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Caring for Your Coast

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Gary Jones
Director

Kerry Silverstrom
Chief Deputy

John Kelly
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January 22, 2019

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

APPROVE A DELEGATION OF AUTHORITY TO THE DIRECTOR OF BEACHES AND HARBORS AND CHIEF EXECUTIVE OFFICER TO NEGOTIATE AN AMENDMENT TO SECOND AMENDED AND RESTATED LEASE NO. 55624 – PARCEL 125R (MARINA CITY CLUB) – MARINA DEL REY (FOURTH DISTRICT)(4 VOTES)

SUBJECT

Request for a delegation of authority to the Director of Beaches and Harbors, together with the Chief Executive Officer, to negotiate a lease amendment providing, among other things, a mechanism to address partial funding of infrastructure and capital improvements of leasehold facilities on a cost-neutral basis to the County.

IT IS RECOMMENDED THAT THE BOARD:

1. Find that the proposed actions are categorically exempt from CEQA pursuant to CEQA Guidelines section 15301 (Existing Facilities).
2. Delegate authority to the Director of the Department of Beaches and Harbors (Director), together with the Chief Executive Officer ("CEO"), to negotiate an amendment (Amendment) to the Restated Marina City Club Ground Lease (Lease), which Amendment shall, among other things, provide that:
(a) all Category B condo owners may convert back into Category A (as defined in the Lease) so that there is only one category of condo ownership subsequent to the effective date of the Amendment;
(b) the Director shall review the annual increase in the computation of the Shadow Rent to condominium owners to determine the feasibility of limiting or reducing the annual adjustments thereto;
(c) the Percentage Rent payable to the County under the Lease shall be increased, retroactive to January 1, 2019 as prescribed by the Lease (i.e., from the current 12.5% to an amount not to exceed 15%); however, for a period of ten (10) years thereafter, a portion of such increase

shall be deposited by the Lessee into an account which shall be used solely to fund the condo owners' prorata share of certain specified portions of the infrastructure and capital improvements of the Marina City Club property; (d) after such ten (10) year period, the Lessee shall resume paying 100% of the Percentage Rent due under the Lease to the County, and the Lessee shall continue to fund the deferred maintenance account as required by the Lease; (e) any funds provided by County (or incurred for consultants) shall be subject to reimbursement; and (f) County shall have monitoring and audit rights in connection with the deferred maintenance reserve fund.

3. Instruct the Director and CEO to negotiate in accordance with the terms set forth in Paragraph 2 above, including without limitation any other terms necessary to effectuate the above-described Amendment and return to the Board for approval of such Amendment.

4. Delegate authority to the Director and CEO to negotiate, on behalf of the County (and return to the Board for approval of), the terms of any required amendment to the Master Sublease to conform it to the Amendment authorized hereby.

(1) It should be noted that although the Lease, the applicable documents governing the Marina City Club, and this letter refer to the Marina City Club and its respective 600 residential units within the property as "condominiums" and/or "condos," the Marina City Club and such units are not technically a condominium pursuant to the California Subdivision Map Act, as amended, and each unit/condo owner is a sub-lessee under the Master Sub-Lease who holds a prepaid leasehold interest for the term of the Lease.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On December 22, 2003, your Board consented to the assignment of the Second Amended and Restated Lease to Essex Marina City Club, L.P. (Lessee) for Marina City Club (Parcel 125R). The Lease is the only ground lease in Marina del Rey (and the only County-owned property generally) that allows condo ownership as well as apartment rentals. At the time the condos were approved in 1988, it was agreed that condo owners would pay ground rent to the County (via Lessee) that would in effect mimic the rent County would have otherwise received if the units had remained as apartments rather than converting to condos. That ground rent represents a percentage of what the apartment rent paid to Lessee would have been at market rates (called the "Shadow Rent" under the Lease) had the Lessee not converted the apartments into condo units. The Shadow Rent itself is not paid to anyone; it is merely used as a tool to calculate the ground rent payable to the County. Both the Percentage Rent and the Shadow Rent are adjusted periodically pursuant to the Lease.

