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**COMMISSION**

AGENDA MEMORANDUM Item No. 8n

ACTION ITEM Date of Meeting November 14, 2023

**DATE :**

TO: Stephen P. Metruck, Executive Director

FROM: Susie Archuleta, Senior Real Estate Manager, Central Harbor

SUBJECT: Mad Anthony's Pier 66 Third Amendment to Lease

Amount of this request: \$0

Total estimated project cost: \$0

**ACTION REQUESTED**

Request Commission authorization for the Executive Director to execute the Third Amendment to Lease with Mad Anthony's Pier 66 ("Anthony's"), substantially the same as the attached draft amendment. The previous Amendment temporarily restructured the method for calculating Base Rent from July 2022 through April 2023 (the start of cruise season). The Third Amendment would extend the Second Amendment terms until the reopening of two-way traffic on Alaskan Way.

**EXECUTIVE SUMMARY**

In 2022, Anthony's business volumes were negatively impacted by 1) the aftermath of the COVID-19 pandemic; 2) the construction along the Seattle Waterfront; and 3) labor shortages. Together, the negative impact to Anthony's Pier 66 business volumes was significant and led to the Second Amendment, which temporarily restructured the base rent calculation to provide Anthony's with some financial relief for the period July 2022 through April 2023 (the beginning of cruise season). In 2023, the continuation of construction along the Seattle Waterfront extends the negative impact to Alaskan Way traffic and pedestrian volumes. There is a related negative impact to Anthony's Pier 66 business volumes. Staff now recommends a Third Amendment to Lease, which extends the temporary Base Rent structure previously established in the Second Amendment to the period beginning May 2023 to the earlier of the date when two-way traffic resumes on Alaskan Way (contingent upon the Overlook Walk and Seattle Aquarium construction projects) or December 31, 2024. It is estimated that the Alaskan Way connector road will be opened in April of 2024 resuming the two-way traffic.

Template revised January 10, 2019.

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**JUSTIFICATION**

Anthony's is a family-owned, local company that was established in 1969 and currently operates restaurants known for their excellent seafood in 27 locations in Washington, Oregon and Idaho, including Anthony's Pier 66 and Chinook's Restaurant at Fishermen's Terminal. The Port of Seattle and Anthony's have both made significant investments in the building and operations of the Pier 66 restaurant. As an anchor tenant, the success of Anthony's restaurant reflects on the entire Pier 66 campus.

Anthony's Pier 66 suffered serious financial hardship during COVID-19 pandemic, and ultimately Commission approved the First Amendment in June 2020 to help them weather the storm. The First Amendment temporarily restructured the base rent calculation for the period beginning June 1, 2020 and ending May 31, 2022 by: 1) temporarily removing the Minimum Rent requirement; and 2) increasing the percentage rent rate from 6.0% to 6.5%. Furthermore, from June 1, 2022 onward, it reinstated the minimum base rent and increased the percentage rent rate from 6.0% to 6.25%.

In 2022, Anthony's sales improved modestly but were still well behind pre-pandemic levels and not yet covering all operating costs. The well-publicized hiring challenges that restaurants in this region suffered from led to shortening of the restaurant operating hours due to staffing shortages. The reduced hours also negatively impacted Anthony's revenues and ability to cover their costs.

In 2023, the Overlook Walk and Seattle Aquarium construction projects have created intermittent partial and full road closures on Alaskan Way. These closures limit waterfront visitation and foot traffic, with visitors generally uncertain about traffic patterns, parking

availability and which businesses are impacted. Revenues for the 2022 calendar year were 36% less than in 2018 (the year before the viaduct demolition).

To ensure the long-term success of this key Pier 66 retail tenant, staff recommends providing additional support to Anthony's via a Third Amendment to their lease. The Third Amendment would simply extend the length of time that Anthony's pays percentage-only rent as initiated by the First Amendment. The timing of the Third Amendment would be tied to the construction projects and would expire at the earlier of the date when two-way traffic resumes on Alaskan Way or December 31, 2024.

**Diversity in Contracting**

There is no opportunity for WMBE participation as this is a request for an amendment to an existing lease agreement.

