To enrich lives through effective and caring service

Los Angeles County
Department of Beaches & Harbors

Santos H. Kreimann
Acting Director

Kerry Silverstrom
Chief Deputy

October 28, 2008

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:

AMENDMENT TO LEASE TO EXTEND OUTSIDE COMPLETION DATE - ADMIRALTY APARTMENTS (Parcel 140V at 4170 Admiralty Way) – MARINA DEL REY (FOURTH DISTRICT) (4 VOTES)

SUBJECT

Request for approval of an amendment to the existing lease for Parcel 140V (Admiralty Apartments), which extends the outside completion date for construction of the redeveloped Admiralty Apartments in Marina del Rey by slightly over eight months.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Find that Amendment No. 1 to the Amended and Restated Lease No. 6121 with respect to Parcel 140V (Admiralty Apartments), attached as Exhibit A, is categorically exempt under the California Environmental Quality Act pursuant to classes 1 (r) and 4 (j) of the County's Environmental Document Reporting Procedures and Guidelines.

2. Authorize the Chair to execute Amendment No. 1 to Amended and Restated Lease No. 6121 reflecting an extension of the outside completion date for construction of the project to January 31, 2009 and a

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retroactive increase in the monthly minimum rent from $5,632.69 to $33,936.00 per month, effective June 1, 2008.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The County is the lessor of a ground lease for Parcel 140V. On May 23, 2006, your Board approved the Amended and Restated Lease No. 6121 ("Lease") to facilitate redevelopment of the Admiralty Apartments on Parcel 140V, which provided an outside completion date of May 23, 2008 for construction of the new four-story 179-unit apartment building. During construction of the project, the lessee encountered numerous unforeseen delays and thereby missed the required outside completion date. The lessee's construction lender has raised concerns about the lessee's compliance with the lease. Additionally, the County has not been receiving the monthly minimum rent it negotiated, which was to commence once the project was completed. Instead the lessee has continued to pay holding rent.

Accordingly, we are recommending the Board's approval of the requested Amendment so as to extend the required completion date until January 31, 2009. In return for the extension of the outside completion date, Lessee has agreed to pay the County the monthly minimum rent to which the County would have been entitled if the project had been completed by May 23, 2008.

Implementation of Strategic Plan Goals

The recommended action will allow the lessee to proactively redevelop its leasehold improvements, which will result in fulfillment of approved Strategic Plan Goal Nos. 1 and 4, "Service Excellence" and "Fiscal Responsibility", respectively.

FISCAL IMPACT/FINANCING

Minimum Rent

As compensation for extending the outside completion date, the lessee will pay the monthly minimum rent of $33,936.00, retroactive to June 1, 2008, as if the project had been completed on time.

Operating Budget Impact

Upon your Board's approval of the Amendment, the monthly minimum rent shall be increased from $5,632.69 to $33,936.00 effective June 1, 2008, which would have been the rent if the original outside completion date had been met. This revenue increase is accounted for in the FY 2008-09 Final Adopted Budget.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The term of the lease for Parcel 140V commenced on October 1, 1962 and will expire on September 30, 2061 under its extended term.

County Counsel has approved the Amendment as to form.

ENVIRONMENTAL DOCUMENTATION

Approval of the Amendment is categorically exempt under the California Environmental Quality Act pursuant to classes 1(r) and 4(j) of the County's Environmental Document Reporting Procedures and Guidelines. Approval does not authorize construction or reconstruction of any improvements on the parcel.

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 Amendment to the Department of Beaches and Harbors.

Respectfully submitted,

for Santos H. Kreimann, Acting Director

SHK:ks

Attachments (1)

c: County Counsel

AMENDMENT NO. 1 TO AMENDED AND RESTATED LEASE AGREEMENT
PARCEL 140V – MARINA DEL REY
(LEASE NO. 6121)

THIS AMENDMENT NO. 1 TO AMENDED AND RESTATED LEASE AGREEMENT ("Amendment") is made and entered into as of _____, 2008 by and between COUNTY OF LOS ANGELES ("County") and GOLD COAST APARTMENTS, LLC, a Delaware limited liability company ("Lessee").

RECITALS

A. County and Lessee entered into Amended and Restated Lease Agreement (Lease No. 6121) dated May 23, 2006 (the "Lease"), pursuant to which County leased to Lessee that certain real property located in the Marina del Rey Small Craft Harbor, County of Los Angeles, State of California, commonly known as Parcel 140V.

B. Section 5.1 of the Lease requires Lessee to complete the Redevelopment Work (as defined in the Lease) by not later than the Required Completion Date set forth in the Lease.

C. The parties acknowledge that the "Required Completion Date" under the Lease was May 23, 2008.

D. Lessee has incurred delays in the completion of the Redevelopment Work and does not expect to complete the Redevelopment Work until approximately November 15, 2008.

E. The parties desire to enter into this Amendment to extend the Required Completion Date under the Lease to January 31, 2009 and to make certain other modifications to the Lease as set forth herein.

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

1. Capitalized Terms. All capitalized terms used in this Amendment and not otherwise defined herein shall have the same meanings given to such terms in the Lease.

2. Extension of Required Completion Date. In acknowledgment of the delays incurred by Lessee in completing the Redevelopment Work, the "Required Completion Date" under the Lease is hereby changed from May 23, 2008 to January 31, 2009. Notwithstanding any contrary provision of the Lease, the Required Completion Date shall not be subject to extension beyond January 31, 2009 for any reason other than a delay in the new Required Completion Date caused by a new Force Majeure delay that first arises after the date of this Amendment and as to which Lessee complies with the terms and conditions of the Lease for an extension of the Required Completion Date for a

Force Majeure delay. Without limiting the foregoing, the Required Completion Date shall not be subject to extension for any Force Majeure delay caused by a condition, circumstance or occurrence that first arose prior to the date of this Amendment.

