



AGENDA REPORT

Meeting Date: May 13, 2009
Item Number: F-5
To: Honorable Mayor & City Council
From: Chad Lynn, Director of Parking Operations
Subject: AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND THE PENINSULA HOTEL FOR THE SALE OF PARKING RIGHTS AT THE PENINSULA BEVERLY HILLS HOTEL AND RELEASE OF COVENANT

Attachments: 1. Agreement

RECOMMENDATION

Staff recommends approval of the agreement between the City of Beverly Hills and the Peninsula Hotel for the sale of parking rights at the Peninsula Beverly Hills Hotel and release of covenant.

DISCUSSION

In 1986, the City negotiated the rights to the use of sixty-six (66) parking spaces in the garage of the Peninsula Hotel for a period of twenty-five (25) years after completion of the hotel in consideration for encroachment into the public right-of-way under South Santa Monica Blvd. Pursuant to negotiations with the Peninsula Hotel, this agreement would terminate those rights in exchange for a payment of \$285,000 from the hotel.

The City currently utilizes twenty-three (23) of these spaces by reselling them to City customers for use in this facility. Terms of the proposed agreement ensure the use of this facility by the 23 people in a manner consistent with the 1986 agreement and at the City's current rate for the remainder of the 25 year period.

FISCAL IMPACT

This agreement will provide a one-time revenue of \$285,000 that will be applied to the fund balance of the Parking Enterprise Fund.

Scott Miller
Finance Approval

David Gustavson
Approved By

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City Clerk
City of Beverly Hills
455 North Rexford Drive
Beverly Hills, CA 90210-4817

[Space Above Line For Recorder's Use]

Recording Fee: Exempt pursuant to California
Government Code Section 27383

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS
AND THE PENINSULA HOTEL FOR THE SALE OF
PARKING RIGHTS AT THE PENINSULA BEVERLY HILLS
HOTEL AND RELEASE OF COVENANT

THIS AGREEMENT is made by and between the City of Beverly Hills ("CITY"), and The Belvedere Hotel Partnership, a California partnership ("HOTEL")(collectively "Parties").

RECITALS

A. CITY and HOTEL's predecessors-in-interest, Belvedere Corporation and Mont Pelerin Corporation, both Netherlands Antilles Corporations, entered into an Agreement dated January 21, 1986 regarding parking, parking improvements and encroachments ("Parking Agreement") in conjunction with the development of the hotel now known as the Peninsula Beverly Hills Hotel ("Peninsula Hotel") located on the Property described in Exhibit A. The Parking Agreement was recorded in records of the Los Angeles County Recorder as document number 86-159379. Under the Parking Agreement, HOTEL agreed to build an additional 66 parking spaces, above and beyond the parking required by the CITY's Municipal Code, and CITY agreed to grant to HOTEL certain encroachment permits in exchange for CITY's use of those 66 parking spaces in the garage of the Peninsula Hotel. The Parking Agreement was to remain in effect until a date that is 25 years from the date that a certificate of occupancy was issued for the Peninsula Hotel (the "Parking Cessation Date").

B. HOTEL now desires to purchase the rights to the 66 parking spaces allocated to CITY in the Parking Agreement.

C. CITY has not been fully using the parking spaces and wishes to maximize their value by selling them to HOTEL. At present, 23 persons, as listed on Exhibit C, are currently utilizing the parking spaces pursuant to parking agreements with the City (the "Current Parkers").

D. The Parties therefore desire to terminate the Parking Agreement and to execute a new agreement providing for the sale of all of the rights to parking spaces allocated to CITY in the Parking Agreement to HOTEL.

NOW, THEREFORE, the Parties agree as follows:

Section 1: Termination of Parking Agreement. The Parking Agreement is hereby terminated.

Section 2: Parking Spaces. CITY will cease its use of parking spaces in the Garage of the Peninsula Hotel on May 31, 2009. Provided that the Current Parkers continue to meet their payment obligations to HOTEL on a timely basis, and abide by reasonable rules and regulations approved by City's Director of Parking Operations, HOTEL shall allow the Current Parkers to continue parking at the Peninsula Hotel until the Parking Cessation Date. The Current Parkers shall only use the valet service provided by HOTEL and HOTEL shall charge the Current Parkers no more than the rate currently charged to the Current Parkers by CITY.

Section 3: Compensation. HOTEL shall pay to CITY and CITY agrees to accept in full satisfaction of this Agreement, compensation in the amount of Two Hundred Eighty Five Thousand dollars (\$285,000). Such compensation shall be paid to the City on or before May 31, 2009.

Section 4: Encroachment Permits Remain in Effect. The encroachment permits issued by CITY to HOTEL, pursuant to Paragraph 8 of the Parking Agreement, for the areas described in Exhibit B shall be unaffected by the terms of this Agreement.

Section 5: Recording. A copy of this agreement shall be recorded with the Los Angeles County Recorder.

Section 6: Entire Agreement. This Agreement represents the entire integrated agreement between CITY and HOTEL concerning the sale of the parking rights that are the subject of this Agreement, and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by a written instrument signed by both CITY and HOTEL.

Section 7: Governing Law. The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

EXECUTED the ____ day of _____ 200 __, at Beverly Hills, California.

