



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: December 4, 2012

TO: Mayor and Councilmembers

FROM: Business Division, Waterfront Department

SUBJECT: Five-Year Lease Agreement With Harbor Marine Works

RECOMMENDATION:

That Council approve a five-year lease agreement with Merritt Bartlett Marine Incorporated, doing business as Harbor Marine Works, dated as of December 1, 2012, at an initial base rent of \$4,157 per month, subject to annual CPI increases, for the boat repair yard at 122 Harbor Way.

DISCUSSION:

Damon Hulst assumed the Harbor Marine Works lease through a lease assignment process on June 10, 1999. The lease expired on February 28, 2011, and the tenant has occupied the space on a holdover status, with the Department's approval, since that time. The current base rent is \$4,157 or a percentage of gross sales, whichever is greater. The base rent is subject to annual cost of living increases based on changes in the Consumer Price Index.

Due to some performance issues early in the tenancy, staff had contemplated opening up the boatyard concession to public bidding through a Request for Proposals (RFP) process. However, performance issues have improved significantly and there have only been two unsolicited customer complaints during the past six years, one in 2007 and one in 2009, neither of which resulted in a breach of the lease terms.

After interviewing several boatyard owners in Ventura, Channel Islands and Newport Beach, it was determined that it would be in the best interest of the City to offer a limited lease renewal to Harbor Marine Works. The RFP option would be used if lease negotiations were unsuccessful.

The business terms of the proposed lease are as follows:

- **Term:** Five years
- **Base Rent:** \$4,157 per month
- **Annual Rent Adjustment:** Cost of living increases based on the Consumer Price Index (CPI)

Percentage Rent:

- Ten percent (10%) of Gross Receipts on all labor, service, repairs and fees
- Five percent (5%) of Gross Receipts on all crane services, yard rental fees (“lay days”), tool and equipment rentals and for the launching and retrieval of boats
- Four percent (4%) of Gross Receipts on all marine supplies, hardware and equipment
- One percent (1%) of Gross Receipts on boat sales - new and used; warranty sales and service; off-site contractual labor; catalogue and mail order sales; sales of marine electronics, electric motors and electric motor driven equipment, internal combustion engines, drives, generators and related equipment
- Ten percent (10%) of all other Gross Receipts from transactions that are not specifically defined above

Permitted Uses: (no change)

- Rental and repair of boats
- Service, repairs and labor on boats
- Rental of tools and equipment
- Launching and retrieval of boats, rafts, barges and other watercraft
- Sales of marine supplies, hardware and equipment
- Boat sales - new and used; warranty sales and service; catalogue and mail order sales; sales of marine electronics, electric motors and electric motor driven equipment, internal combustion engines, drives, generators and related equipment

Mr. Hulst has replaced the Travel Lift Hoist, upgraded water and electrical service to the site, and made other improvements with substantial investment in the business. In 2005, Harbor Marine Works paid to have the yard runoff filtered and diverted from a storm drain into the City sewer system, correcting a substandard condition that existed for many years under previous owners of the boatyard.

Boat maintenance and repair is expensive work. Due to concerns expressed by a few members of the harbor community, the proposed lease adds several provisions specific to the boatyard operation. These include the following:

“A current schedule of basic prices charged per foot based upon vessels’ overall length, to include Travelift hauling, loading and launching, pressure washing, vessel and mast storage, and applicable yard fees shall be available on site and to the Waterfront Department upon request. It is recognized by both Tenant and Landlord that providing service on a firm bid basis is not always possible due to the nature of marine related repair, however when and where possible tenant agrees to furnish firm bids prior to commencing each scope of work.”

“Prior to commencing work on a customer’s vessel, Tenant shall require a work order and yard agreement signed by the customer. If in the course of working on a customer’s vessel Tenant discovers additional work that must be done that is not included in the original estimate, Tenant shall require a signed change order or email authorization prior to performing the additional work.”

The proposed five-year term is relatively short to allow the Department to evaluate the tenant's performance during the next five years. Since the lease is with a corporation, Mr. Hulst has signed the City's personal guaranty. An audit of the business was completed by the CPA firm of Pyne, Waltrip, Decker & McCoy in May 2011, and revenue reporting was found to be in compliance with the lease. Harbor Marine Works is considered a tenant in good standing for purposes of a lease renewal as there are no outstanding default notices on file and rent payments have been prompt.

