



**COMMISSION  
AGENDA MEMORANDUM**

**Item No.** 4d

**ACTION ITEM**

**Date of Meeting** November 22, 2016

**DATE:** October 28, 2016

**TO:** Ted Fick, Chief Executive Officer

**FROM:** David McFadden, Managing Director Economic Development Division  
Jeffrey Utterback, Director Real Estate & Economic Development

**SUBJECT:** Assignment and Assumption of Ground Lease Agreement at Des Moines Creek Business Park Phase I, and Amendments to Ground Leases at Des Moines Creek Business Park Phase I, Phase 2 and Phase 3.

**ACTION REQUESTED**

Request Commission authorization for the Chief Executive Officer to (1) execute an Assignment and Assumption of Ground Lease Agreement at the Des Moines Creek Business Park Phase I from the existing tenant, Des Moines Creek Business Park Phase I, LLC, to the new tenant CAVA Des Moines Industrial, LLC; and (2) execute amendments to the assignment provisions in the ground lease agreements with Des Moines Creek Business Park Phase I, LLC; Des Moines Creek Business Park Phase II, LLC; and Des Moines Creek Business Park Phase III, LLC.

**EXECUTIVE SUMMARY**

The Port entered into a ground lease with Des Moines Creek Business Park Phase I, LLC in [April 2015], a limited liability company controlled by the Panattoni Development Company ("Panattoni"). Now that this project has been completed and fully leased, Panattoni has identified a buyer for the entire investment and wishes to exit the property through a sale of the assets and an assignment and assumption of the underlying ground lease.

The proposed new owner, LaSalle CAVA Industrial Fund, LLC ("Fund") is an investment vehicle created to own, develop and operate industrial warehouse facilities across the U.S. The owners of the fund are the \$188 billion New York Common State Retirement Fund, and LaSalle Investment Management, a global real estate investment advisory firm with over \$45 billion of asset under management. The Fund will form a single-asset special purpose entity called CAVA Des Moines Industrial, LLC ("CAVA Des Moines") for this transaction. CAVA Des Moines is purchasing the assets and the ground lease from Des Moines Creek Business Park Phase I, LLC for \$68 million in cash.

The ground leases for the three Des Moines Creek Business Park ("DMCBP") phases provide that the tenant assigning the lease remains liable to the Port for all obligations, including rental payments, throughout the term of the leases. Panattoni is requesting that the Port amend the

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ground leases for each of the three DMCBP phases to eliminate this requirement in future assignments. If assignment of the Phase I ground lease is approved, CAVA Des Moines will replace the existing one-year lease security, providing the same security that Port currently has from Des Moines Creek Business Park Phase I, LLC.

**JUSTIFICATION**

Panattoni is an industrial merchant developer. Like many similar developers in this asset class, they look to sell their investments as soon as the projects they develop are completed and the income from leasing is fully stabilized. This exit strategy is typically driven by the cost of their capital and the need to repay their original investors and allowing them to achieve the highest IRR possible. The shorter the period they use the money, the higher the IRR they achieve, and the more profit they make as a developer as the result of the sale. In the US, the primary buyers of stabilized industrial assets are pension funds, as is the case in the deal.

The security provided the Port by CAVA Des Moines matches what is currently provided by Panattoni. More importantly, the new tenant is investing \$68 million in the property and its ultimate owners financial depth far exceeds that of the existing tenant. The Port should draw comfort by this level of investment and any concerns over lease payment defaults.

**DETAILS**

As part of the discussions with Panattoni and their request for assignment and assumption of the Phase I lease and amendment of the assignment language in the leases for all three DMCBP phases, Panattoni has agreed to provide the Port with the following:

- (1) Reimburse the Port \$140,000 to relocate a water line installed at the request of Des Moines Creek Business Park Phase I, LLC. This water line caused the Port property to the north to have development impairment. By funding the relocation costs, the site can now be developed.
- (2) Grant the Port a Right of First Offer (“ROFO”) on Phase 2 and Phase 3 of the Des Moines Creek Business Park. This right allows the Port to have an option to acquire the assets from Panattoni and unify the investment, creating the maximum investment value, possible only by the Port as the underlying ground owner.

Under a ground lease, transfer of liability through an assignment and assumption of the ground lease is very common. In this case and in most cases, the second tenant is often a better tenant with lower risk than the initial developer, as is the situation here.

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**ALTERNATIVES AND IMPLICATIONS CONSIDERED**

**Alternative 1** – The Port does not agree to the request to the assignment and assumption of the ground lease from Panattoni to CAVA Des Moines.

Cost Implications: By not agreeing to this request, the Port will have to fund the \$140,000 relocation cost of the water line located on the Port property to the north of this property.

Pros:

- (1) The Port retains Panattoni as the ultimate responsible tenant under the existing ground lease agreement.

Cons:

- (1) The Port does not receive the \$140,000 payment to cover the relocation costs of the water line on the Port property to the north.
- (2) The Port does not receive the Right of First Offer (ROFO) on the DMCBP Phase 2 and Phase 3 and is not able to consolidate the investment as a result.

This is not the recommended alternative.

**Alternative 2** – The Port agrees to the request to the assignment and assumption of the ground lease from Panattoni to CAVA Des Moines. The Port will not ask Panattoni for any concessions in return for releasing their liability on DMCBP.

Pros:

- (1) The Port receives a matching level of lease security from the new tenant CAVA Des Moines that it currently has from Panattoni.
- (2) The Port is able to replace the original tenant with a tenant who has made a significant investment in the property and is focused on holding and maintaining the property long term.
- (3) The Port receives a ROFO for the DMCBP Phase 2 and Phase 3.

Cons:

- (1) The Port does not receive any consideration or value in return for granting this release of liability.

This is not the recommended alternative.

**Alternative 3** – The Port agrees to the request to the assignment and assumption of the ground lease from Panattoni to CAVA Des Moines.

Cost Implications: The Port receives a \$140,000 payment from Panattoni to fund the cost related to relocating a water line on Port property to the north of this property.

Pros:

- (4) The Port receives a matching level of lease security from the new tenant CAVA Des Moines that it currently has from Panattoni.

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- (5) The Port is able to replace the original tenant with a tenant who has made a significant investment in the property and is focused on holding and maintaining the property long term.
- (6) The Port receives a ROFO for the DMCBP Phase 2 and Phase 3.

Cons:

- (1) The Port releases a known tenant in Panattoni and has a ground lease with a new tenant in which they have no current standing relationship.

***This is the recommended alternative.***

**ATTACHMENTS TO THIS REQUEST**

- (1) DMCBP\_Assignment of Phase 1 GL-HBB-11-1 (00208897xB9B50)
- (2) DMCBP\_First Amendment to GL-Phase II-HBB-11-1-16 (00208901xB9B50)
- (3) DMCBP\_First Amendment to Phase III GL-HBB-11-1-16 (00208903xB9B50)
- (4) DMCBP\_Side Letter-HBB-11-1-16 (00208899xB9B50)
- (5) DMCBP\_Third Amendment to Phase 1 GL-HBB-11-1 (00208898xB9B50)

**PREVIOUS COMMISSION ACTIONS OR BRIEFINGS**

June 10, 2014 – The Commission authorized Des Moines Creek Business Park ground lease approval for Panattoni.