



*To enrich lives through effective and caring service*



**Santos H. Kreimann**  
Director

**Kerry Silverstrom**  
Chief Deputy

**Gary Jones**  
Deputy Director

November 13, 2012

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:

**DEPARTMENT OF BEACHES AND HARBORS:  
APPROVAL OF SECOND EXTENSION OF AND MODIFICATION TO LEASE OPTION  
AGREEMENT TO FACILITATE REDEVELOPMENT –  
PARCELS 52R AND GG (BOAT CENTRAL) – MARINA DEL REY  
(FOURTH DISTRICT)  
(4 VOTES)**

**SUBJECT**

Request for approval of Second Extension of and Modification to Lease Option Agreement for Parcels 52R and GG, providing for an extension of up to a maximum of 21 months to allow additional time for the completion of the EIR certification for the proposed boat storage development on the subject parcels and for Boat Central to negotiate a new option agreement and lease agreement with County.

**IT IS RECOMMENDED THAT YOUR BOARD:**

1. Authorize the Chairman to execute the attached Second Extension of and Modification to Lease Option Agreement with respect to Parcels 52 and GG, Marina del Rey, granting an extension for up to 21 months to provide additional time for the completion of the EIR certification for the intended project and for Boat Central to negotiate a new option agreement and lease agreement with County for redevelopment of the parcels as entitled.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

On May 22, 2007, your Board granted MDR Boat Central, Ltd. ("Boat Central") an option ("Option") to facilitate redevelopment of Parcels 52R and GG. The proposed project

contemplates creation of additional boat storage spaces in Marina del Rey by utilizing a vertical storage method, allowing a greater number of boats to be stored in a given square footage of land area. The proposed dry-stack boat storage building contains approximately 47,084 square feet of space, is 70 feet high, is partially cantilevered over the water (97 feet on the west side and 45 feet on the east side), and will accommodate between 346 to 367 boats, depending on size, and 28 boat trailers. The proposal is to provide additional outside storage space for 30 mast-up sailboats and no less than 131 parking spaces. The proposed project would not only accommodate the number and types of boats presently dry-stored in the Parcel 77 surface storage lot, which will be displaced when Parcel 77 is redeveloped, but would also provide significant additional capacity for boats currently in wet slips or kept outside of the Marina. In addition, the project as proposed would include a 3,070 square foot office/lobby area, a 1,600 square foot maintenance facility, a 3,265 square foot Sheriff boatwright facility with a 2,200 square foot yard area, and three dedicated public wash down spaces. All new docks would be constructed, except for the existing Sheriff/County maintenance docks, which would be required to be replaced no later than ten years from the start of the lease. A proposed lease would be for a term of 60 years for Parcels 52R and GG; require payment of a non-refundable \$100,000 option fee; and establish a sinking fund, namely a Capital Improvement Fund. Total development costs would be required to be not less than \$7.5 million (in 2005 dollars).

Although Boat Central diligently pursued the entitlements for the proposed project under the Option, it was unable to acquire such entitlements by the original end date of the Option of November 22, 2009. Due to intervening court decisions, County was, and continues to be, restricted from entering into a new option agreement pending compliance of the project with the California Environmental Quality Act ("CEQA"), including certification of an Environmental Impact Report (EIR) for the project. By agreement dated November 10, 2009 your Board granted an extension of the Option for up to 36 months (which is now scheduled to expire on November 22, 2012), to provide additional time for CEQA compliance, completion by Boat Central of the entitlement process for its project and the negotiation of a new option agreement and lease agreement with County. County agreed that during the term of that extension period it would not enter into negotiations with respect to the premises or the project with any other party.

During the first extension period referenced above, Parcels 52 and GG received a change in the land use designation as part of the Local Coastal Plan Amendment and the Department of Regional Planning prepared an EIR for the project. Due to the complexity of the project the EIR process has taken longer than anticipated. As a result, Boat Central will not be in a position to submit its request for a new option and lease agreement by November 22, 2012.

The Department of Regional Planning has scheduled a tentative Regional Planning Commission hearing date of January 23, 2013 to consider both the EIR and the landside Coastal Development Permit for the project. Boat Central has requested an

additional extension of time for: i) completion of the CEQA process for the project, including consideration of the certification of the EIR, and ii) negotiation of the terms of a new option agreement and lease agreement.