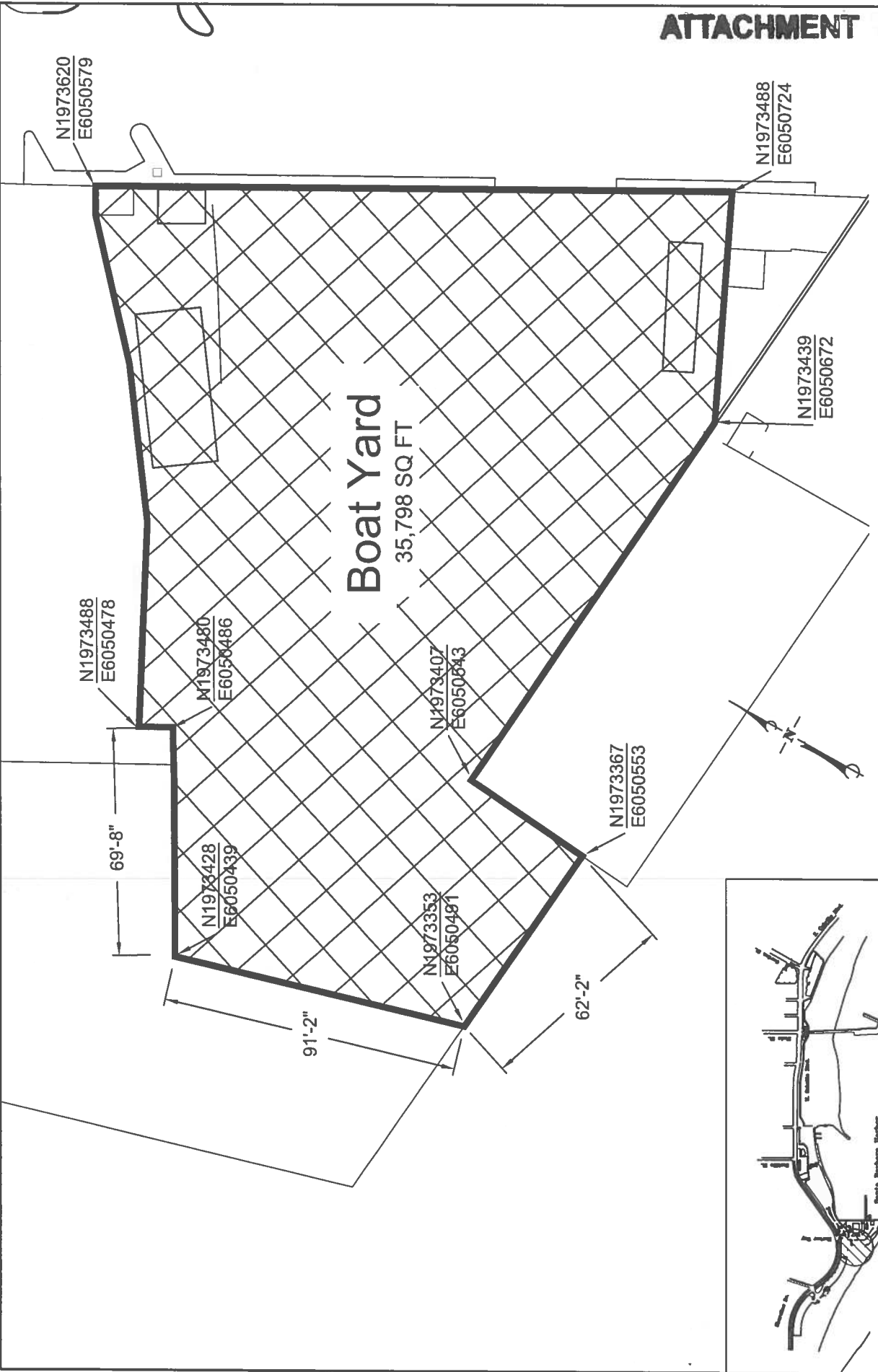
The Harbor Commission recommended approval of the Harbor Marine Works lease at its November 15, 2012, meeting.

ATTACHMENT: Site Plan

PREPARED BY: Scott Riedman, Waterfront Director

APPROVED BY: City Administrator's Office

ATTACHMENT



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| REVISIONS | DATE: 3/15/2011 | SCALE: 1" = 40' | APPROVED BY: S. Prideman | DRAWN BY: T. Lawlor |
| | ADDRESS: 120 Harbor Way | | City of Santa Barbara | SHEET NO. 1 of 1 |
| HARBOR MARINE WORKS EXHIBIT "A" | | | | DRAWING NAME: 1200-003A |
| | | | | Waterfront Department |

