



To enrich lives through effective and caring service



Santos H. Kreimann
Director

Kerry Silverstrom
Chief Deputy

December 15, 2009

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:

**APPROVAL OF RENEWAL OF OPTION TO AMEND LEASE AGREEMENTS
TO FACILITATE REDEVELOPMENT OF
DEL REY SHORES (PARCELS 100S/101S) - MARINA DEL REY
(FOURTH DISTRICT)
(4 VOTES)**

IT IS RECOMMENDED THAT YOUR BOARD:

1. Find that your Board has previously considered and recertified the Environmental Impact Report and adopted the Environmental Findings of Fact, Statement of Overriding Considerations, and Mitigation Monitoring Program for the proposed redevelopment project contemplated by the Amended and Restated Lease Agreement with respect to Parcels 100S and 101S (Del Rey Shores) in compliance with the California Environmental Quality Act and the writ of mandate by the Los Angeles Superior Court.
2. Authorize the Chair to execute the attached Renewal of Option to Amend Lease Agreements: a) granting an extension of the Option to Amend Lease Agreements to April 30, 2011; and b) giving the Director of the Department of Beaches and Harbors the right to grant one additional six-month extension to not later than October 31, 2011, upon payment of a \$25,000 fee by Lessee, if, despite Lessee's diligent efforts, Lessee is still unable to obtain financing by April 30, 2011.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The County is the lessor of two separate ground leases, one for Parcel 100S and the other for Parcel 101S, both of which were entered into for initial terms of approximately 60 years and will expire on March 31, 2022. On December 6, 2006, your Board approved the Option to Amend Lease Agreements for Parcels 100S and 101S ("Option") to facilitate redevelopment of both Parcels by a yet-to-be-named entity ("Lessee"), along with an Amended and Restated Lease Agreement ("Restated Lease") that combines the leases for both Parcels into one document and provides for: an approximately 41-year co-terminus lease extension from March 31, 2022 to July 31, 2063; demolition of the existing apartment buildings on both Parcels (201 units) and construction of 544 new units (including 37 moderate income and 17 very low income on-site affordable apartments); payment of a \$1,000,000 lease extension fee; and an \$11.05 million rent credit in recognition of construction cost increases and the cost of providing affordable housing, which rent credit may be used to offset rent or extension fees. Total development cost to be expended by Lessee is to be not less than \$132,643,000.

The term of the Option has been subject to tolling due to complex litigation that affected the project entitlements, which has been resolved in favor of the issuance of the project entitlements without further opportunity of appeal. According to the Option, Lessee had 45 days from the date of such resolution to exercise the Option. While both the County and the Lessee assumed that the trial court needed to take further action to finalize the judgment, Lessee learned from the court on October 29, 2009 that the court considered the judgment final and would take no further action. Thereafter, the Lessee requested an extension of the Option because of its inability to obtain financing in the remaining time left to exercise the Option.

During the extended entitlement and litigation process, the financing market has changed. In order to provide time for the financing markets to improve and to permit Lessee to continue to seek financing, we are recommending approval of the Renewal of Option to Amend Lease Agreements ("Option Renewal"). The Option Renewal will preserve the terms of the original Option negotiated with the Lessee, which would continue to allow for the redevelopment of these Marina parcels.

Lessee's building plans have been approved by the Building and Safety Division of the County's Department of Public Works and demolition and foundation permits fees have been paid. The permits expire in April 2011. The attached Option Renewal renews the Option for approximately 16 months to April 30, 2011. If despite its best efforts Lessee is unable to obtain the necessary financing within such period, the proposed Option Renewal further authorizes the Director of the Department of Beaches and Harbors ("Department") to grant one additional six-month extension to not later than October 31, 2011, upon payment of a \$25,000 extension fee by Lessee.

Implementation of Strategic Plan Goals

The recommended action will allow Lessee to continue its effort towards the proactive redevelopment of the parcel, which will help the County achieve fiscal sustainability (Strategic Plan Goal No. 1, Strategy No. 1).

FISCAL IMPACT/FINANCING

There is no fiscal impact in the short term. If the Option is exercised, there will be an increase in revenues in the future.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The terms of the leases for Parcels 100S and 101S, which commenced August 1, 1964 and July 1, 1965, respectively, will expire concurrently March 31, 2022. In exchange for lease extensions to the date of July 31, 2063, which will be available upon exercise of the Option, Lessee has agreed to raze the existing improvements and to construct twelve new five-story apartment buildings containing a total of 544 units. The Restated Lease will also require renovations beginning in 2032, with completion no later than 2035, to physically reposition the project to then current market requirements.

