



Legislation Text

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DATE: October 6, 2022

SUBJECT:

EICHENLAUB MARINE, INC., DBA EICHENLAUB MARINE LOCATED AT 2608 SHELTER ISLAND DRIVE, SAN DIEGO:

- A) RESOLUTION CONSENTING TO THE ASSIGNMENT AND ASSUMPTION OF THE LEASEHOLD INTEREST FROM EICHENLAUB MARINE, INC. DBA EICHENLAUB MARINE TO THE OLDE BOAT YARD LLC.
- B) ORDINANCE GRANTING AN AMENDED AND RESTATED LEASE TO THE OLDE BOAT YARD LLC., TO UPDATE LEASE TO CURRENT LEASE TERMS.

EXECUTIVE SUMMARY:

Eichenlaub Marine, Inc., a California corporation dba Eichenlaub Marine ("Eichenlaub") operates a marine sales and service facility, located at 2608 Shelter Island Drive, San Diego, California (Attachment A - Location Map). The leasehold is comprised of approximately 18,377 square feet of water area and 11,401 square feet of land area ("Premises"). Eichenlaub's lease with the District, which is filed with the District Clerk as Document No. 69048 ("Existing Lease") and is attached hereto as Attachment B, expires on October 31, 2038.

Eichenlaub is proposing to assign its rights and obligations under the Existing Lease to The Olde Boat Yard, LLC, a California limited liability company ("Olde Boat Yard"). Olde Boat Yard's principal owner and operator is Jeff Brown, who is also the owner and operator of Jeff Brown Yachts, a successful bespoke yacht brokerage that operates in multiple locations in the United States.

As a condition of the District's consent to the assignment of the Existing Lease, the District has the right to update the rent to market and to update the Existing Lease to include new or revised lease provisions. As such, staff has negotiated an Amended and Restated Lease with Olde Boat Yard in the form of Attachment C - Amended and Restated Lease. The Amended and Restated Lease includes, among other provisions: updates to: District participation in refinance proceeds not reinvested in District tidelands or used to pay off existing debt secured by the Premises; participation in proceeds resulting from a future assignment or sale of the leasehold interest; the formation of a demolition and remediation fund for end of term obligations; and updates to certain environmental and remediation provisions.

In addition to the benefits noted above, all of Olde Boat Yard's obligations under the Amended and Restated Lease will be personally guaranteed by Jeff Brown pursuant to the Continuing Guaranty attached as Exhibit D to the Amended and Restated Lease. Eichenlaub will remain obligated under

the Existing Lease for all obligations accruing or arising on or prior to the effective date of the Amended and Restated Lease or which by their terms survive any termination or surrender of the Premises.

The proposed assignment and assumption of lease from Eichenlaub to Olde Boat Yard is consistent with BPC Policy No. 355. In connection with the foregoing, staff recommends the Board adopt a resolution consenting to the assignment and assumption of Eichenlaub's leasehold to Olde Boat Yard and adopt an ordinance granting the Amended and Restated Lease to Olde Boat Yard under the terms presented.

RECOMMENDATION:

Adopt a resolution consenting to the assignment and assumption of lease from Eichenlaub Marine, Inc. to The Olde Boat Yard, LLC for the leasehold premises located at 2608 Shelter Island Drive, San Diego, California and adopt an ordinance granting an amended and restated lease to The Olde Boat Yard, LLC to update the lease to current lease terms.

FISCAL IMPACT:

The proposed Board action will increase rental CPI adjustments from every five years to annual adjustments, resulting in increased rent over time. Eichenlaub is currently paying market rent for the leasehold and thus no immediate increase to rent is being proposed.

This agenda item is subject to Board Policy No. 106 - Cost Recovery User Fee Policy.

COMPASS STRATEGIC GOALS:

This agenda item supports the following Strategic Goal(s).

- A vibrant waterfront destination where residents and visitors converge.
- A financially sustainable Port that drives job creation and regional economic vitality.

DISCUSSION:

Background

Eichenlaub Marine, Inc. operates a boatyard on Shelter Island that was founded by Carl M. Eichenlaub in 1952. The business is now owned by Leo and Annette Beus (75%) and the Fred C. Perry, Jr. and Carol A. Perry Living Trust (25%).

