



San Mateo County Harbor District

Board of Harbor Commissioners

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ITEM 9 ADDITIONAL INFORMATION



STAFF REPORT

TO: San Mateo County Harbor District Commissioners

VIA: Glenn Lazof, Interim General Manager

FROM: Marcia Schnapp, Interim Administrative Resources Manager

DATE: September 16, 2015

SUBJECT: Staff Update on Oyster Point Marina/Park Bait Shop Lease

Staff is proposing to simplify the tracking of lessee business activity as it relates to rent payments.

In order to minimize taxes due, businesses tend to under-report sales (gross receipts) and over report expenses (cost-of-sales, cost-of-goods-sold ('COGS')).

With the above in mind, Staff has sent a draft of the Bait Shop Lease RFP to legal for review. It included the following minimum terms for proposers to start their bids from. They can bid higher in order to be awarded the Bait Shop lease:

- 1) Term to be 3 years with two 3-year options to renew;
- 2) Annual Year to be January 1 – December 31;
- 3) Minimum Initial Base Rent to be \$1,050/month or greater
- 4) Minimum Annual Increase in Base Rent to be 5% over previous base rent on each January 1st (= "Adjusted Base Rent");
- 5) Rent to be the Greater of:
 - Base Rent + 5%, or
 - 5% of Gross Receipts, or
 - 8% of Cost-of-Sales.

The above dramatically simplifies lease tracking and management for the staff, both in terms of annual increases and confirming validity of percentage rents: both require one annual activity – a base rent increase due on January 1st, and a reconciliation of percentage of sales or COGS against rents paid upon receipt of the tax return. The higher of the three rent options is what is due the District. The District will be able to maximize its revenue from the property lease.

Legal has reminded Staff that as long as the District has debt outstanding to DBW, DBW has statutory rules that must be followed for any new leases to be entered into. These include:

- 1) DBW must approve "the proposed leasing" and specific terms and conditions of the lease itself;
- 2) Only once DBW has approved may the District advertise an invitation for bids ("IFB");

- 3) The IFB is inflexible in that there are no negotiation of lease terms allowed; the District awards the lease to the highest responsible bidder;
- 4) The Board approves an award to the winning bidder, but the award is conditional upon a second round of review and approval by DBW.