The Small Craft Harbor Commission will consider the recommendation to approve the Option Renewal at its meeting on December 9, 2009, and its action will be subsequently communicated to your Board. The Department will provide your Board with the Commission's action prior to your Board's consideration of this item. County Counsel has approved the document as to form.

ENVIRONMENTAL DOCUMENTATION

On December 16, 2008, your Board considered and recertified the Environmental Impact Report and adopted the Environmental Findings of Fact, Statement of Overriding Considerations, and Mitigation Monitoring Program for the proposed redevelopment project contemplated by the Restated Lease with respect to Parcels 100S and 101S (Del Rey Shores) in compliance with the California Environmental Quality Act and the writ of mandate by the Los Angeles Superior Court. The recommended action does not raise any new or different substantive environmental impacts.

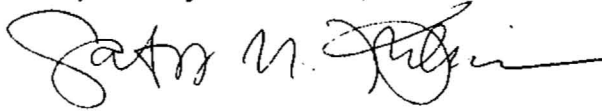
IMPACT ON CURRENT SERVICES (OR PROJECTS)

There is no impact on other current services or projects.

CONCLUSION

Please authorize the Executive Officer of the Board to send two copies of the executed Option Renewal and an adopted Board letter to the Department of Beaches and Harbors.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Santos H. Kreimann", with a long horizontal flourish extending to the right.

Santos H. Kreimann, Director

SHK:GJ;dlg
Attachment (1)

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

**RENEWAL OF OPTION TO AMEND LEASE AGREEMENTS
(Parcels 100S and 101S)**

THIS RENEWAL OF OPTION TO AMEND LEASE AGREEMENTS ("Renewal") is made and entered into as of the ____ day of _____, 2009, by and between the COUNTY OF LOS ANGELES ("County"), and DEL REY SHORES, a joint venture, and DEL REY SHORES NORTH, a joint venture (collectively, "Lessee").

R E C I T A L S

A. County and Lessee entered into that certain Option to Amend Lease Agreements dated December 12, 2006 (the "Option Agreement") concerning certain real property in the Marina del Rey Small Craft Harbor referenced in the Option Agreement as the Parcel 100S Premises and the Parcel 101S Premises.

B. Due to the prosecution of litigation relating to the Redevelopment Work, the Entitlement Receipt Date under the Option Agreement was delayed.

C. The Option Agreement provided for the Option Expiration Date to occur forty-five (45) days after the Entitlement Receipt Date.

D. One of the conditions to the exercise of the Option was the Lessee having sufficient financial resources to complete the Redevelopment Work. Lessee has informed County that it has been unable to obtain financing for the Redevelopment Work due to the current adverse economic conditions generally affecting the financing market for real estate development projects.

E. Lessee has requested County to renew the term for the exercise of the Option and to extend the Outside Expiration Date under the Option Agreement to permit Lessee to continue to seek financing for the Redevelopment Work, and County is willing to do so in accordance with the terms and provisions of this Renewal.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessee and County hereby agree as follows:

1. Capitalized Terms. All capitalized terms used in this Renewal and not otherwise defined herein shall have the meanings given such terms in the Option Agreement.

2. Renewal and Extension of Option Term. The Option Agreement is hereby renewed and the Option Expiration Date under the Option Agreement is hereby extended to, and shall hereafter mean, April 30, 2011. Except as set forth in Section 3 below, the Option Expiration Date shall not be subject to further extension under the Option Agreement for any reason whatsoever, including without limitation, pursuant to Section 2 of the Option Agreement.

3. Further Extension of Option Term. In addition to the conditions to Lessee's exercise of the Option set forth in Section 3 of the Option Agreement, an additional condition

to Lessee's exercise of the Option shall be the delivery by Lessee to Director of evidence satisfactory to Director of Lessee having obtained a commitment or commitments for Project Financing (as defined below). For purposes hereof, "Project Financing" means a construction loan from an institutional lender or lenders, at an interest rate or rates and on other terms that are commercially reasonable, in amounts that when combined with Lessee's equity is reasonably expected to provide sufficient funds to complete the Redevelopment Work, all as approved by Director in accordance with the terms and provisions of Section 12.1 of the Restated Lease.

