

CITY OF SANTA BARBARA WATERFRONT DEPARTMENT

MEMORANDUM

Date: March 17, 2022
To: Harbor Commission
From: Mike Wiltshire, Waterfront Director
Subject: **Waterfront Department Leasing Practices**

RECOMMENDATION: That Harbor Commission:

- A. Receive a report on current Waterfront Department Leasing Practices; and
- B. Review and approve the current Waterfront Department Leasing Practices as appropriate.

BACKGROUND:

The Waterfront Department currently manages a total of 61 lease and license agreements encompassing over 250,000 square feet of leasable space at the Harbor and Stearns Wharf. Annual lease revenue the past five years has averaged \$5,136,197, which equated to approximately 34% of total Department revenues. Leases generally fall into five primary tenant types including: food service, commercial, office, non-profit, and other. A summary of Waterfront Department lease and license agreements can be found in Attachment 1.

DISCUSSION:

Business turnover in the Waterfront is rare and the Waterfront has maintained lease occupancy rates at 100% for nearly two decades. Waterfront staff routinely receive inquiries regarding lease space opportunities and compile an "Interested Parties" list if, and when, lease opportunities arise. At the time of the last RFP (fall of 2021) the list included contact information for over 100 interested parties. When a business does change ownership it generally falls into one of two categories: Lease Assignment or Request for Proposal Process.

Lease Assignment Process: In most cases, a business will be sold and the lease agreement assigned to a new owner. In these instances, the Waterfront Department follows a lease assignment process that is clearly articulated in all lease agreements. This process requires that the current tenant must first be considered a tenant in good standing. Assuming the tenant is in good standing, they must then provide the following:

- Copy of the purchase agreement;
- Certified public accountant's financial statement or Internal Revenue Service tax returns for the previous two years from the purchaser;

- Credit report from the three (3) primary credit agencies: TransUnion, Equifax, and Experian;
- Resume from the potential new owner outlining their business experience;
- Business plan
- Processing fee of \$3,000; and,
- Consent to Assignment of Lease document signed by both buyer and seller.

The City's personal guaranty is required by the proposed new owner if the proposed lessee is a corporation. If all documentation is sufficient, the lease assignment is then forwarded to the Harbor Commission for consideration.

Request for Proposal Process: Occasionally, a Waterfront business does close its doors. In that rare occurrence, the Waterfront Department conducts a public Request for Proposal (RFP) process. The RFP follows City of Santa Barbara protocols and includes a description of the lease space, submittal requirements, a description of how proposals will be reviewed, and includes a sample lease to provide prospective tenants with a general understanding regarding what is required to lease property with the City of Santa Barbara.

Following the submittal due date, staff reviews all proposals in an effort to make sure that all submittal requirements have been met. Depending on the lease space, staff will either review and score the proposals in-house or convene a group of managers at the City of Santa Barbara with considerable lease experience to review and score the proposals. Staff then convenes a meeting of the Harbor Commission RFP Subcommittee. The Subcommittee reviews the proposals as well as the management team's analysis and recommendations and forwards a RFP Subcommittee recommendation to the Harbor Commission for consideration at the next available Harbor Commission meeting.

The Harbor Commission discusses the various proposals and selects the proposal that best meets the needs of the Waterfront Department. The Harbor Commission then requests that staff begin lease negotiations with the selected entity. At a future date, staff returns to the Harbor Commission with the proposed lease agreement for consideration. If satisfied with the terms of the proposed lease agreement, the Harbor Commission recommends City Council approval of the lease. Staff then prepares a Council Agenda Report for City Council consideration. If the proposed lease term is more than five years, the lease agreement must include an Ordinance. All proposed lease agreements including lease assignments, regardless of length of term, must be approved by City Council.

