



**COMMISSION
AGENDA MEMORANDUM**

Item No. 81

ACTION ITEM

Date of Meeting November 9, 2021

DATE : October 25, 2021

TO: Stephen P. Metruck, Executive Director

FROM: Jessica Carlson, Senior Real Estate Manager
Trevor Panger, Real Estate Property Manager
Melinda Miller, Director, Real Estate Asset Management

SUBJECT: Fourth Amendment to Ground Lease with Duke’s Shilshole Bay Chowder House LLC. at Shilshole Bay Marina

Amount of this request: \$0.00

Total estimated project cost: \$0.00

ACTION REQUESTED

Request Commission authorization for the Executive Director to execute the fourth amendment to the ground lease with Duke’s Shilshole Bay Chowder House LLC, for a new restaurant currently in the design stage, to increase the square footage of the premises with resulting increased rent based on a newly submitted design footprint, substantially similar to the exhibit shown in the attached draft amendment. If approved, the proposed amendment would, effective December 1, 2021, increase the square footage from 6,040 square feet to 7,822 square feet. No other substantive provisions beyond an increase to the Premises, and proportional increase in the total rent, are being sought.

EXECUTIVE SUMMARY

In June of 2020, the ground lease with Duke’s Shilshole Bay Chowder House LLC was amended (Third Amendment) with a smaller footprint to allow for unprecedented pandemic disruptions with unknown durations; most pressingly, drastically increased construction costs and troubling forecasts of COVID-19’s long-term effects on the dining industry. With more than a full additional year of experience navigating the operational challenges of rapidly alternating market and staffing conditions, and with construction costs becoming more stable and manageable, Duke’s has been able to reassess the risk factors of returning to a slightly larger design for their building and trusting in its financial viability.

Another factor was the failure of key benefits to materialize from a proposed innovative design and operational model proposed by a consultant that promised to maximize the functionality

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and profitability of smaller scale kitchen and prep areas. No other provisions of the ground lease, as previously amended, will be altered with this Fourth Amendment, and the only consequences to the Port will be a proportional increase in rent and taxes based on the added square footage.

JUSTIFICATION

While currently in design, approval of the amendment will not alter prior ground lease provisions as previously amended, such as existing “Construction Phase” rent being paid or the scheduled start of “Post Construction Phase” rent set for April 1, 2023, regardless of whether construction is completed or not.

The expansion model is in response to the current market, including the impact of COVID, which includes accommodations for requirements of physical distancing.

The benefits to Duke’s are readily apparent — more seating capacity allows for higher revenue; and a larger kitchen ensures more consistent control over menu offerings while allowing for easier adaptations across Duke’s locations to maintain a unified, signature brand of seafood-centric dining.

To the Port’s benefit, allowing for an expanded capacity for guests and a more full-range menu will only advance Shilshole Bay Marina’s operational goal of providing a first-class facility to its water-dependent customers. The expansion will not only further enrich the live-aboard lifestyle at the marina, it will also foster a more vibrant and diverse draw of visitors from the surrounding neighborhoods, the region, and much farther locations, including tourists wanting memorable experiences of the Puget Sound, showcasing the recreational boating industry, our other tenant services, and the diversity of roles that the Port plays in the larger community.

ALTERNATIVES AND IMPLICATIONS CONSIDERED

Duke’s management proposed the expansion of their premises to better reflect the anticipated future viability of the restaurant which is better understood as impacts of the pandemic have become clearer.

Alternative 1 – Reject Duke’s proposal for a lease amendment.

Cost Implications: this alternative would have no impact on costs.

Pros:

- (1) None.

Cons:

- (1) The Port would not see the substantial increase in rent with proposed increase in leasehold size.
- (2) Marina customers and visitors would be denied a restaurant with increased seating capacity and a more diverse menu that a larger kitchen could provide.

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- (3) Restaurant operations would be more strained in attempts to maintain physical distancing for staff and guests.

This is not the recommended alternative.

Alternative 2 – Agree to terms as initially proposed by Duke’s.

Cost Implications: this alternative would have no impact on costs.

Pros:

- (1) Significant increase to Port revenue.
- (2) More marina customers and visitors could be accommodated without waiting, and would have a more ideal dining experience with the larger kitchen.
- (3) More physical distancing possible for staff and guests.

Cons:

- (1) None.

This is the recommended alternative.

FINANCIAL IMPLICATIONS

This is a ground lease and the development and construction costs are borne by the tenant. There are no incremental costs to the Port for this request

Financial Analysis and Summary

Project cost for analysis	No incremental costs to the Port for this request
Business Unit (BU)	Maritime Portfolio Management
Effect on business performance (NOI after depreciation)	This amended lease agreement will generate the Total Cash Flow of \$3,537,781 for the remainder of the lease term until April 30, 2041. The first-year post-construction lease revenue for this amendment will be \$112,871.
IRR/NPV (if relevant)	Total Effective Rent: \$3,537,781 Discounted Effective Rent at 4.5%: \$2,023,244
CPE Impact	N/A

Future Revenues and Expenses (Total cost of ownership)

Future revenues will be generated based on lease rates and terms stated above in the fourth amendment.

ATTACHMENTS TO THIS REQUEST

- (1) Draft Fourth Amendment to the Ground Lease

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PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

June 23, 2020 – Commission authorized Third Amendment to the Ground Lease

September 24, 2019 – Commission authorized Second Amendment to the Ground Lease

January 9, 2018 – Commission authorized First Amendment to the Ground Lease

May 9, 2017 – Commission approved the Ground Lease with Duke’s Chowder House, LLC