



AGENDA NO: 7.e

MEETING DATE: March 12, 2024

Staff Report

TO: Honorable Mayor and City Council

DATE: March 4, 2024

FROM: Lori Stilts, Harbor Business Coordinator

SUBJECT: Adoption of Resolution No. 19-24 Approving a New Lease Agreement with Van Beurden Investments Lease site 78-81/78W-81W, Dutchman’s Seafood House, 701 Embarcadero.

RECOMMENDED ACTION

Adopt Resolution No. 19-24, approving 29-year Master Lease Agreement with Van Beurden Investments for lease site 78-81/78W-81W, Dutchman’s Seafood House.

ALTERNATIVES

The City Council can elect to not approve the lease agreement as proposed and/or can propose changes, and direct staff accordingly.

FISCAL IMPACT

Annual Minimum rent is set at the current rate of \$107,712.53 and will continue at this rate with yearly CPI adjustments until their next appraisal in 2028.

BACKGROUND

In October, 2020 the Council approved a Consent of Landowner (COL) to Van Beurden Investments for their proposal to redevelop a portion of Lease Site 78-81/78W-81W. For various reasons, the project fell behind schedule and the COL has expired by its own terms. Reasons include delays from Coastal Commission, reworking of plans, and pandemic related delays. Nevertheless, and while proceeding in good faith, according to the Van Beurden’s, the project costs doubled.

On January 4, 2023 an amended CDP was approved for the Van Beurden Harborwalk Improvements. On March 7, 2023 a CUP (major modification) was approved by the City for additional public access enhancements and modifications to the approved new Harborwalk public access. Essentially the new project will construct a new Harborwalk access, demo and reconfigure the wharf, retain the commercial fishing use, replace the fish crane, and various other public access improvements. This project will fill in an important gap connection of the Harborwalk and which is a City goal to have a continuous Harborwalk.

Staff brought lease negotiations to City Council in closed session, back in 2022, 2023 and February 2024, providing todays open session report.

Prepared By: LS

Dept Review: _____

City Manager Review: YK

City Attorney Review: CFN

DISCUSSION

Lease Site 78-81/78W-81W is one of the City's top Embarcadero lease site revenue-generators. I have had the pleasure to work with the Van Beurden's since 2010 and can attest to their commitment to punctual rent payments and commitment in keeping their retail spaces occupied, which showcases financial responsibility and reliability. Moreover, they are dedicated to maintaining their leased property and keeps their public restroom up during business hours, and have created a welcoming destination, creating a positive ripple effect on the city's reputation as a tourist-friendly locale.

Staff is proposing the attached new Master Lease Agreement containing the following highlights:

Van Beurden's current Master Lease with the City expires in December of 2032, essentially this new lease would provide the Van Beurden's with an additional 20 years.

The proposed new Master Lease requires the construction of a new Harborwalk access (behind the 715 building with the removal of the rear patio), wharf demolition and reconfiguration, retention of commercial fishing use, replacement of the fish crane, and several other public access improvements. With an estimated cost of \$700,000. The City-approved permit number for this project is MAJ22-002.

Notably the project will play a significant role in connecting the Harborwalk from Marina Square to Rose's Landing, which is a win for the City in having the continuous Harborwalk for public/tourist use.

New performance deadlines are as follows:

- A. Obtain Building Permits for the Project no later than April 1, 2024.
- B. Commence construction of the Project no later than June 30, 2024.
- C. Completion of construction of all components of the Project no later than March 31, 2025. Completion shall mean when the Project is entitled to be issued a final Certificate of Occupancy

The performance deadlines in the Master Lease replace the COL deadlines executed on January 15, 2020.

The proposed lease follows the Harbor Lease Management policy standards and current lease form, with negotiated language to match their current lease rent calculation format. Annual rent will be set at their current rate which is \$107,712.53. This rent calculation is derived from a recent lease site appraisal performed this year in 2023. The rate was calculated from 75% of the average of the last 5 years' total rent. As in the current lease, there will be the standard CPI increase for the next five year until the next appraisal in 2028.

CONCLUSION

The Van Beurden's have in good faith continue to move forward with their project even though a lease agreement has not been in place. Staff, therefore, recommend approval of Resolution No. 19-24 and this new Master Lease Agreement with the Van Beurden's to memorialize their commitment to the site.

ATTACHMENTS

1. Resolution No. 19-24
2. New Master Lease Agreement for Lease Site 78-81/78W-81W