



"To enrich lives through effective and caring service"



Santos H. Kreimann
Director

Kerry Silverstrom
Chief Deputy

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

35 of MAR 30 2010

March 30, 2010

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

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

Dear Supervisors:

**APPROVAL OF AMENDMENT NO. 1 TO AMENDED AND RESTATED
LEASE NO. 5491 TO UPDATE INSURANCE PROVISIONS
PARCEL 30S (DEL REY YACHT CLUB) - MARINA DEL REY
(FOURTH DISTRICT)
(4 VOTES)**

SUBJECT

This Board letter requests approval of a Marina del Rey lease amendment for Parcel 30S (Del Rey Yacht Club) that updates the insurance provisions.

IT IS RECOMMENDED THAT YOUR BOARD:

IT IS RECOMMENDED THAT YOUR BOARD:

1. Find that the proposed lease amendment is categorically exempt under the California Environmental Quality Act pursuant to Class 1(r) of the County's Environmental Document Reporting Procedures and Guidelines.
2. Approve and authorize the Chair of the Board to sign the attached Amendment No. 1 to Amended and Restated Lease No. 5491 – Parcel 30S (Del Rey Yacht Club), Marina del Rey, which updates the insurance provisions for a five-year term ending June 30, 2013.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Marina del Rey leases generally provide for the periodic review of leasehold rents and liability insurance coverage to ensure that the rental rates payable to the County are maintained at current fair market levels and that the amount of general liability insurance is adequate to protect the County's interests. County rents are typically computed as the greater of either a fixed minimum rent or the total of varying percentages of the lessee's gross receipts from the leasehold's uses.

The anchorage percentage rent at Parcel 30S (Del Rey Yacht Club) is stipulated in Amended and Restated Lease No. 5491, whereas other percentage rents were to be reviewed for adjustment on July 1, 2003 and every fifth anniversary thereafter. The existing non-anchorage percentage rents of Parcel 30S are in line with the rents of comparable Marina del Rey leases. The parties, therefore, have agreed to keep all non-anchorage percentage rents unchanged.

Amendment No. 1 incorporates changes to the indemnity clause, insurance requirements, and miscellaneous insurance provisions to conform them to the new and more stringent requirements of the Chief Executive Office's Risk Management Branch.

Implementation of Strategic Plan Goals

Preservation of current percentage rental rate levels, as well as the recommended action to incorporate new insurance provisions in the Parcel 30S Lease to protect the County's interests, is in fulfillment of Strategic Plan Goal No. 1, "Operational Effectiveness", Strategy 1, and "Fiscal Sustainability".

FISCAL IMPACT/FINANCING

There will be no fiscal impact from your Board's approval of Amendment No. 1.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Commonly known as the Del Rey Yacht Club, Parcel 30S consists of 483,100 square feet of water area and 149,014 square feet of land improved with 287 boat slips and a two-story clubhouse building in Marina del Rey. The extended 85-year ground lease between the County and the lessee terminates in 2047.

This Amendment No. 1 has been approved as to form by County Counsel. At its meeting of February 10, 2010, the Small Craft Harbor Commission endorsed the Director of Beaches and Harbors' recommendation that your Board approve and execute Amendment No. 1.

ENVIRONMENTAL DOCUMENTATION

The proposed Amendment No. 1 is exempt under the California Environmental Quality Act pursuant to Class 1(r) of the County's Environmental Document Reporting Procedures and Guidelines.

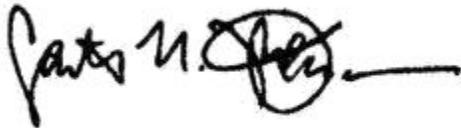
IMPACT ON CURRENT SERVICES (OR PROJECTS)

There will be no impact on current services from your Board's approval of Amendment No. 1.

CONCLUSION

Please have the Chair of the Board sign all three copies of Amendment No. 1 and have the Executive Officer of the Board return two executed copies, as well as a copy of the adopted Board letter, to the Department of Beaches and Harbors.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Santos H. Kreimann", followed by a horizontal line extending to the right.

SANTOS H. KREIMANN
Director

SHK:KS:GJ:PW:sp

Enclosures

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

AMENDMENT NO. 1 TO AMENDED AND RESTATED LEASE NO. 5491

PARCEL NO. 30S - MARINA DEL REY

THIS AMENDMENT TO LEASE is made and entered into this 30TH day of MARCH, 2010 (the "Effective Date").

BY AND BETWEEN

COUNTY OF LOS ANGELES
hereinafter referred to as "County",

AND

DEL REY YACHT CLUB., a California
non-profit corporation, hereinafter
referred to as "Lessee".