Waterfront Department Lease Development

The California Coastal Act requires all local governments located within the Coastal Zone to prepare a Local Coastal Program (LCP). An LCP is defined as "a local government's land use plans, zoning ordinances, zoning district maps, and, within sensitive coastal resources areas, other implementing actions, which, when taken together, meet the requirements of, and implement the provisions and policies of [the Coastal Act] at the

local level” (Coastal Act Section 30108.6). LCPs regulate future development in the Coastal Zone and define where public access and urbanization will occur, where industrial facilities will be placed, and how sensitive species and habitats, open spaces, and recreational areas will be protected.

An LCP consists of two parts: a Coastal Land Use Plan (LUP), which details the kinds, locations, and intensity of land uses, and resource protection and development policies in the Coastal Zone; and a Coastal Implementation Plan (IP), which includes land use zoning and other implementing ordinances that conform with and carry out LUP policies.

The City of Santa Barbara’s Coastal LUP was certified by the California Coastal Commission in 2019. As part of the development of the Coastal LUP, portions of the former Harbor Master Plan that were still applicable for issuance of coastal development permits in the Coastal Zone were incorporated as policies into the new Coastal LUP. These portions can be found in Section 2.2, most notably in the *Development Review Policies* Section beginning with Policy 2.2-18 (Attachment 2).

The Coastal LUP provides initial guidance for the lease development process. However, the primary driver for nearly 30 years in the City’s lease negotiation process is City Council Resolution No. 93-127 (Attachment 3). Resolution 93-127 provides City Council approved policy direction with respect to the renegotiation and renewal of all City leases including those managed by the Waterfront Department (61 active leases), Airport Department (150 active leases), and Parks and Recreation Department (2 active leases). Waterfront staff recently worked with the City Attorney’s office to summarize Resolution 93-127 and how it impacts Waterfront lease development. The summary is as follows:

- Resolutions provide policy guidance for the City and its various undertakings.
- Resolution 93-127 provides administrative policies with respect to renegotiation and renewal of City leases and, theoretically, could be changed on any given Tuesday by a majority of the City Council.
- Section 1 of Resolution 93-127 (93-127) states that it is the “...*policy of the City of Santa Barbara to be an exemplary landlord in dealings with its tenants by doing the following: a. giving those City tenants who are in good standing a reasonable opportunity to discuss and negotiate the renewal of existing leases prior to their normal expiration; b. reviewing and considering unsolicited lease proposals; and, c. actively soliciting lease proposals from a wide spectrum of the local community for those City facilities and properties new to the market or without acceptable existing tenants.*”
- As such, the first step for City staff in the lease development process is as follows: prior to the expiration of the existing lease term and in compliance with the policy of the City of Santa Barbara to be an exemplary landlord in dealings with its tenants, City staff engage in lease negotiations with the current tenant if they are a tenant in good standing.
- In evaluating the existing City tenant (again, with the understanding that they are a tenant in good standing) with respect to the lease renewal, the City considers a

number of items as part of that lease negotiation process as outlined in 93-127, Section 2. a. through j.

- Additionally, the City can review and consider unsolicited lease proposals for possible lease tenants.
- City staff can also actively solicit lease proposals (an RFP process) from a wide spectrum of the local community for those City facilities/properties new to the market or without acceptable existing tenants (a tenant not in good standing).

The Waterfront Department has been following the policy guidance in 93-127 since its approval (October 29, 1993) and finds it to be fair and acceptable and has resulted in a very successful Waterfront community. In addition, the policies in 93-127 meet the goals of the Waterfront Department as well as the Parks and Recreation Department and Airport Department who also lease city-owned property.

In addition to reviewing every lease agreement, the Harbor Commission is required by the Santa Barbara Municipal Code to review the extent and nature of uses in the harbor and shoreline area of the Harbor Commercial Zone every five years. This effort is to ensure the Harbor remains a working harbor. The five year review was most recently completed at the Harbor Commission meeting of May 16, 2019, (approved 6-0) and was subsequently approved by the Planning Commission at their July 11, 2019, meeting.