In consideration for the proposed additional extension not to exceed 21 months, Boat Central has agreed to pay County a total amount not to exceed \$75,000, payable as follows: (1) \$20,000 upon signing of the Agreement, which provides for a nine-month extension to August 22, 2013; (2) \$25,000 for an additional six-month extension; and, (3) \$30,000 for a final six-month extension. The final two 6-month extensions are conditioned upon the determination by the Director that Boat Central has diligently pursued completion of the EIR certification process, receipt of remaining entitlements, and negotiation of a new option agreement and lease agreement. In no event shall the total extension period extend beyond August 22, 2014. The progressively expensive payment schedule is intended to encourage Boat Central to diligently complete the above matters in a timely manner. Additionally, Boat Central agrees to negotiate in good faith to reach an agreement on a new option agreement and lease agreement for consideration by your Board after the completion of CEQA compliance. The schedule set forth above has been reviewed by the Department of Beaches and Harbors' (Department) consultants who confirmed that the schedule is reasonable. In consideration for Boat Central's continued efforts on the proposed project and payment of the foregoing extension fees, County will agree during the above additional extensions not to enter into negotiations with respect to the premises or the project with any other party.

#### Implementation of Strategic Plan Goals

The recommended action will allow Boat Central to proactively redevelop its proposed improvements, which will result in fulfillment of approved Strategic Plan Goals No. 1, "Operational Effectiveness," Strategy No. 1, "Fiscal Sustainability", and Goal No. 4, "Community and Municipal Services," Strategy No. 1, "Cultural and Recreational Enrichment", respectively.

#### **FISCAL IMPACT/FINANCING**

##### Operating Budget Impact

Upon your Board's approval of the proposed extension agreement, the Department's Marina operating budget will receive a one-time \$20,000 payment as stated above. The payment was not included in the Department's 2012-13 budget; therefore, it will be accounted for as over-realized revenue.

**FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

The Option for Parcels 52R and GG commenced on May 22, 2007 for an initial term of eighteen months which was subsequently extended for two additional 6-month periods to November 22, 2009. The Extension of and Modification to Lease Option Agreement dated November 10, 2009 granted Boat Central further extensions to no later than November 22, 2012 to obtain its entitlements and to negotiate a new option agreement and lease agreement with County. The attached Second Extension to and Modification of Lease Option Agreement changes the outside date to complete the EIR certification and negotiate a new option and lease agreement to no later than August 22, 2014.

**ENVIRONMENTAL DOCUMENTATION**

Approval of the Agreement does not authorize construction or re-construction of any improvements on the parcels. The discretionary land use entitlements and the corresponding environmental documentation necessary to implement the proposed redevelopment are under review by the Department of Regional Planning.

**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 Agreement and an adopt-stamped Board letter to the Department of Beaches and Harbors.

Respectfully submitted,

*Gary Jones*

for Santos H. Kreimann  
Director

SHK:GJ:dlg

Attachment

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

**SECOND EXTENSION OF AND MODIFICATION TO  
LEASE OPTION AGREEMENT**  
(Parcels 52R and GG)

THIS SECOND EXTENSION OF AND MODIFICATION TO LEASE OPTION AGREEMENT ("**Second Extension Agreement**") is dated as of November \_\_\_\_, 2012 between COUNTY OF LOS ANGELES ("**County**"), and MDR BOAT CENTRAL, L.P., a California limited partnership ("**Lessee**").

RECITALS

A. County and Lessee entered into that certain Lease Option Agreement dated as of May 22, 2007 (the "**Original Agreement**"), pursuant to which County granted to Lessee an option to lease (the "**Option**") certain real property in Marina del Rey commonly known as Parcels 52R and GG and more particularly described on Exhibit A attached to the Agreement (the "**Premises**").

B. The Outside Date for the exercise of the Option under the Original Agreement expired on November 22, 2009.

C. County and Lessee entered into that certain Extension of and Modification to Lease Option Agreement dated as of November 10, 2009 (the "**First Extension Agreement**") that extended the Outside Date for the exercise of the Option to not later than November 22, 2012 and modified the terms of the Original Agreement to allow Lessee additional time to obtain its entitlements and to negotiate a new option agreement with County to be entered into only after compliance with the California Environmental Quality Act (California Resources Code Sections 21000 *et seq.*) ("**CEQA**"). The Original Agreement, as modified by the First Extension Agreement, is hereafter referred to as the "**Existing Agreement**."

D. County and Lessee desire to enter into this Second Extension Agreement to further extend the term of the Existing Agreement for the purpose of providing additional time for the satisfaction of CEQA requirements for the Project and the negotiation by County and Lessee of a New Option.

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

1. **Capitalized Terms**. All capitalized terms used in this Second Extension Agreement and not otherwise defined herein shall have the meanings given to such terms in the Existing Agreement.