Lease Amendment No. 4, which your Board approved on June 22, 2004, created two (2) categories of condominium subleases. Category A unit owners had to modify their respective subleases to opt into the provisions of Amendment No. 4 which, among other things, provided for a temporary freeze on annual increases to the Shadow Rent, with a fixed increase (3.75%) thereafter, a mechanism for such accumulated rents to fund certain repairs, and a mechanism to repay to the County the advanced and deferred rent (including an increase of 1.5% in the condo transfer fee, payable to the County). Category B unit owners, on the other hand, who did not opt in were subject to a variable rent increase, assessed individually for covered repairs, and was subject to a 1 % transfer fee. There are only nine (9) condo units (out of a total of 600) that are Category B units.

One Category B unit owner has recently requested to convert into a Category A category so that his condo would be converted to a Category A unit; according to the Condo Owners Association

("COA"), all nine of the Category B owners may be interested in also converting. The proposed elimination of multiple categories of condo owners with different rent calculation formulas will help ease the administrative burden on the Department and promote more efficient administration of the Lease.

The Lease requires the Lessee to maintain and repair all of the buildings in which the condo units are located and to set aside funds for required maintenance or for capital improvements. Certain maintenance costs and capital improvement contributions attributable to the condos are passed along to the individual condo owners by Lessee, which costs/contribution are paid directly to the COA.

The COA has sought County assistance in addressing certain deferred maintenance and certain capital improvements, and has requested that the County negotiate with it (and, necessarily, with the Lessee as well) to effectuate a funding mechanism for infrastructure and capital improvements of the leasehold facilities.

Implementation of Strategic Plan Goals

In furtherance of County Goal #3, "Realize Tomorrow's Government Today," Strategy III.3, "Pursue Operational Effectiveness, Fiscal Responsibility, and Accountability," the proposed delegation of authority will allow Director to find solutions that ensure resources are expended in a responsible, efficient and strategic manner.

FISCAL IMPACT/FINANCING

The Department of Beaches and Harbors' operating budget will not be impacted by the proposed Amendment, which will be negotiated to be cost-neutral to the County (i.e., subject to repayment). Depending on the outcome of the negotiations, however, the increase in the percentage rental rate may result in an increase in revenue to the County. Beginning 10 years after the increase in percentage rates begins, the County's revenue will be increased by the combined increase in the Shadow Rent and the percentage rent rate.

Costs of consultants and primary County staff involved in the negotiation and development of the Amendment may be reimbursed by the Lessee pursuant to the terms of the Lease.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The term of the Lease commenced on November 7, 1986 and will expire on July 29, 2067. The Marina City Club development contains 600 Condominium units, 101 low-rise apartment units, a marina, a promenade, commercial spaces, a restaurant, and certain common area facilities. As noted, Marina City Club is unique in that it is the only leasehold in Marina del Rey that allows for condo ownership; all of the other residential properties in the Marina are comprised of rental apartment units only.

The proposed Amendment is authorized by Government Code sections 25536 and 25907 and will be approved as to form by County Counsel and will return to your Board for final approval prior to its execution.

ENVIRONMENTAL DOCUMENTATION

Approval of the proposed Amendment is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15301 (Existing Facilities). Approval of the recommended actions will not result in any expansion of the existing use of the Marina City Club property.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

There is no impact on other current services or projects.

CONCLUSION

Please return one adopted copy of this letter to the Department of Beaches and Harbors, Asset Management Division. Should you have any questions, please contact Don Geisinger at (424) 526-7730 or dgeisinger@bh.lacounty.gov.

Respectfully submitted,



GARY JONES

Director

GJ:SP;dlg

c: Chief Executive Officer
County Counsel
Executive Officer, Board of Supervisors