at this point by this reference and acknowledged by all parties as accurate.
2. The parties agree to stipulate to the entry of an order in the form appended hereto as Appendix A and to promptly file such stipulation with the Court.
3. In the event that the Court enters an order pursuant to the stipulation, such order shall toll any and all applicable statutes, rules, or court orders affecting the timely prosecution of

the Action, including without limitation California Code of Civil Procedure, section 583.110 et seq., provided that, with respect to the Commission's decision on any modified CDP application by the City, any supplemental petition for writ of mandate shall be filed within sixty (60) days of the Commission's final action.

4. Dismissal of the Action. Should the Commission act on or before July 9, 2010, to approve a CDP containing the Modified CDP Terms appended hereto as Appendix "B," and no other terms limiting the City's implementation of OPDs in the area described in the Modified CDP Terms, the City and VSA shall promptly dismiss their respective actions against the Commission. Such dismissal shall be with prejudice as to any cause of action arising from or relating to the Commission's June 2009 denial of the City's CDP applications and without prejudice as to any cause of action arising from or relating to any other, present or future, action or controversy.

Deleted: writ

Deleted: for declaratory relief

5. Release of Matters Relating to the Commission's 2009 CDP Action. Should the Commission act on or before July 9, 2010, to approve a modified CDP, the parties, and each of them, their agents, representatives, successors and attorneys, shall forever release and discharge each other party, its members, directors, officers, employees, agents, representatives, parent organizations, subsidiaries, affiliates, predecessors, successors and attorneys, from any and all claims, losses, debts, liabilities, demands, obligations, costs, expenses, damages, attorneys' fees, actions or causes of action, whether known or unknown, suspected or unsuspected, accrued, or contingent relating to the Commission's June 11, 2009 action on the City's CDP applications.

6. Release of Matters Relating to Future CDP approval. Should the Commission act on or before July 9, 2010, to approve the City's modified CDP application, the parties, and each of them, their agents, representatives, successors and attorneys, shall forever release and discharge each other Party, its members, directors, officers, employees, agents, representatives, parent organizations, subsidiaries, affiliates, predecessors, successors and attorneys, from any and all claims, losses, debts, liabilities, demands, obligations, costs, expenses, damages, attorneys' fees, actions or causes of action, whether known or unknown, suspected or unsuspected, accrued, or contingent relating to the Commission's approval of the modified CDP application.

7. Matters Excluded from Releases. Notwithstanding paragraphs 5 and 6 of this Agreement, neither VSA nor the City shall be foreclosed by this Agreement from filing or prosecuting a future action for declaratory relief concerning the scope of the Commission's jurisdiction over OPDs or parking regulations generally, or from asserting in such an action that there is a disagreement about the scope of such jurisdiction between such party and the Commission. However, the City and VSA are foreclosed from using any such future action to challenge, directly or collaterally, the Commission's jurisdiction over parking regulations in relation to either its June 2009 action on the Venice OPDs or its action on the modified CDP application for Venice OPDs.

Deleted: , as evidenced by the 2009 CDP Action

8. Voiding of Releases Based Upon Subsequent Challenge. In the event the releases contained in paragraph 6 of this agreement become effective by operation of this agreement, and

subsequently the modified CDP giving rise to the releases is set aside pursuant to a proceeding to challenge the modified CDP, then such releases shall immediately become null and void.

9. Fees and Costs. The parties shall assume and pay for their respective attorneys' fees and legal costs and expenses to the date of this agreement related to the actions and the released matters.

10. Counsel. The Parties represent that they have consulted or have had the opportunity to consult legal counsel prior to the execution of this Agreement and have executed this Agreement with full knowledge of its meaning and effect.

11. Binding. The Parties agree that the terms, conditions and provisions of this Agreement are binding upon, and shall inure to the benefit of, all assigns and successors-in-interest of each of the Parties hereto.

12. Additional Acts. The Parties agree to perform any acts and execute any documents consistent with the terms and conditions of this Agreement which may be needed, desired or required to effectuate the terms, conditions, and provisions of this Agreement.

13. Entire Agreement. Except as otherwise provided for herein, this Agreement constitutes the entire and only agreement between the Parties with reference to the subject matter hereof and supersedes any prior representation or agreement, oral or written, with respect thereto. The Parties further agree that no representation, warranty, agreement or covenant has been made with regard to this Agreement, except as expressly recited herein and that in entering into this Agreement, no party is relying upon any representation, warranty, agreement or covenant not expressly set forth herein.

14. No Admissions. Each Party agrees that this settlement is made in compromise of disputed claims and that by entering into and performing the obligations of this Agreement, no party concedes or admits the truth of any claim or any fact and the execution and performance of this Agreement shall not be construed as an admission by any party.

15. Governing Law. This Agreement shall be construed, enforced and governed by the laws of the State of California, and shall constitute a binding settlement by the Parties which may be enforced under the provisions of the California Code of Civil Procedure.

16. Mutual Drafting. The Parties agree that this Agreement shall not be construed in favor of, or against, any party by reason of the extent to which any party or his counsel participated in the drafting of this Agreement.

17. Amendment. This Agreement can be amended only by a writing signed by each of the Parties hereto.

18. Counterparts. This Agreement may be signed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute the same Agreement. Facsimile or PDF signatures will have the same force and effect as original signatures.

19. Authority. The Parties represent and warrant that they have full and complete authority to execute this Agreement and that they have not assigned or transferred (voluntarily, involuntarily or by operation of law), to any person or entity, any right, title or interest in any claim released and discharged herein.

Dated:

Mayor,  
*The City of Los Angeles*

Dated:

Mark Ryavec  
*Venice Stakeholders Association*

Dated:

Peter Douglas, Executive Director  
*California Coastal Commission*

Approved by Counsel for the Parties:

Dated:

WYATT SLOAN-TRIBE  
Deputy Attorney General  
*Attorney for Respondent/Defendant  
California Coastal Commission*

Dated:

VALERIE FLORES  
Managing Assistant City Attorney  
*Attorney for Petitioner/Plaintiff City of Los  
Angeles*

Dated:

JOHN A. HENNING, JR.  
*Attorney for Plaintiff/Petitioner Venice  
Stakeholders Association*