Template revised June 27, 2019 (Diversity in Contracting).

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**DETAILS**

Staff proposes the following Third Amendment temporary base rent calculation:

Original	First Amendment	Second Amendment	Third Amendment	After Third Amendment	
Minimum Rent	\$30,670/mo	None	None	None	\$30,670/mo
Percentage Rent	6.00%	6.50%	6.50%	6.50%	6.25%

Rate  
Effective period Prior to First June 1, 2020 – June 1, 2022 – May 1, 2023 – Through lease Amendment May 31, 2022 April 30, 2023 earlier of 2-way expiration of traffic on December 31, Alaskan Way or 2041 December 31, 2024

Since the percentage rent consistently exceeds the minimum base rent during the cruise season months, this is anticipated to only affect the non-cruise season months (when the percentage rent typically falls below the minimum base rent). Two-way traffic on Alaskan Way is anticipated to resume April 2024 at the commencement of the 2024 Cruise season.

Additionally, the Third Amendment provides reinstatement of the minimum base rent and a Percentage Rent Rate of 6.25% after the effective period of the temporary base rent restructuring (compared to the 6.00% Percentage Rent Rate provided in the Basic Lease).

**ALTERNATIVES AND IMPLICATIONS CONSIDERED**

Alternative 1 – Reject Anthony's request for additional temporary rent relief after the Second Amendment expiration on April 30, 2023.

Cost Implications: None, unless tenant vacates the Pier 66 restaurant.

**Pros:**

- (1) The Port receives more monthly rent in the short term.
- (2) Administrative effort of processing a Third Amendment is avoided.

**Cons:**

- (1) Increases the risk that Tenant fails financially.
- (2) Increases the risk that Tenant vacates the restaurant.
- (3) Increases the risk the Port will take legal action against a tenant who is still operating at another Port location (Fishermen's Terminal).

This is not the recommended alternative.

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Alternative 2 – Shorten the Third Amendment effective period, using an expiration date of April 30, 2024 (instead of December 31, 2024).

Cost Implications: None

**Pros:**

- (1) Limits the extension of the Second Amendment terms to 12 additional months (May 2023-April 2024), which could be long enough to keep Anthony's afloat.

(2) Rent structure reverts to the original calculation earlier than in the recommended alternative, accelerating the Port's collection of potentially higher monthly rents.

Cons:

(1) Potentially reverts to the original, higher rent structure before Alaskan Way fully reopens to two-way traffic and while Anthony's volumes are still depressed.

This is not the recommended alternative.

Alternative 3 – Agree to extend the Second Amendment terms until the earlier of the reopening of Alaskan Way to two-way traffic or December 31, 2024.

Cost Implications: None

Pros:

(1) Extends financial assistance to Anthony's until the expiration of their primary business challenge, reduced Alaskan Way traffic.

(2) Strengthens the relationship between the Port and its' sole Pier 66 retail tenant.

(3) Ensures that the time period of the Alaskan roadway closure is covered without an additional future amendment.

Cons:

(1) Extends the period that the Port receives reduced rent.

This is the recommended alternative.

FINANCIAL IMPLICATIONS 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) Portfolio Management

Effect on business performance This third amended lease agreement will generate the (NOI after depreciation) Total Cash Flow of \$10,829,419 for the remainder of the lease term until December 31, 2041.

IRR/NPV (if relevant) Total Effective Rent: \$10,829,419, a decrease of \$39K as compared to the second amendment. Marginal NPV of (\$28K) as compared to the second amendment.

CPE Impact N/A

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Future Revenues and Expenses (Total cost of ownership)

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

ATTACHMENTS TO THIS REQUEST

(1) Draft Third Amendment to Lease

(2) Presentation

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

February 14, 1995 - Commission approved the Lease Agreement

January 12, 2016 – Commission authorized reimbursement of costs related to the installation of heating and hot water systems necessitated by the termination of Seattle Steam service to the facility.

June 23, 2020 – Commission approved the First Amendment to Lease.

August 9, 2022 – Commission approved the Second Amendment to Lease.

Template revised June 27, 2019 (Diversity in Contracting).