3. Annual Minimum Rent. Pursuant to the first sentence of the second paragraph of Section 4.2.1 of the Lease, during the period from the Effective Date of the Lease until this Amendment Lessee has paid Monthly Minimum Rent in the amount of Five Thousand Six Hundred Thirty-Two and 69/100 Dollars ($5,632.69) per month (the "Existing Monthly Minimum Rent"). As consideration for County's agreement to extend the Required Completion Date pursuant to Section 2 of this Amendment, the monthly amount of Monthly Minimum Rent shall be adjusted to equal Thirty-Three Thousand Nine Hundred Thirty-Six and 00/100 Dollars ($33,936.00) per month (the "New Monthly Minimum Rent") retroactive to June 1, 2008. The New Monthly Minimum Rent amount shall continue in effect until the third (3rd) anniversary of the earlier of the Completion Date or the Required Completion Date (as extended pursuant to Section 2 of this Amendment).

Concurrent with the parties' execution and delivery of this Amendment, Lessee shall pay to County the sum of One Hundred Thirteen Thousand Two Hundred Thirteen and 24/100 Dollars ($113,213.24), representing the difference between the aggregate amount of the Existing Monthly Minimum Rent actually paid by Lessee to County for the months of June through September, 2008 (i.e., $5,632.69 per month) and the aggregate amount of the New Monthly Minimum Rent payable by Lessee for such four months pursuant to this Section 3 (i.e., $33,936.00 per month). If this Amendment is not executed and delivered prior to Lessee's payment of Monthly Minimum Rent for October, 2008 or any month thereafter, then the foregoing amount payable by Lessee upon the parties' execution and delivery of this Amendment shall be increased by Twenty-Eight Thousand Three Hundred Three and 31/100 Dollars ($28,303.31) for each additional month after September, 2008 for which, at the time of the parties' execution and delivery of this Lease, Lessee has not paid the full retroactive New Monthly Minimum Rent.

On and after the parties' execution and delivery of this Amendment and continuing until the third (3rd) anniversary of the earlier of the Completion Date or the Required Completion Date (as extended pursuant to this Amendment), Monthly Minimum Rent shall be paid in an amount equal to the New Monthly Minimum Rent. The terms and provisions of this Section 3 shall amend and supersede the first sentence of the second paragraph of Section 4.2.1 of the Lease and the entire third paragraph of Section 4.2.1 of the Lease. Consistent with the fourth paragraph of Section 4.2.1 of the Lease, commencing on the day after the third (3rd) anniversary of the earlier of the Completion Date or the Required Completion Date (as extended pursuant to this Amendment) (referenced in the Lease as the "First Adjustment Date"), the Monthly Minimum Rent shall thereafter be adjusted in accordance with the terms and provisions of Sections 4.2.3 and 4.4 of the Lease.

5. No Other Modifications. Except as expressly set forth in this Amendment, all terms, conditions, and provisions of the Lease remain in full force and effect and are unmodified, and each of the parties reaffirms and acknowledges its respective obligations under the Lease as amended hereby. This Amendment constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes all previous correspondence or communications, whether written or verbal, pertaining thereto.

6. Representation Regarding Existing Encumbrances. Lessee represents and warrants to County that as of the date of this Amendment there are no deeds of trust, mortgages or other security interests that encumber Lessee's interest in the Lease or the Premises other than the "Deed of Trust" referenced in the Lender Consent attached to this Amendment. The extension of the Required Completion Date as set forth in Section 2 above is contingent upon (a) the accuracy of the foregoing representation and warranty, and (b) the execution by the beneficiary of such Deed of Trust and delivery to County of such executed Lender Consent not later than ten (10) days after the date of this Amendment.

7. County Costs. Lessee shall promptly following written demand from County reimburse County for the Actual Costs (as defined in the Lease) incurred by County in the review, negotiation, preparation and documentation of the matters that are the subject of this Amendment, including any lender consent or estoppel certificate pertaining to the Lease or this Amendment. The parties acknowledge that Lessee has deposited the sum of Ten Thousand Dollars ($10,000.00) toward those costs.

8. Counterparts. This Amendment may be signed in counterparts. Each counterpart represents an original of this Amendment and all such counterparts shall collectively constitute one fully-executed document.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, County and Lessee have entered into this Amendment as of the date first set forth above.

COUNTY OF LOS ANGELES

By: _____
Chair, Board of Supervisors

GOLD COAST APARTMENTS, LLC, a Delaware limited liability company

By: Golden Pacific, LLC, Manager

By: _____
Michael Pashaie, Manager

By: Jade Pacific, LLC, Manager

By: _____
David Taban, Manager

ATTEST:

SACHI HAMAI,
Executive Officer of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.,
County Counsel

By: _____
Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: _____

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LENDER CONSENT

The undersigned represents to County of Los Angeles that it is the current beneficiary under that certain [Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing] dated June 22, 2006, and recorded in the Official Records of Los Angeles County, California on June 23, 2006 as Instrument No. 06-1383989 (the "Deed of Trust"). As such beneficiary the undersigned hereby consents to the foregoing Amendment No. 1 to Amended and Restated Lease Agreement (Parcel 140V - Marina del Rey) (the "Amendment") and agrees that the Deed of Trust is subject and subordinate to such Amendment.

KeyBank National Association

By: [signature]
Name: Timothy J. Rogers
Title: Vice President

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