W I T N E S S E T H:

WHEREAS, County and Lessee entered into that Amended and Restated Lease No. 5491 dated October 12, 1999, under the terms of 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 30S, which leasehold premises (the "Premises") are more particularly described in Exhibit "A" attached to and incorporated in said lease, as amended (the lease and all amendments are collectively hereafter referred to as the "Lease"); and

WHEREAS, Section 4 of said Lease provides that as of July 1, 2003, and as of July 1 of each fifth anniversary of said date, the rates for percentage rentals (except for the anchorage percentage rent governed under subsection 4.2.2(a)) and liability insurance requirements (collectively, the "Adjusted Rentals") shall be readjusted by Lessee and County in accordance with the standards established in said Section 4; and

WHEREAS, Section 4 further provides that Adjusted Rentals may be determined by Lessee and County by mutual agreement at any time; and

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SUPPLEMENT 12

WHEREAS, the parties agree that the rates for percentage rentals (except for the anchorage percentage rent governed under subsection 4.2.2(a)) are at market and, therefore further agree not to adjust the percentage rental rates (except for the anchorage percentage rent) for the five-year period commencing July 1, 2008 (the "2008 Rental Adjustment Date"); and

WHEREAS, the parties hereto have agreed to adjust insurance coverage for the five-year period commencing on the 2008 Rental Adjustment Date; and

WHEREAS, the parties have reached agreement with respect to the amount of liability insurance required to be maintained by Lessee for the five-year period commencing on the 2008 Rental Adjustment Date.

NOW, THEREFORE, in consideration of the mutual agreements, covenants and restrictions contained herein, the parties, and each of them, agree as follows:

1. **INSURANCE PROVISIONS.** Commencing as of the Effective Date, Section 9 of said Lease is deleted in its entirety and the following substituted therefor:

"9. **INSURANCE.**

9.1 **Lessee's Insurance.** Without limiting Lessee's indemnification of County, during the term of this Lease, Lessee shall provide and maintain the following insurance issued by companies authorized to transact business in the State of California by the Insurance Commissioner and having a "general policyholders rating" of at least A-VII (or such higher rating as may be required by an Encumbrance Holder) as set forth in the most current issue of "A.M. Best's Key Rating Guide" or an equivalent rating from another industry-accepted rating agency.

9.1.1 General Liability insurance (written on ISO policy form CG 00 01 or its equivalent) and endorsed to name County as an additional insured, with limits of not less than the following:

General Aggregate:	\$10 million
Products/Completed Operations Aggregate:	\$10 million
Personal and Advertising Injury:	\$ 5 million
Each Occurrence:	\$ 5 million

9.1.2 Automobile Liability insurance (written on ISO form CA 00 01 or its equivalent) with a limit of liability of not less than \$2 million for each accident and providing coverage for all “owned”, “hired” and “non-owned” vehicles, or coverage for “any auto”. If valet parking or any parking services are provided on premises, Lessee also shall provide Garagekeeper’s Legal Liability coverage (written on ISO form CA 99 37 or its equivalent), with limits of not less than \$3 million for this location.

9.1.3 Workers’ Compensation and Employers’ Liability insurance providing Workers’ Compensation benefits, as required by the Labor Code of the State of California and for which Lessee is responsible, and Employers’ Liability coverage with limits of not less than the following:

Each Accident:	\$1 million
Disease - policy limit:	\$1 million
Disease - each employee:	\$1 million

9.1.4. Liquor Liability Insurance. If the manufacture, distribution or service of alcoholic beverages occurs in the Premises, Lessee shall provide Liquor Liability insurance (written on ISO policy form CG 00 33 or 34 or their equivalent) with a liability limit of not less than \$5,000,000 per occurrence and an annual aggregate of \$10,000,000. If written on a “claims made” form, the coverage shall also provide an

extended two-year reporting period commencing upon the expiration or earlier termination of this Agreement.

9.1.5 Marina Operator's Liability. If operating a marina, berthing, docking and/or launching of boats and/or pleasure crafts, and/or use of floating docks, piers and/or ramps, Lessee shall provide Marina Operator's Liability insurance with a liability limit of not less than \$5,000,000 per occurrence and an annual aggregate of \$10,000,000. If written on a "claims made" form, the coverage shall also provide an extended two-year reporting period commencing upon the expiration or earlier termination of this Agreement.

9.1.6 Commercial Property insurance covering damage to the Premises, including improvements and betterments, from perils covered by the Causes-of-Loss Special Form (ISO form CP 10 30 or its equivalent), excluding earthquake, and including Ordinance or Law Coverage, written for the full replacement value of the property, with a deductible no greater than \$250,000 or 5% of the property value, whichever is less, and also including business interruption, including loss of rent, equal to two-years' annual minimum rent, with proceeds payable to Lessee and County as their interests may appear and utilized for repair and restoration of the Premises and Improvements.

9.2 Provisions Pertaining to Property Insurance. The insurance coverage required in Section 9.1.6 shall name the County as an additional insured and any Encumbrance Holder as loss payee. In the event of a loss, Lessee shall be obligated to rebuild or replace the destroyed or damaged buildings, structures, equipment, and Improvements.