CITY OF BEVERLY HILLS
A Municipal Corporation

NANCY KRASNE
Mayor

[Signatures continue]

ATTEST:

BYRON POPE
City Clerk

(SEAL)

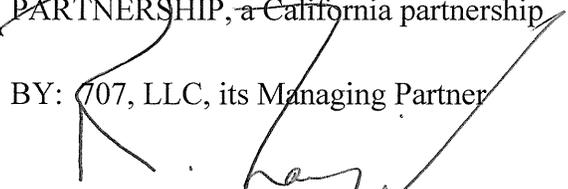
APPROVED AS TO FORM



LAURENCE S. WIENER
City Attorney

HOTEL: THE BELVEDERE HOTEL
PARTNERSHIP, a California partnership

BY: 707, LLC, its Managing Partner



ROBERT ZARNEGIN, PRESIDENT

APPROVED AS TO CONTENT

RODERICK WOOD, CCM
City Manager

Exhibit A

All that certain real property situated in the County of Los Angeles, State of California, described as follows:

Parcel 1:

Lots 747 through 761 inclusive of Tract No. 7710, in the City of Beverly Hills, County of Los Angeles, State of California, as per map recorded in Book 83, Page(s) 94 and 95 of Maps, in the office of the County Recorder of said County.

Parcel 2:

That portion of the alley, 15 feet wide, as shown on map of Tract No. 7710, in the City of Beverly Hills, County of Los Angeles, State of California, as per map recorded in Book 823, Page(s) 94 and 95 of Maps, in the office of the County Recorder of said County, particularly described as follows:

Beginning at the Easterly corner of Lot 746 of said Tract; thence Northeasterly along the Southeasterly line of Lots 747 through 754, to the Southeasterly corner of Lot 754 of said Tract; thence Southerly to the Northerly corner of Lot 755 of said Tract; thence Southwesterly along the Northwesterly line of Lots 755 through 760, to the Northerly corner of 761 of said Tract; thence Northwesterly to the point of beginning.

Parcel 3:

Together with those encroachment rights contained in that certain document recorded February 6, 1986 as Instrument No. 86-159379, of Official Records as disclosed by "Exhibit A" of the aforementioned document.

Exhibit B

Description of Encroachments

A portion of Tract No. 7710 in the City of Beverly Hills, County of Los Angeles, State of California, as shown on the map of said tract, recorded in Book 83 Pages 94 and 95 of Maps in the office of the Recorder of said County, described as follows:

Parcel One:

The southeasterly 4 feet of Santa Monica Boulevard as shown on said map, bounded southwesterly by the northwesterly prolongation of the southwesterly line of Lot 747 of said Tract, bounded easterly by the east line of the west 10 feet of Lasky Drive as shown on said map.

Parcel Two:

The west 10 feet of said Lasky Drive bounded northerly by the northwesterly line of the southeasterly 4 feet of said Santa Monica Boulevard bounded southerly by a line that bears southeasterly from the northwest corner of Lasky Drive and Durant Drive as shown on said map, said line is right angles to the centerline of said Durant Drive.

Parcel Three:

The northwesterly 35 feet of said Durant Drive, bounded easterly by the east line of the west 10 feet of said Lasky Drive, bounded southwesterly by the southeasterly prolongation of a line 10 feet southwesterly of and parallel with the southwesterly line of Lot 761 of said tract.

Parcel Four:

The northeasterly 10 feet of Charleville Boulevard as shown on said map adjoining said Lot 761, bounded northwesterly by the southwesterly prolongation of the northwesterly line of said Lot 761 bounded southeasterly by the centerline of said Durant Drive.

Exhibit C

Current Parkers

Laura C. Thomas

Beth Anne Lally

Cliff W. Marcus

DLS Limosine Service *

Dominic Eftekharzadeh

Debbie Klein

Edith Weissburg

Elliot Green

Friars Club (15 spaces) *

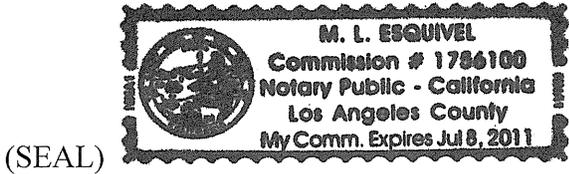
* - Individual names to be provided

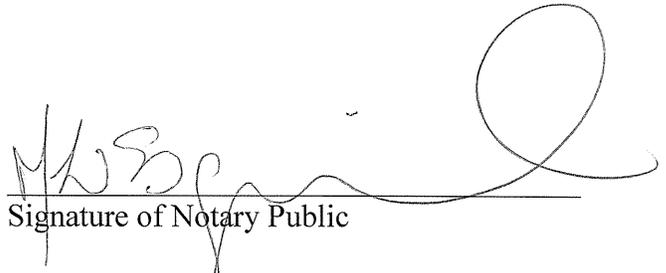
STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES)

On MAY 6th, 2009, before me, M L ESQUIVEL Notary Public,
a Notary Public in and for the State of California, personally appeared Robert
ZARNEGIN, who proved to me on the basis of satisfactory
evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and
acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies),
and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of
which the person(s) acted, executed the instrument.

I certify under PENALTY OR PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.





Signature of Notary Public

STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES)

On _____, 200____, before me, _____,
a Notary Public in and for the State of California, personally appeared _____
_____, who proved to me on the basis of satisfactory
evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and
acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies),
and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of
which the person(s) acted, executed the instrument.

I certify under PENALTY OR PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(SEAL)

Signature of Notary Public