CONCLUSION:

Waterfront Department leases are pursued and negotiated in compliance with the Coastal LUP and City Council Resolution No. 93-127. Staff believes that the Department's lease procedures and practices help to preserve the working Harbor well into the future.

Attachments: 1. List of Waterfront Leases/Licenses
2. Coastal Land Use Plan Section 2.2 : Development Review Policies
3. City Council Resolution No. 93-127

Prepared by: Brian J. Bosse, Waterfront Business Manager

WATERFRONT DEPARTMENT
 LEASES AND LICENSES

Tenant	Area*	Use*	Lease		Term	Exp. Date	Tenant Type
			Square	Footage			
Breakwater Restaurant	HBR	V	4,053		5 years; two 5-year options	11/30/2025	Harbor Food Service
Brophy Bros. Restaurant	HBR	V	4,040		5 years; four 5-year options	9/30/2040	Harbor Food Service
Deli Sushi Go Go	HBR	V	198		5 years; one 5-year option	11/30/2031	Harbor Food Service
Shoreline Beach Café	HBR	V	5,099		10 years; two 5-year options	5/30/2034	Harbor Food Service
CHOMP on the Rocks	HBR	V	8,525		10 years; four 5-year options	3/31/2040	Harbor Food Service
Char West	SW	SW	1,069		5 years; one 5-year option	11/30/2026	Wharf Food Service
Harbor Restaurant	SW	SW	13,217		25 years; three 5-year options	12/31/2043	Wharf Food Service
Moby Dick Restaurant	SW	SW	6,892		40 years	7/1/2030	Wharf Food Service
Santa Barbara Shellfish	SW	SW	1,160		10 years: two 5-year options	10/31/2038	Wharf Food Service
Brophys Mercantile	HBR	V	521		5 years, one 5-year option	9/30/2031	Harbor Commercial
Chandlery Yacht Sales	HBR	OR	483		5 years; one 5-year option	1/31/2026	Harbor Commercial
C.I. Outfitters (Paddle Sports)	HBR	OR	1,330		5 years; one 5-year option	3/31/2022	Harbor Commercial
Blue Water Hunter	HBR	OR	878		5 years	4/30/2026	Harbor Commercial
Boat Launch Mini Mart	HBR	V	522		5 years	1/30/2025	Harbor Commercial
ECCO Wireless Inc.	HBR	V	n/a		5 years	9/30/2025	Harbor Commercial
Harbor Mail Center	HBR	V	140		5 years	3/30/2023	Harbor Commercial
Harbor Marine Works	HBR	OD	35,798		10 years; two 5-year options	11/30/2039	Harbor Commercial
Harbor Market	HBR	V	676		5 years; one 5-year option	11/30/2027	Harbor Commercial
Marine Services	HBR	OR	490		5 years	1/30/2030	Harbor Commercial
McCormix Corp. (Fuel Dock)	HBR	OD	4,456		5 years; four 5-year options	11/30/2043	Harbor Commercial
McCormix Corp. (office lease)	HBR	OD	218		5 years	12/31/2025	Harbor Commercial
Mike Pyzel	HBR	OR	164		3 years; two 1-year options	5/31/2023	Harbor Commercial
Ocean Aire Electronics	HBR	OR	339		5 years; one 5-year option	1/30/2026	Harbor Commercial
SB Sailing Center	HBR	OD	19,166		5 years; two 5-year options	9/30/2026	Harbor Commercial
SB Fish Market	HBR	OR	738		5 years; two 5-year options	3/31/2027	Harbor Commercial
SB Maritime Museum	HBR	OR	7,825		5 years; five 5-year options	7/28/2033	Harbor Commercial
SB Water Taxi, LLC	HBR	OD	n/a		5 years	7/31/2031	Harbor commercial
SB Landing	HBR	OD	20,909		10 years; two 5-year options	1/30/2037	Harbor Commercial
Seacoast Yacht Sales	HBR	OR	562		5 years	8/31/2031	Harbor Commercial
Sunset Kidd Sailing Charters	HBR	OD	n/a		Month to Month	n/a	Harbor Commercial
Sunset Kidd Yacht Sales	HBR	OR	326		Month to Month	n/a	Harbor Commercial
Verizon Wireless	HBR	V	n/a		5 years; four 5-year options	10/13/2030	Harbor Commercial
WASH Laundry Systems	HBR	V	156		Month to Month	n/a	Harbor Commercial
West Marine	HBR	OR	4,258		10 years; two 5-year options	9/30/2026	Harbor Commercial