9.3 General Insurance Requirements. Subject to the immediately following paragraph, a duplicate policy or policies (or certificates of insurance) evidencing the insurance coverage required under this Section 9, in such form as shall be reasonably acceptable to County, shall be filed with Director no later than the Effective Date. All certificates of insurance shall (a) specifically identify the Lease; (b)

clearly evidence all coverages required under the Lease; (c) identify any deductibles or self-insured retentions exceeding \$25,000; and (d) evidence all other requirements under this Section 9. The policy or policies of insurance shall provide that such insurance coverage will not be canceled or reduced without at least 30 days prior written notice to Director or ten business days in the case of cancellation for failure to pay the premium. At least ten business days prior to the expiration of such policy, a certificate showing that such insurance coverage has been renewed shall be obtained by Lessee and filed with Director.

In lieu of submitting a copy of the policy or policies evidencing the above insurance, Lessee may submit in a form reasonably acceptable to County a certificate of insurance.

Any insurance coverage may be issued in the form of a blanket policy insuring other properties, in form, amount and content reasonably satisfactory to County, if such coverage provides the same protection as required under this Section 9 as if the insurance had been procured on an individual property basis.

9.4 Additional Required Provisions. Lessee's insurance policies required by this Section 9 shall be for a term of not less than one year and shall additionally provide that:

(a) County and its respective Board of Supervisors and members thereof, and County's officers, agents, employees and volunteers, shall be named as additional insureds under any liability insurance policy or policies;

(b) the full amount of any losses to the extent property insurance proceeds are available shall be payable to additional insureds notwithstanding any act, omission or negligence of Lessee which might otherwise result in forfeiture of such insurance;

(c) in any property insurance policy, a waiver of all right of subrogation against County and its respective Board of Supervisors and

members thereof, and County's officers, agents, employees and volunteers, with respect to losses payable under such policies;

(d) in any property insurance policy, such policies shall not be invalidated should the insured waive, prior to a loss, any or all right of recovery against any party for losses covered by such policies;

(e) the property and commercial general liability insurance policies shall provide coverage on a primary and non-contributory basis with respect to the additional insureds, regardless of any other insurance or self-insurance that such additional insureds may elect to purchase or maintain;

(f) losses, if any, shall be adjusted with and payable to Lessee, County and Encumbrance Holders, if any, pursuant to a standard mortgagee clause;

(g) the commercial general liability insurance shall apply separately to each insured against whom a claim is made, except with respect to the overall limits of said insurer's liability; and,

(h) the property and commercial general liability insurance policies shall contain no special limitations on the scope of protection afforded to the additional insureds, and no failure to comply with the reporting provisions of such policies shall affect the coverage afforded to such additional insureds.

9.5 Failure to Procure Insurance. If Lessee fails to procure or renew the herein required insurance and does not cure such failure within five business days after written notice from County, in addition to the other rights and remedies provided hereunder, County may, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith. All monies so paid by County shall be repaid by Lessee, with interest thereon at the applicable rate, to County within five business days after Lessee's receipt of written demand therefor.

9.6 Adjustment to Amount of Liability Coverage. The amounts of liability insurance required under this Section 9 shall be subject to renegotiation as of each fifth anniversary of the Effective Date (each, an “Insurance Renegotiation Date”). In no event shall the amounts of liability insurance be decreased without County’s approval.

9.7 Notification of Incidents, Claims or Suits. Lessee shall report to County any accident or incident on or about the Premises which involves injury or property damage which might reasonably be thought to result in the filing of a claim or lawsuit against Lessee and/or County. Such report shall be made in writing within 72 hours of Lessee’s knowledge of such occurrence.”

2. Miscellaneous. Except as herein specifically amended, all terms, conditions and provisions of the Lease shall be and continue to remain in full force and effect and are unmodified, and each of the parties hereto reaffirms and reacknowledges its respective obligations under the Lease as amended hereby.

IN WITNESS WHEREOF, County has, by order of its Board of Supervisors, caused this Amendment No. 1 to Amended and Restated Lease No. 5491 to be subscribed by the Chair of said Board and attested by the Executive Officer thereof, and the Lessee, by its duly authorized representative, has executed the same.

I hereby certify that pursuant to Section 25100 of the Government Code, delivery of this document has been made.

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

By: [Signature]
Deputy



ATTEST:

SACHI A. HAMAI
Executive Officer-Clerk of the
Board of Supervisors

By: [Signature]
Deputy

COUNTY OF LOS ANGELES

By: [Signature]
Chair, Board of Supervisors

LESSEE:

DEL REY YACHT CLUB

By: [Signature]

Its: COMMODORE

By: [Signature]

Its: Secretary

APPROVED AS TO FORM:

ANDREA SHERIDAN ORDIN
County Counsel

By: [Signature]
Deputy

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

#85 MAR 30 2010

[Signature]
SACHI A. HAMAI
EXECUTIVE OFFICER

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