2. **Further Extension**. Section 2 of the Existing Agreement is hereby amended and restated in its entirety to read as follows:

“2. **Agreement Term.** This Agreement shall continue in effect for a term (the “**Agreement Term**”) that expires on February 20, 2013 (the “**Expiration Date**”). In consideration of the extension of the Agreement Term to the Expiration Date set forth above, concurrent with the execution of this Agreement Lessee has paid to County an Extension Fee of Six Thousand Eight Hundred Fourteen Dollars and Eighty Cents (\$6,814.80.00).

If as of the then-current Expiration Date, despite Lessee’s best efforts the final environmental impact report for the Project has not been certified by County, or Lessee and County have not reached agreement on a New Option, then the Director of the County’s Department of Beaches and Harbors (the “Director”), in his sole discretion, shall have the right to extend the Expiration Date for up to three additional periods of 30 days each (each, an “**Extension Right**”) upon delivery by Lessee to County, not later than ten (10) days prior to the then-effective Expiration Date, of both written notice by Lessee to County of the exercise of such Extension Right and the payment by Lessee to County of an additional Extension Fee of Two Thousand Two Hundred Twenty-Two Dollars and Twenty-Two Cents (\$2,222.22) for each such Extension Right.

The Extension Fees shall be non-refundable, and are in addition to the Option Fee previously paid by Lessee pursuant to Section 4 of the Original Agreement and the Extension Fees previously paid by Lessee pursuant to Section 5 of the First Extension Agreement.

Notwithstanding any contrary provision hereof, there shall be no extension of the Expiration Date at any time during which there is an uncured default by Lessee under this Agreement. In addition, there shall be no extension of the Expiration Date following any affirmative disapproval of the Project by County or any department, commission, board or other agency thereof, except for a disapproval that instructs or requests Lessee to modify the Project for reconsideration of such disapproval. Time is of the essence with respect to the exercise by Lessee of any right to extend the Expiration Date pursuant to this Section 2.”

3. **Deletion of Section 6 of Existing Agreement and Section 7 of First Extension Agreement.** Section 6 of the Existing Agreement and Section 7 of the First Extension Agreement are hereby deleted.

4. **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 Second Extension Agreement.

5. **Exclusivity.** County agrees that during the Agreement Term it shall not enter into negotiations with respect to the Premises, the Project or any other development of the Premises

5. **Exclusivity.** County agrees that during the Agreement Term it shall not enter into negotiations with respect to the Premises, the Project or any other development of the Premises with any other person or entity, without the prior written consent of the Lessee. Except as otherwise agreed to, County shall only negotiate regarding the Premises, the Project or any other development of the Premises with the Lessee during the Agreement Term.

6. **Entire Agreement.** This Second Extension Agreement sets forth the full and complete understanding of the parties relating to the subject matter hereof, and supersedes any and all agreements, understandings and representations made prior hereto with respect to such matters.

7. **Attorneys' Fees.** In the event of any action, proceeding or arbitration arising out of or in connection with this Second Extension Agreement, whether or not pursued to judgment, the prevailing party shall be entitled, in addition to all other relief, to recover its costs and reasonable attorneys' fees, including without limitation, attorneys' fees for County Counsel's services to the extent that County is represented by the County Counsel and is the prevailing party.

8. **No Other Modifications.** All other terms and conditions of the Existing Agreement continue in full force and effect.

9. **Counterparts.** This Second Extension Agreement may be executed in counterparts, each of which shall constitute an original and all of which shall collectively constitute one fully-executed document.

SIGNATURES ON FOLLOWING PAGE

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

LESSEE:

MDR BOAT CENTRAL L.P., a California limited partnership

By: MDR Boat Central, LLC, a California limited liability company

By: Pacific Marina Developments, Inc., a California corporation, Its Manager

By:   
Thomas J. Hogan, President

COUNTY:

THE COUNTY OF LOS ANGELES

By: \_\_\_\_\_  
Chairman, Board of Supervisors

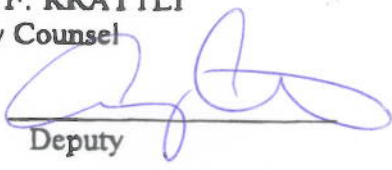
ATTEST:

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

By: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:

JOHN F. KRATTLI  
County Counsel

By:   
Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By:   
\_\_\_\_\_



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

LESSEE: MDR BOAT CENTRAL L.P., a California limited partnership

By: MDR Boat Central, LLC, a California limited liability company

By: Pacific Marina Developments, Inc., a California corporation, Its Manager

By: \_\_\_\_\_  
Thomas J. Hogan, President

COUNTY: THE COUNTY OF LOS ANGELES

By: Gary Jones  
for Director, Department of Beaches and Harbors

ATTEST: APPROVED AS TO FORM:

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

JOHN F. KRATTLI  
County Counsel

By: \_\_\_\_\_  
Deputy

By: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: \_\_\_\_\_