2008 - New Eichenlaub Marine, Inc. Lease

Eichenlaub's Existing Lease runs from November 1, 2008 through October 31, 2038. Eichenlaub made several project improvements per the Existing Lease and invested \$1.2M through a 2-phased project. Phase 1 was a \$676,000 waterside project that replaced existing floating docks with new docks, new electrical and water lines, and replaced the existing marginal wharf. Phase 2 was a \$524,000 landside project that refurbished the existing 3,624 square foot building to change the façade, reconfigure the shop spaces, and construct an additional new building of 2,600 square feet

with high bay shop space and office space.

Olde Boat Yard's Proposal to Purchase Eichenlaub Marine's Lease

Jeff Brown, the individual behind The Olde Boat Yard, LLC, currently owns and operates Jeff Brown Yachts as a subtenant of two leaseholds on District Tidelands. Jeff subleases his office at 2614 Shelter Island Drive and also currently subleases the entire 15 slips located on the waterside portion of the Premises under the Existing Lease, where he sells high quality yachts. Jeff has a passion for boating, and has been involved in yacht design, sailing schools, racing sailboats, and selling premium boats.

Jeff has a desire to enhance Shelter Island and has already made an impact. The waterside docks located at the Premises have been thoroughly maintained and are aesthetically impressive. Neighboring tenants have expressed positive feedback on the state of the improvements. Furthermore, Jeff's office space is also impressively improved and stands as a great standard of tenant improvements.

Jeff has expressed a desire to further improve the Premises after a few years of learning and fine tuning the leasehold operations.

Potential to Update Existing Lease to Current Language

The Existing Lease does not contain the District's most updated lease provisions. As a condition to the assignment, staff has negotiated the Amended and Restated Lease with Olde Boatyard to update the language to include terms such as District's participation in certain refinance and assignment proceeds, a demolition and remediation reserve fund for end of term obligations, as well as updated indemnity and prevailing wage language.

Conclusion and Recommendation:

The proposed assignment and assumption of the Existing Lease by Eichenlaub to Olde Boat Yard will continue the success of the leasehold operation and support the boating community while providing further growth opportunities going forward. Jeff Brown has a positive reputation in the marine recreation industry as well as a proven track record of delivering quality services and experiences for customers.

The proposed assignment is also consistent with BPC Policy No. 355 and will enable the District to update the Existing Lease language to the District's current standards.

In light of the foregoing, staff recommends the Board consent to an assignment and assumption of the Existing Lease from Eichenlaub to Olde Boat Yard and authorize the Amended and Restated Lease in order to update the Existing Lease to the District's current lease terms.

General Counsel's Comments:

The Office of the General Counsel has reviewed this agenda sheet and the attachments as presented to it and approves the same as to form and legality.

Environmental Review:

The proposed Board actions, including without limitation, a resolution consenting to the assignment and assumption of the leasehold interest from Eichenlaub Marine, Inc. DBA Eichenlaub Marine to The Olde Boat Yard, LLC. and an ordinance granting an amended and restated lease to The Olde Boat Yard, LLC., do not constitute a project under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Section 15378 because there is not a potential to result in a direct or indirect physical change in the environment. Therefore, the proposed Board actions are not subject to CEQA and no further action under CEQA is required.

The proposed Board actions comply with Sections 21 and 35 of the Port Act, which allow the Board to pass resolutions; and to do all acts necessary and convenient for the exercise of its powers. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board actions are consistent with the Public Trust Doctrine.

The proposed Board actions do not allow for development, as defined in Section 30106 of the California Coastal Act, or new development, pursuant to Section 1.a. of the District's Coastal Development Permit Regulations. Therefore, issuance of a Coastal Development Permit or an exclusion finding is not required.

Diversity, Equity, and Inclusion Program:

This agenda sheet has no direct impact on District workforce or contract reporting at this time.

PREPARED BY:

Steven Wells
Asset Manager, Real Estate

Attachment(s):

Attachment A:	Location Map
Attachment B:	Existing Lease
Attachment C:	Amended and Restated Lease