Lessee shall use good faith, diligent efforts to obtain Project Financing as soon as reasonably possible after the date of this Renewal. Every three (3) months after the date of this Renewal (and more often at the request of Director, but not more often than once in any thirty (30) day period) Lessee shall inform Director of Lessee's efforts to obtain, and the status of, its acquisition of Project Financing. If Lessee is unable to obtain Project Financing by April 30, 2011 then Lessee shall have the right to request Director to extend the Option Expiration Date set forth in Section 2 of this Renewal for up to six (6) months to permit Lessee additional time to obtain Project Financing. As a condition to any extension of the Option Expiration Date pursuant to this Section 3, Lessee must request such extension in writing to Director (a "Financing Delay Notice") not later than thirty (30) days prior to the then-existing Option Expiration Date (which Financing Delay Notice may be provisional pending determination of whether Lessee will in fact acquire Project Financing prior to the then-existing Option Expiration Date). The Financing Delay Notice shall include a description of Lessee's efforts to obtain Project Financing and the status of those efforts, including any potential financing sources and the terms and requirements applicable to any such potential financing sources. If (a) Lessee provides the Financing Delay Notice on a timely basis as provided above, (b) Lessee has exercised, and thereafter continues to exercise, its good faith, diligent efforts to obtain Project Financing, and keeps Director apprised of such efforts as provided above, and (c) Lessee continues to be unable to obtain Project Financing by the Option Expiration Date (as extended under this Renewal), then Director agrees to extend the Option Expiration Date for up to six (6) months (but not beyond October 31, 2011) to permit Lessee additional time to obtain Project Financing; provided, however, that such extension shall remain in effect only so long as the conditions set forth in clauses (a) through (c) of this paragraph continue to be applicable; and provided, further, that if Lessee obtains a commitment for Project Financing prior to the end of such six (6) month period, and if Lessee determines to exercise the Option, then Lessee shall be obligated to use its diligent efforts to satisfy all conditions to the exercise of the Option and the funding of the Project Financing, and to exercise the Option, as soon as reasonably possible after its acquisition of the Project Financing commitment (but not later than October 31, 2011). As a condition to the receipt of an extension of the Option Expiration Date beyond April 30, 2011 pursuant to this Section 3, Lessee shall pay to County the sum of Twenty-Five Thousand Dollars (\$25,000.00) on or prior to April 30, 2011. Notwithstanding any contrary provision hereof, in no event shall the Option Expiration Date be extended at any time during which there is a material uncured breach or default by Lessee under the Option Agreement or this Renewal, or a material uncured breach or default by Lessee under either of the Existing Leases.

4. County Costs. Regardless of whether Lessee exercises the Option, Lessee shall promptly reimburse County for the Actual Costs (as defined in the Restated Lease) incurred by

County in the review, negotiation, preparation, documentation and administration of this Renewal within thirty (30) days following receipt by Lessee of an invoice from the County for such Actual Costs.

5. No Other Modifications. County and Lessee hereby agree that the Option Agreement, as renewed pursuant to this Renewal, is in full force and effect, as modified by this Renewal. This Renewal incorporates all modifications to the Option Agreement, and all terms and provisions of the Option Agreement that are not in conflict or inconsistent with the terms and provisions of this Renewal shall continue in full force and effect.

IN WITNESS WHEREOF, the undersigned have executed this Renewal as of the date first written above.

LESSEE:

DEL REY SHORES, a joint venture

By: Bryna Investments, L.P.

By: Douglas Ventures LLC, a Delaware limited liability company, General Partner

By: _____
Anne Douglas

By: Epstein Family Trust

By: _____
Jerry B. Epstein, Trustee

By: _____
Pat T. Epstein, Trustee

DEL REY SHORES NORTH, a joint venture

By: Bryna Investments, L.P.

By: Douglas Ventures LLC, a Delaware limited liability company, General Partner

By: _____
Anne Douglas

By: Epstein Family Trust

By: _____
Jerry B. Epstein, Trustee

By: _____
Pat T. Epstein, Trustee

COUNTY:

THE COUNTY OF LOS ANGELES

By: _____

Chair, Board of Supervisors

ATTEST:

SACHI A. HAMAI, Executive
Officer of the Board of
Supervisors

By: _____

Deputy

APPROVED AS TO FORM:

ROBERT E. KALUNIAN,
Acting County Counsel

By: _____

Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: _____