Lease						
Square						
Tenant	Area*	Use*	Footage	Term	Exp. Date	Tenant Type
Celebration Cruises	SW	SW	n/a	5 years; one 5-year option	7/31/2031	Wharf Commercial
Conway Deep Sea Tasting Room	SW	SW	890	5 years; two 5-year options	11/30/2025	Wharf Commercial
Deep Blue Sea	SW	SW	392	5 years; one 5-year option	11/30/2026	Wharf Commercial
Great Pacific Ice Cream Co	SW	SW	395	5 years; one 5-year option	11/30/2026	Wharf Commercial
Madame Rosinka	SW	SW	153	5 years	11/30/2026	Wharf Commercial
Mother Stearns Candy Company	SW	SW	392	5 years; one 5-year option	11/30/2026	Wharf Commercial
Nature's Own Shells	SW	SW	423	5 years	11/30/2026	Wharf Commercial
Old Wharf Trading Co.	SW	SW	2,369	5 years; one 5-year option	11/30/2026	Wharf Commercial
SB Museum of Natural History Sea Center	SW	SW	6,941	5 years; two 6-year options, one 5-year option	6/30/2028	Wharf Commercial
Stearns Wharf Bait & Tackle	SW	SW	260	5 years; one 5-year option	11/30/2031	Wharf Commercial
Brophy Bros. Office	HBR	V	490	5 years	9/30/2025	Office
Maryanski/Turner Office	HBR	OR	167	3 years	4/30/2022	Office
NOAA Office	HBR	OR	452	5 years	5/31/2026	Office
SB Fish Market Office	HBR	OR	734	4 years	9/30/2026	Office
SBMNH Sea Center Office	SW	SW	289	5 years	9/30/2022	Office - WHARF
City Ice Machine	HBR	OR		5 years	10/31/2023	Harbor Other
MSRC (formerly Clean Seas)	HBR	OD	1,800	5 years; one 5-year option	9/30/2022	Harbor Other
Sea Urchin Commission of Santa Barbara	HBR	OD		5 years	8/31/2024	Harbor Other
NOAA - CINMS (Shearwater)	HBR	OD	2,160	5 years	12/31/2024	Harbor Other
Santa Barbara Sailing Club	HBR	OR	8,677	5 years	9/30/2025	Harbor Other
SB Sea Shell Association	HBR	OR	4,500	Month to Month w/ 180 days notice	n/a	Harbor Other
Santa Barbara Yacht Club	HBR	OR	67,469	10 years; three 5-year options	5/31/2035	Harbor Other
SB Youth Foundation	HBR	OR	2,500	5 years; one 5-year option	5/31/2029	Harbor Other
UCSB Sailing Facility	HBR	OD	5,563	5 years; one 5-year option	10/31/2022	Harbor Other
Channel Islands Marine & Wildlife	HBR	OD	2,500	5 years; one 5-year option	8/30/2028	Harbor Other
S.B. Chamber of Commerce	OTH	V	400	5 years	3/31/2023	Non Profit
Visit Santa Barbara	OTH	V	2,321	10 years; four 10-year options	8/31/2069	Non Profit

Use
OD = Ocean-Dependent
OR = Ocean-Related
V = Visitor

Area
SW = Stearns Wharf
HBR = Harbor
OTH = Other

Coastal Land Use Plan

Excerpt of Section 2.2: Coastal Dependent & Related Development

DEVELOPMENT REVIEW POLICIES

Harbor

- Policy 2.2-18** Harbor Area Policies. Development in the Harbor shall be found consistent with at least one of the following:
- A. Provide essential supplies and services to the boating public to include recreational boaters, commercial fishing, commercial shipping, enforcement, and rescue vessels;
 - B. Provide operation and maintenance of the Harbor;
 - C. Provide recreational and visitor-serving opportunities for the enjoyment of the general public; and,
 - D. Provide an opportunity for marine-oriented nonprofit individuals, groups, and associations to benefit from use of the Harbor.

In any event, the following leases and uses shall be precluded: those which provide supplies or services tending towards a carnival atmosphere, non-marine sports, non-marine oriented business offices, or public services that can equally be served outside of the Tidelands Area.

Stearns Wharf

- Policy 2.2-19** Stearns Wharf Development. Development on Stearns Wharf shall consist of a mixture of visitor-serving, coastal-dependent, and coastal-related uses. Recreational fishing shall be maintained in designated areas.

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RESOLUTION NO. 93-127

**A RESOLUTION OF THE COUNCIL OF THE
CITY OF SANTA BARBARA ESTABLISHING
CERTAIN ADMINISTRATIVE POLICIES WITH
RESPECT TO THE RENEGOTIATION AND
RENEWAL OF CITY LEASES.**

WHEREAS, the City of Santa Barbara has a responsibility and an obligation to maintain, manage and improve the real property to which the City is entrusted for the maximum possible public benefit and financial return; and

WHEREAS, in fulfilling this responsibility, the City may enter into leases and other related agreements with private citizens and businesses with respect to those portions of City real property that are not currently necessary for the operation of direct governmental services or are not required for other municipal purposes; and

WHEREAS, the City and tenants of the City under such leases have certain contractual rights and obligations as such rights and obligations are specifically and exclusively set forth in each lease and other related agreements; and

WHEREAS, this Resolution is not intended to modify any contractual obligations of the City nor is it intended to grant any rights or create any additional obligations beyond those stated in existing leases and other agreements with the City as approved by the City Council; and

WHEREAS, this Resolution is intended to state the intent of the City Council with respect to an administrative policy regarding the renegotiation and renewal of existing City leases and similar agreements with existing tenants in good standing under appropriate circumstances;

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SANTA BARBARA THAT:

1. It is the policy of the City of Santa Barbara to be an exemplary landlord in dealings with its tenants by doing the following: a. giving those City tenants who are in good standing a reasonable opportunity to discuss and negotiate the renewal of existing leases prior to their normal expiration; b. reviewing and considering unsolicited lease proposals; and, c. actively soliciting lease proposals from a wide spectrum of the local community for those City facilities and properties new to the market or without acceptable existing tenants.

2. In evaluating existing City tenants with respect to a possible lease renewal, the City shall consider the following:

a. The needs of the City and the goals of the particular City Department charged with managing the specific property under consideration;

- b. The tenant's record with respect to the prompt and accurate payment of rent due the City;
- c. The tenant's record of compliance with existing lease conditions;
- d. The appropriateness of the proposed tenant business with respect to the total mix of uses and services available to the public and with respect to the goals of the City Department charged with managing the property in question;
- e. The tenant's financial and personal investment in tenant business and the leasehold improvements;
- f. The contribution to the surrounding business community made by the tenant's business.
- g. The quality of direct services to the public provided by the tenant and its business.
- h. The value received by the public for costs of goods or services.
- i. The total financial return to City from the leasehold.
- j. Other pertinent considerations as may be appropriate.

3. This policy does not necessarily apply to those tenants or potential tenants which provide, or will provide, those services, which in the determination of the City Administrator, are necessary for the proper and efficient operation of a City governmental building or facility, such as the City's Airport Terminal or Community Centers.

Adopted October 26, 1993